

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF MULTNOMAH COUNTY, OREGON**

**ORDINANCE NO. 643**

An ordinance amending Multnomah County Code Chapter 11.15 and selected Sectional Zoning Maps to comply with the Periodic Review requirements of the Oregon Department of Land Conservation and Development.

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**SECTION 1. FINDINGS**

The Board of County Commissioners finds that certain amendments of the Multnomah County Zoning Code are necessary to comply with the Periodic Review requirements of the Oregon Department of Land Conservation and Development.

**SECTION 2. AMENDMENT**

MCC 11.15 is amended as follows:

*Note:* Deleted language is bolded and struck thru (~~temporary daytime~~), and new language bolded and enlarged(**is distinguished**).

**A. Definitions are amended, added to, or deleted in MCC 11.15.0010 as follows:**

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

**Building Permit** – A permit required pursuant to Multnomah County Code 11.15.8210(A), certifying compliance with all applicable building regulations.

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

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

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

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

**Group Care Facility** – ~~A building or portion thereof, housing six or more persons of any age who are not members of the provider's family and residential staff used for the following purposes:~~

- (a) ~~Residential Care Facility — A building or part thereof, which may provide 24 hour supervision used for the lodging and care of six or more ambulatory persons who may be either handicapped to a degree that makes total self dependence either impossible or undesirable, but who possess sufficient facilities to recognize an emergency situation and to react immediately and positively to attain self preservation.~~
- (b) ~~Residential Treatment Facility — A building or part thereof, operated with 24 hour supervision for the purpose of providing care and planned treatment or planned training to six (6) or more persons who by reason of their circumstance, condition, or placement require such care and planned training or treatment while living as a single housekeeping unit in a dwelling unit.~~
- (c) ~~Child Care Facility — A building or part thereof, providing temporary care of children where the ratio of supervision is less than 1:10 or staff members are allowed to sleep.~~
- (d) ~~Adult Care Home — Any building or part thereof, where one or more frail elderly, mentally handicapped or physically handicapped, or dependent persons over 18, unrelated to the provider, receive room and board for compensation. Providers of these services in the County are required to register as an Adult Care Home with the Multnomah County Department of Human Resources pursuant to Chapter 8.90 of Title 8 of the Multnomah County Code, (8.90.005 — 8.90.260) unless licensed as a Residential Care Facility by the State of Oregon.~~

~~Care means services such as supervision, protection, assistance while bathing, dressing, grooming or eating, management of money, transportation, recreation and simple training of self help skills or assistance with major life activities and the provision of room and board.~~

~~Planned Treatment means a systematic and/or individualized program of counseling, therapy, or other rehabilitative procedures or activities provided for a group of persons of similar or compatible circumstances or conditions. A planned treatment program which requires regular on premise physician's or nurse's care shall not be allowed.~~

~~Planned Training means a pre-determined sequence of systematic interactions, activities, or structured learning situations, designed to meet such residents' specified needs in the areas of physical, social, emotional, and intellectual growth.~~

~~A Care and Treatment Facility which requires regular on premises physician's or nurse's care shall not be allowed. Care and treatment facilities in the County where one or more frail elderly, mentally or physically handicapped, or dependent persons over 18, unrelated to the provider, receive room and board for compensation, are required to register as an Adult Care Home with Multnomah County Department of Human Services pursuant to Chapter 8.90 of Title 8 of the Multnomah County Code (8.90.005 — 8.90.260) unless licensed as a Residential Care Facility by the State of Oregon.~~

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

Mobile Home – A structure transportable in one or more sections, each built on a permanent chassis, and which is designed to be used for permanent occupancy as a dwelling, including a *Manufactured Home* as defined in ORS 446.003(17)(c).

Wetlands – Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil

conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

**B. Subsections of the EFU – Exclusive Farm Use District are amended, added to, or deleted as follows:**

**11.15.2008 Primary Uses**

(A) Farm use, as defined in ORS 215.203(2)(a) ~~for the following purposes only:~~

~~(1) Raising and harvesting of crops;~~

~~(2) Feeding, breeding, managing and selling livestock;~~

~~(3) Dairying; or~~

~~(4) Any other agricultural or horticultural purpose or animal husbandry purpose or any combination thereof,~~

except as provided in MCC .2012(B).

(B) The propagation or harvesting of forest products.

(C) ~~Residential use in conjunction with farm use, consisting of a single family dwelling constructed on a lot of 76 acres or more on Sauvie Island or 38 acres or more elsewhere in the EFU district.~~ Thermal Energy Power Plants, when sited by the Energy Facility Siting Council as authorized under ORS 469.300 to 469.570, 469.590 to 469.621 and 469.930.

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

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

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

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

(H) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a historic property inventory as defined in ORS 358.480.

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

**11.15.2010 Uses Permitted Under Prescribed Conditions**

(A) ~~Residential use in conjunction with farm use, consisting of a single family dwelling constructed off site, including a mobile or modular home, subject to the following conditions~~ A residence, including a mobile or modular home, customarily provided in conjunction with an existing use as provided in MCC .2008(A), subject to the

following:

- (1) ~~Construction shall comply with the standards of the Building Code or as prescribed under ORS 446.002 through 446.200, relating to mobile homes.~~ Located on a Lot of Record as described in MCC .2018, or
- (2) ~~The dwelling shall be attached to a foundation for which a building permit has been obtained.~~ Located on a lot created under MCC 11.45, Land Divisions, after August 14, 1980, with a lot size not less than 76 acres on Sauvie Island or 38 acres elsewhere in the EFU district; and
- (3) ~~The dwelling shall have a minimum floor area of 600 square feet.~~ If a mobile or modular home:

  - (a) Construction shall comply with the standards of the Building Code or as prescribed under ORS 446.002 through 446.200, relating to mobile homes.
  - (b) The dwelling shall be attached to a foundation for which a building permit has been obtained.
  - (c) The dwelling shall have a minimum floor area of 600 square feet.
- (4) Demonstration by the applicant that the dwelling is appropriate, accessory, and necessary for the realization of a farm management program as described in subsection (5) below. The record shall include a finding of material improvement in the potential productivity resulting from and dependent upon the existence of the dwelling. That finding shall be based upon factual information, certified by an agency, firm or individual who is recognized, or demonstrates qualifications, as an expert in the proposed area of agricultural production.
- (5) Conducted according to a farm management plan containing the following elements:

  - (a) A written description of a proposed five-year development and management plan which describes the cropping or livestock pattern by type, location and area size and which may include forestry as an incidental use;
  - (b) Soil test or Soil Conservation Service OR-1 soils field sheet data which demonstrate the land suitability for each proposed crop or pasturage use;
  - (c) Certification by the Oregon State University Extension Service, or by person or group having similar agricultural expertise, that the production acreage and the farm management plan are appropriate for the continuation of the existing commercial agricultural enterprise within the area. For the purposes of this Chapter *appropriate for the continuation of the existing commercial agricultural enterprise within the area* means:

    - (i) That the farm use and production acreage are similar to the existing commercial farm uses and production acreages in the vicinity, or
    - (ii) In the event the farm use is different that the existing farm uses in the vicinity, that the production acreage and the farm management plan are reasonably designed to promote agricultural utilization of the land equal to or greater than that in the vicinity. *Agricultural utilization*

means an intended profit-making commercial enterprise which will employ accepted farming practices to produce agricultural products for entry into conventional agricultural markets.

- (d) A description of the primary uses on nearby properties, including lot size, topography, soil types, management practices and supporting services, and a statement of the ways the proposal will be compatible with them.
  - (6) The Planning Director shall make findings and a tentative decision within ten business days of the application filing. Notice of the findings and decision and information describing the appeals process shall be mailed by first class mail to the applicant and to the record owners of all property within 500 feet of the property proposed for the use.
  - (7) The tentative decision shall be final at the close of business on the tenth calendar day after notice is mailed, unless the applicant or a person entitled to mailed notice or a person substantially affected by the application files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295, except that subsection MCC .8295(C) shall apply only to a notice of appeal filed by the applicant. The persons entitled to notice under subsection (6) of this section shall be given the same notice of the appeal hearing as is given the applicant.
- (B) Residential use consisting of a ~~single family dwelling~~ mobile or modular home for the housing of help required to carry out a farm use when the ~~dwelling~~ residence occupies the same lot as a residence permitted by MCC ~~.2008(C) or .2010(A)~~, subject to the following conditions:
- (1) ~~In the event the dwelling is constructed off site, construction shall comply with MCC .2010(A)(1) and (3).~~ The lot is at least 76 acres, if on Sauvie Island, or 38 acres if located elsewhere in the EFU district;
  - (2) The location of the dwelling shall be subject to approval of the Planning Director on a finding that:
    - (a) ~~The use is needed to carry out a use listed in MCC .2008(A) or (B);~~ The residence satisfies the requirements of MCC .2010(A)(4)
    - (b) The standards of MCC .2016 (C) are satisfied; and
    - (c) The minimum distance between dwellings will be 20 feet.
  - (3) The decision of the Director shall be made in accordance with MCC .2010(A)(6) and (7) ~~may be appealed to the Hearings Officer pursuant to MCC .8290 and .8295.~~
- (C) ~~A farm use or a residence in conjunction with a farm use as listed in MCC .2008(A) or (C) or MCC .2010(A) under conditions 1 through 3 thereof, subject to the following~~ A single family dwelling on a Lot of Record used for farm use if the dwelling is:
- (1) ~~Located on a Lot of Record of less than 76 acres on Sauvie Island or 38 acres elsewhere in the EFU districts, or~~ Located on the same Lot of Record as the dwelling of the farm operator; and
  - (2) ~~Located on a lot created under MCC 11.45, Land Divisions, after August 14, 1980, with a lot size less than 76 acres, but not less than 38 acres on Sauvie Island or less than 38 acres, but not less than 19 acres elsewhere in the EFU district; and~~ Occupied by a relative, which means grandparent, grandchild, parent, child,

brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm is or will be required by the farm operator.

- ~~(3) Conducted according to a farm management plan containing the following elements:~~
- ~~(a) A written description of a five year development and management plan which describes the proposed cropping or livestock pattern by type, location and area size and which may include forestry as an incidental use;~~
  - ~~(b) Soil test or Soil Conservation Service OR 1 soils field sheet data which demonstrate the land suitability for each proposed crop or pasturage use;~~
  - ~~(c) Certification by the Oregon State University Extension Service, or by person or group having similar agricultural expertise, that the production acreage and the farm management plan are appropriate for the continuation of the existing commercial agricultural enterprise within the area. For the purposes of this Chapter "appropriate for the continuation of the existing commercial agricultural enterprise within the area" means:~~
    - ~~(i) That the proposed farm use and production acreage are similar to the existing commercial farm uses and production acreages in the vicinity, or~~
    - ~~(ii) In the event the proposed farm use is different that the existing farm uses in the vicinity, that the production acreage and the farm management plan are reasonably designed to promote agricultural utilization of the land equal to or greater than that in the vicinity. "Agricultural utilization" means an intended profit making commercial enterprise which will employ accepted farming practices to produce agricultural products for entry into conventional agricultural markets.~~
  - ~~(d) A description of the primary uses on nearby properties, including lot size, topography, soil types, management practices and supporting services, and a statement of the ways the proposal will be compatible with them.~~
  - ~~(e) Exception: A written description of the farm management program on that parcel as a separate management unit for the preceding five years may be substituted for subsections (a), (b) and (c) above.~~
- ~~(4) The Planning Director shall make findings and a tentative decision within ten business days of the application filing. Notice of the findings and decision and information describing the appeals process shall be mailed by first class mail to the applicant and to the record owners of all property within 500 feet of the property proposed for the use.~~
- ~~(5) The tentative decision shall be final at the close of business on the tenth calendar day after notice is mailed, unless the applicant or a person entitled to mailed notice or a person substantially affected by the application files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295, except that subsection MCC .8295(C) shall apply only to a notice of appeal filed by the applicant. The persons entitled to notice under subsection (4) of this section shall be given the same notice of the appeal hearing as is given the applicant.~~

#### 11.15.2012 Conditional Uses.

- (A) The following uses may be permitted when approved by the Hearings Officer pursuant to the

provisions of MCC .7005 to .7030:

- (1) Public or private schools;
  - (2) Churches;
  - (3) Utility facilities ~~including those for the purpose of generating power for public use by sale~~ necessary for public service, including transmission towers over 200 feet in height, except commercial facilities for the purpose of generating power for public use by sale;
  - (4) Operations for the exploration of geothermal resources as defined in ORS 522.005;
  - (5) Private parks, playgrounds, hunting and fishing preserves and campgrounds;
  - (6) Parks, playgrounds, or community centers owned and operated by a governmental agency or non-profit community organization; and
  - (7) Golf courses.
  - (8) A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.
  - (9) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
  - (10) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
  - (11) Improvement of public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
- (B) The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC .7105 to .7140:
- (1) Commercial activities that are in conjunction with farm uses;
  - (2) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005 or exploration, mining and processing of aggregate and other mineral resources or other subsurface resources;
  - (3) Residential use not in conjunction with farm use, consisting of a single family dwelling, including a mobile or modular home. The lot shall be a Lot of Record under MCC .2018, ~~or, if otherwise below the minimum lot size, be have been created divided~~ under the applicable provisions of MCC 11.45, Land Divisions. The Hearings Officer shall find that a dwelling on the lot as proposed:
    - (a) Is compatible with farm uses described in paragraph (A) of subsection (2) of ORS 215.203 and is consistent with the intent and purposes set forth in ORS 215.243;
    - (b) Does not interfere seriously with accepted farming practices, as defined in paragraph (c) of subsection (2) of ORS 215.203, on adjacent lands devoted to farm use;
    - (c) Does not materially alter the stability of the overall land use pattern of the area;

- (d) Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract;
- (e) Complies with subparts ~~(1)(a)~~, ~~(2)(b)~~ and ~~(3)(c)~~ of MCC .2010(A)(3) if constructed off-site;
- (f) Complies with such other conditions as the Hearings Officer considers necessary to satisfy the purposes of MCC .2002;
- (g) Construction shall comply with the standards to the Building Code or as prescribed under ORS 446.002 through 446.200, relating to mobile homes;
- (h) The dwelling shall be attached to a foundation for which a building permit has been obtained; and
- (i) The dwelling shall have a minimum floor area of 600 square feet.
- (j) The owner shall record with the Division of Records and Elections a statement that the owner and successors in interest acknowledge the rights of nearby property owners to conduct accepted farming and forestry practices.**
- (k) The applicant shall provide evidence that all additional taxes and penalties, if any, have been paid if the property has been receiving special assessment as described in ORS 215.236(2). In the alternative, the Approval Authority may attach conditions to any approval to insure compliance with this provision.**
- ~~(4) Raising any type of fowl, or processing the by products thereof, for sale at wholesale or retail;~~
- ~~(5) Feed Lots;~~
- ~~(6) Raising of four or more swine over three months of age;~~
- ~~(7) Raising of fur bearing animals for sale at wholesale or retail;~~
- ~~(8) 4) Home occupations pursuant to provisions of ORS 215.213(2)(h);~~
- ~~(9) 5) Facilities for the primary processing of forest products, pursuant to ORS 215.213(2)(i); and~~
- ~~(10) 6) The breeding, boarding and training of horses for profit.~~
- ~~(11) 7) Mortgage Lot: Residential use consisting of single family dwelling in conjunction with a primary use listed in MCC .2008(A) located on a mortgage lot created after August 14, 1980, subject to the following:~~
  - (a) The minimum lot size for the mortgage lot shall be two acres;
  - (b) Except as may otherwise be provided by law, a mortgage lot shall not be conveyed as a zoning lot separate from the tract out of which it was created or such portion of the tract as conforms with the dimensional requirements of the Zoning Ordinance then in effect. The purchaser of a mortgage lot shall record a statement referring to this limitation in the Deed Records pertaining to said lot.



- (c) No permit shall be issued for improvement of a mortgage lot unless the contract seller of the tract out of which the mortgage lot is to be created and the mortgagee of said mortgage lot have agreed in writing to the creation of the mortgage lot.

**(12 8) Homestead Lot:** The purpose of this provision is to encourage the retention of agricultural lands in large parcels, while providing the opportunity for residents who are no longer able or who no longer desire to farm the land to retain their homes and sell the balance of the property. *Homestead Lot* means a lot of from two to five acres depending upon the conditions of soil, topography or other circumstances which govern parcel size on which the existing dwelling shall have been the principal farm dwelling for at least ten years prior to August 14, 1980. The Hearings Officer may approve a homestead lot division as a non-farm use, provided that all of the following area satisfied:

- (a) The remainder of the parcel shall satisfy the lot size and other requirements of this district for farm use;
- (b) Not more than one homestead lot may be divided from a Lot of Record;
- (c) The owner of the parcel from which the homestead lot was divided shall have the first right of refusal to purchase the homestead lot;
- (d) The dwelling is compatible with farm uses described in paragraph (a) of subsection (2) of ORS 215.203 and is consistent with the intent and purposes set forth in ORS 215.243;
- (e) The dwelling does not interfere seriously with accepted farming practices, as defined in paragraph (c) of subsection (2) of ORS 215.203 on adjacent lands devoted to farm use;
- (f) The dwelling does not materially alter the stability of the overall land use pattern of the area; and
- (g) The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.

**(13 9)** The propagation, cultivation, maintenance and harvesting of aquatic species.

**(14 10)** Personal use airports, as defined in ORS 215.283(g).

**(15 11)** Dog Kennels.

**(12) Residential homes for handicapped persons, as those terms are defined in ORS 443.580, in existing dwellings.**

#### 11.15.2014 Accessory Uses.

The uses or structures incidental and accessory to the uses permitted under MCC .2008 through .2012 are:

- (A) Structures such as garages, carports, studios, pergolas, private workshops, **barns, loafing sheds**, storage buildings, greenhouses or similar structures, whether attached or detached, when in accordance with the yard requirements of this district;
- (B) Structures or fenced runs for the shelter or confinement of poultry or livestock;
- (C) Signs, pursuant to the provisions of MCC .2024;

- (D) Off-street parking and loading; and
- (E) Other structures or uses customarily incidental to any use permitted or approved in this district.
- (F) **A mobile home on a Health Hardship pursuant to the provisions of MCC .8710.**

#### 11.15.2016 Dimensional Requirements.

- (A) Except as provided in MCC .2010(C), .2012(B)(3), **.2017**, .2018 and .2020, the minimum lot size shall be 76 acres on Sauvie Island and 38 acres elsewhere in the EFU district.
- (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.

#### (C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

- (D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by Ordinance.
- (E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.
- (F) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated “2A”, “3A”, or “3C” in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
  - (1) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

#### 11.15.2017 Lot Line Adjustment

- (A) **The Planning Director may approve an adjustment of the common lot line between contiguous Lots of Record based on a finding that:**
  - (1) **The permitted number of dwellings will not thereby be increased above that otherwise allowed in this district;**
  - (2) **The resulting lot configuration is at least as appropriate for the continuation of the existing commercial agricultural enterprise in the area as the lot configuration prior to adjustment; and**
  - (3) **Neither of the properties is developed with a dwelling approved under the**

provisions of MCC .2010(B) or (C), or .2014(F).

The decision of the Planning Director may be appealed to the approval authority pursuant to MCC .8290 and .8295.

11.15.2018 Lot of Record.

(A) For the purposes of this district, a Lot of Record is ~~a parcel of land:~~

(1) ~~For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form, prior to August 14, 1980; and~~ A parcel of land:

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

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

(c) Which satisfies the minimum lot size requirements of MCC .2016, or

(2) ~~Which, when established, satisfied all applicable laws.~~ A parcel of land:

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

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

(c) Does not meet the minimum lot size requirements of MCC .2016; and

(d) Which is not contiguous to another substandard parcel or parcels under the same ownership, or

(3) A group of contiguous parcels of land:

(a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to February 20, 1990;

(b) Which satisfied all applicable laws when the parcels were created;

(c) Which individually do not meet the minimum lot size requirements of MCC .2016, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and

(d) Which are held under the same ownership.

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

- (1) ~~Parcels of land which are contiguous and in which greater than possessory interests are held by the same person, partnership or business entity, shall be aggregated to comply as nearly as possible with the area or front lot line minimum of this district. The word contiguous shall refer to parcels of land which have any common boundary and shall include, but not be limited to, parcels separated only by an alley, street or other right of way.~~
- (2) ~~Nothing in this subpart shall be deemed to alter or amend the other provisions of this Chapter.~~

For the purposes of this subsection:

- (1) *Contiguous* refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way;
- (2) *Substandard Parcel* refers to a parcel which does not satisfy the minimum lot size requirements of MCC .2016; and
- (3) *Same Ownership* refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.
- (C) A Lot of Record which has less than the front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.

#### 11.15.2030 Right To Complete Single Family Dwelling.

A single family dwelling, uncompleted prior to ~~August 14, 1980~~ February 20, 1990, but which meets the tests stated in this subsection, may be completed although not listed as a primary use in this district.

- (A) Actual construction shall have commenced prior to ~~August 14, 1980~~ February 20, 1990, under a sanitation, building or other development permit applicable to the lot. *Actual construction* means:
- (1) Placement of construction materials in a permanent position;
  - (2) Site excavation or grading;
  - (3) Demolition or removal of an existing structure;
  - (4) The value of purchased building materials; or
  - (5) Installation of water, sanitation or power systems.
- (B) Actual construction shall not include:
- (1) The cost of plan preparation; or
  - (2) The value of the land.
- (C) The value of actual construction commenced prior to ~~August 14, 1980~~ February 20, 1990

shall be \$1,000 or more, for each \$20,000 of the total estimated value of the proposed improvements as calculated under the Uniform Building Code.

**C. Subsections of the CFU – Commercial Use District are amended, added to, or deleted as follows:**

**11.15.2050 Uses Permitted Under Prescribed Conditions**

(A) Residential use in conjunction with a primary use listed in MCC .2048 including a mobile or modular home, subject to the following:

(1) The lot size shall meet the standards of MCC .2058(A), or MCC .2062(A) and (B), but shall not be less than ten acres;

(2) A resource management program for at least 75% of the productive land of the lot, as described in subsection MCC .2052(C)(2)(a), consisting of:

(a) A forest management plan certified by the Oregon State Department of Forestry, the Oregon State University Extension Service, or by a person or group having similar forestry expertise, that the lot and the plan are physically and economically suited to the primary forest or wood processing use;

(b) A farm management plan certified by the Oregon State University Extension Service, or by a person or group having similar agricultural expertise, that the lot and the plan are physically and economically suited to the primary purpose of obtaining a profit in money, considering accepted farming practice;

(c) A resource management plan for a primary use listed in MCC .2048, based upon income, investment or similar records of the management of that resource on that property as a separate management unit for at least two of the preceding three years,

(d) A fish, wildlife or other natural resource conservation management plan, certified by the Oregon State Fish and Wildlife Department or by a person or group having similar resource conservation expertise, to be suited to the lot and to nearby uses;

(e) A small tract timber option under ORS Chapter 321.705, a Western Oregon Forest Land designation under ORS 321.257, or participation in a current forestry improvement program of the U.S. Agricultural Stabilization and Conservation Service; or

(f) A cooperative or lease agreement with a commercial timber company or other person or group engaged in commercial timber operations, for the timber management of at least 75% of the productive timberland of the property. Productive timberland is that portion of the property capable of growing 50 cubic feet/acre/year.

(3) The dwelling will not require public services beyond those existing or programmed for the area;

(4) The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices;

(5) The residential use development standards of MCC .2074.

~~(B) Residential use, consisting of a single family dwelling for the housing of help required to carry out a primary use listed in MCC .2048(C) or (D) when the dwelling occupies the same~~

~~lot as a residence permitted by MCC .2050(A), subject to the residential use development standards under MCC .2074;~~

- (C B) Wholesale or retail sales of farm or forest products raised or grown on the premises or in the vicinity, subject to the following condition:

The location and design of any building, stand or sign in conjunction with wholesale and retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area, provided that the decision of the Director may be appealed to the approval authority pursuant to MCC .8290 and .8295.

11.15.2062 Lot of Record

- (A) For the purposes of this district, a Lot of Record is ~~a parcel of land~~:

- (1) ~~For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form, prior to August 14, 1980; and~~ A parcel of land:

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

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

- (c) Which satisfies the minimum lot size requirements of MCC .2058, or

- (2) ~~Which, when established, satisfied all applicable laws.~~ A parcel of land:

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

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

- (c) Does not meet the minimum lot size requirements of MCC .2058; and

- (d) Which is not contiguous to another substandard parcel or parcels under the same ownership, or

- (3) A group of contiguous parcels of land:

- (a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to February 20, 1990;

- (b) Which satisfied all applicable laws when the parcels were created;

- (c) Which individually do not meet the minimum lot size requirements of MCC .2058, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and

(d) Which are held under the same ownership.

- (B) ~~A Lot of Record which has less than the area or front lot line minimum required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.~~
- (1) ~~Parcels of land which are contiguous and in which greater than possessory interests are held by the same person, partnership or business entity, shall be aggregated to comply as nearly as possible with the area or front lot line minimum of this district. The word contiguous shall refer to parcels of land which have any common boundary and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way.~~
- (2) ~~Nothing in this subpart shall be deemed to alter or amend the other provisions of this Chapter.~~

For the purposes of this subsection:

- (1) *Contiguous* refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way;
- (2) *Substandard Parcel* refers to a parcel which does not satisfy the minimum lot size requirements of MCC .2058; and
- (3) *Same Ownership* refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.
- (C) ~~Except as otherwise provided by MCC .2060, .2062(B) and .2064, no sale or conveyance of any portion of a lot, other than for a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the size or width requirements of this district A Lot of Record which has less than the front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.~~

D. Subsections of the F-2 – Agricultural District are amended, added to, or deleted as follows:

11.15.2096 Dimensional Requirements

Except as provided in MCC .2090(B), .2098, .7720 and .2100, the minimum lot size for a single family dwelling shall be as follows:

- (A) For agricultural lands as defined in MCC .0010: 20 acres;
- (B) For forest lands as defined in MCC .0010: 38 acres;
- (C) For nonagricultural and nonforest lands, the minimum lot size for a single family dwelling shall be the product of a base lot size of two acres multiplied by each of the multiplies according to the area or lot characteristics in the following table:

Area or Lot Characteristic	Multiplier
Urbanizable Area	1
Rural Area	2
County Road Frontage	1
No access to County Road within 500 feet of the portion of the lot on which a dwelling could be constructed under this Ordinance	2
Public Water Supply	1
Private Water Supply	2
Soil limitations for residential use:	
Slight	1
Moderate	2
Severe—See Subpart (E) of this subsection.	

- (D) Except as required in an approval of a rural planned development pursuant to MCC .7720, no lot size need exceed eight acres.

*Example of minimum lot size calculation*

Base Size	Rural Area	County Road	Public Water	Moderate Soil	Minimum Size
2 ac.	x 2	x 1	x 1	x 2	= 8 ac.

- (E) A property having soil of severe limitation for residential development may only be developed with a single family dwelling on approval of a rural planned development pursuant to MCC .7720.
- (F) For the purposes of subparts (E) and (F) of this subsection only, the following definitions apply:
- (1) *Urbanizable Area* means all land zoned F-2, located east of the Willamette River or Multnomah Channel and west of the Sandy River.
  - (2) *Rural Area* means land zoned F-2 located west of the Willamette River or Multnomah Channel and east of the Sandy River.
  - (3) *Soil suitability for residential use* shall be determined according to the descriptions of suitability of soils for dwellings without basements in Table 2, *General Soil Map with Soil Interpretations for Land Use Planning - Multnomah County, Oregon* Soil Conservation Service and Oregon Agricultural Experiment Station, August, 1974.
- (G) Minimum Yard Dimensions - Feet
- |       |      |             |      |
|-------|------|-------------|------|
| Front | Side | Street Side | Rear |
| 30    | 10   | 30          | 30   |
- Maximum Structure Height – 35 feet
- Minimum Front Lot Line Length – 50 feet.
- (H) Structures or portions thereof, such as barns, silos, windmills, antennae, or chimneys are exempt from the height restrictions if located at least 30 feet from any property line.
- (I) The minimum front yard, side yard or setback requirements as provided in subparts (G) and (H)



of this subsection, shall be increased where the Hearings Officer determines that a yard or setback abuts a street having insufficient right-of-way width to serve the area. The Hearings Officer shall determine the necessary right-of-way widths and the additional yard or setback requirements not otherwise established by ordinance.

- (J) Except as otherwise provided by MCC .2098, .2100, and .7720, no sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than minimum lot, yard or setback requirements or result in a lot of less than the size or width requirements of this district.
- (K) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
  - (1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
  - (2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**E Subsections of the MUA – Multiple Use Agriculture District are amended, added to, or deleted as follows:**

**11.15.2132 Conditional Uses**

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

- (A) Community Service Uses pursuant to the provisions of MCC .7005 through .7041;
- (B) The following Conditional Uses pursuant to the provisions of MCC .7105 through .7640:
  - (1) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005; or exploration, mining and processing of aggregate and other mineral or subsurface resources;
  - (2) Commercial processing of agricultural products primarily raised or grown in the region;
  - (3) Raising any type of fowl or processing the by-products thereof for sale at wholesale or retail;
  - (4) Feed lots;
  - (5) Raising of four or more swine over four months of age;
  - (6) Raising of fur bearing animals for sale at wholesale or retail;
  - (7) Commercial dog kennels; and

(8) Commercial processing of forest products primarily grown in the region.

(9) Houseboats and Houseboat Moorages.

(C) The following Conditional Uses may be permitted on lands not predominantly of Agricultural Capability Class I, II or III soils:

(1) ~~Rural p~~Planned developments for single-family residences, as provided in MCC ~~.7705 through .7760~~.6200 through .6226;

(2) Pursuant to the provisions of MCC .7105 through .7640:

(a) Cottage industries,

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

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

#### 11.15.2134 Accessory Uses

(A) Signs, pursuant to the provisions of MCC 11.15.7902-.7982.]

(B) Off-street parking and loading;

(C) Home occupations; and

(D) Other structures or uses customarily accessory or incidental to any use permitted or approved in this district; and

(E) **Family Day Care.**

#### 11.15.2138 Dimensional Requirements

(A) Except as provided in MCC .2140, .2142, .2144 and .7629, the minimum lot size shall be 20 acres.

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

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
-------	------	-------------	------

30	10	30	30
----	----	----	----

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

(E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.

- (F) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:

- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.
- (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

**F. Subsections of the MUF – Multiple Use Forest District are amended, added to, or deleted as follows:**

**11.15.2170 Uses Permitted Under Prescribed Conditions**

- (A) Residential use, in conjunction with a primary use listed in MCC .2168, consisting of a single-family dwelling, including a mobile or modular home, subject to the following:

- (1) The lot size shall meet the standards of MCC .2178(A) or MCC .2182(A) to (C), but shall not be less than ten acres.
- (2) A resource management program for at least 75% of the productive land of the lot, as described in MCC .2172(D)(2)(a) consisting of:
  - (a) A forest management plan certified by the Oregon State Department of Forestry, the Oregon State University Extension Service, or by a person or group having similar forestry expertise, that the lot and the plan are physically and economically suited to the primary forest or wood processing use;
  - (b) A farm management plan certified by the Oregon State University Extension Service, or by a person or group having similar agricultural expertise, that the lot and the plan are physically and economically suited to the primary purpose of obtaining a profit in money, considering accepted farming practice;
  - (c) A resource management plan for a primary use listed in MCC .2168, based upon income, investment or similar records of the management of that resource on the property as a separate management unit for at least two of the preceding three years;
  - (d) A fish, wildlife or other natural resource conservation management plan certified by the Oregon State Fish and Wildlife Department or by a person or group having similar resource conservation expertise, to be suited to the lot and to nearby uses;
  - (e) A small tract timber option under ORS Chapter 321.705, a Western Oregon Forest Land designation under ORS Chapter 321.257, a Reforestation deferral under ORS Chapter 321.257, or participation in a current forestry improvement program of the U.S. Agricultural Stabilization and Conservation Service; or
  - (f) A cooperative or lease agreement with a commercial timber company, or other person or group engaged in commercial timber operations, for the timber management of at

least 75% of the productive timberland of the property. Productive timberland is that portion of the property capable of growing 50 cubic feet/acre/year.

- (3) The dwelling will not require public services beyond those existing or programmed for the area;
- (4) The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices; and
- (5) The residential use development standards of MCC .2194.

~~(B) Residential use consisting of a single family dwelling, for the housing of help required to carry out a primary use listed in MCC .2168(C) or (D), when the dwelling occupies the same lot as a residence permitted by MCC .2170(A), subject to the residential use development standards under MCC .2194.~~

- (C) Wholesale or retail sales of farm or forest products raised or grown on the premises or in the immediate vicinity, subject to the following condition:

The location and design of any building, stand or sign in conjunction with wholesale or retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area; provided that the decision of the Director may be appealed to the Hearings Officer pursuant to MCC .8290 and .8295.

#### 11.15.2172 Conditional Uses

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

- (A) Community Service Uses pursuant to the provisions of MCC .7005 through .7041.
- (B) The following Conditional Uses pursuant to the provisions of MCC .7105 through .7640:
  - (1) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005 or exploration, mining and processing of aggregate and other mineral or subsurface resources;
  - (2) Commercial processing of forest products, primarily grown in the region, other than as specified in MCC .2168(B);
  - (3) Raising any type of fowl, or processing the by-products thereof, for sale at wholesale or retail;
  - (4) Feed lots;
  - (5) Raising of four or more swine over four months of age;
  - (6) Raising of fur-bearing animals for sale at wholesale or retail; and
  - (7) Commercial dog kennels.
  - (8) Houseboats and Houseboat Moorages.
- (C) The following Conditional Uses may be permitted upon findings in addition to those required by MCC .7105 through .7640 that:

~~(1 a)~~ The capability of the land for resource production is maintained;

~~(2 b)~~ The use will neither create nor be affected by any hazards; and

~~(3 c)~~ Access for fire protection of timber is assured:

~~(a) Rural planned developments for single family residences as provided in MCC .7705 through .7760, and~~

~~(b) Pursuant to the provisions of MCC .7105 through .7640:~~

(i) Cottage Industries;

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

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

~~(D C)~~ Residential use, not in conjunction with a primary use listed in MCC .2168, consisting of a single-family dwelling, including a mobile or modular home, subject to the following findings:

(1) The lot size shall meet the standards of MCC .2178(A), .2180(A) to (C), or .2182(A) to (C);

(2) The land is incapable of sustaining a farm or forest use, based upon one of the following:

(a) A Soil Conservation Service Agricultural Capability Class of IV or greater for at least 75% of the lot area, and physical conditions insufficient to produce 50 cubic feet/acre/year of any commercial tree species for at least 75% of the lot area,

(b) Certification by the Oregon State University Extension Service, the Oregon Department of Forestry, or a person or group having similar agricultural and forestry expertise, that the land is inadequate for farm and forest uses and stating the basis for the conclusion, or

(c) The lot is a Lot of Record under MCC .2182(A) through (C), and is ten acres or less in size;

(3) A dwelling as proposed is compatible with the primary uses as listed in MCC .2168 on nearby property and will not interfere with the resources or the resource management practices or materially alter the stability of the overall land use pattern of the area;

(4) The dwelling will not require public services beyond those existing or programmed for the area;

(5) The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices; and

(6) The residential use development standards of MCC .2194 will be met.

~~(E D)~~ Mortgage Lot: Residential use consisting of a single-family dwelling in conjunction with a primary use listed in MCC .2168, located on a mortgage lot created after August 14, 1980, subject to the following:

(1) The minimum lot size for the mortgage lot shall be two acres;

- (2) Except as may otherwise be provided by law, a mortgage lot shall not be conveyed as a zoning lot separate from the tract out of which it was created or such portion of the tract as conforms with the dimensional requirements of the zoning ordinance then in effect. The purchaser of a mortgage lot shall record a statement referring to this limitation in the Deed Records pertaining to said lot.
- (3) No permit shall be issued for improvement of a mortgage lot unless the contract seller of the tract out of which the mortgage lot is to be created and the mortgagee of said mortgage lot have agreed in writing to the creation of the mortgage lot.

11.15.2182 Lot of Record.

(A) For the purposes of this district, a Lot of Record is ~~a parcel of land~~:

- (1) ~~For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form, prior to August 14, 1980; and~~ A parcel of land:

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

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

- (c) Which satisfies the minimum lot size requirements of MCC .2178, or

- (2) ~~Which, when established, satisfied all applicable laws.~~ A parcel of land:

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

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

- (c) Does not meet the minimum lot size requirements of MCC .2178; and

- (d) Which is not contiguous to another substandard parcel or parcels under the same ownership, or

- (3) A group of contiguous parcels of land:

- (a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to February 20, 1990;

- (b) Which satisfied all applicable laws when the parcels were created;

- (c) Which individually do not meet the minimum lot size requirements of MCC .2178, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and

**(d) Which are held under the same ownership.**

- (B) ~~A Lot of Record which has less than the area or front lot line minimum required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.~~**
- (1) ~~Parcels of land which are contiguous and in which greater than possessory interests are held by the same person, partnership or business entity, shall be aggregated to comply as nearly as possible with the area or front lot line minimum of this district. The word contiguous shall refer to parcels of land which have any common boundary and shall include, but not be limited to, parcels separated only by an alley, street or other right of way.~~**
- (2) ~~Nothing in this subpart shall be deemed to alter or amend the other provisions of this Chapter.~~**

**For the purposes of this subsection:**

- (1) *Contiguous* refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way;**
- (2) *Substandard Parcel* refers to a parcel which does not satisfy the minimum lot size requirements of MCC .2178; and**
- (3) *Same Ownership* refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.**
- (C) Separate Lots of Record shall be deemed created when a County maintained road or an EFU, CFU, MUA-20, RR or RC zoning district boundary intersects a parcel, or aggregated group of contiguous parcels, of land.**
- (D) A Lot of Record which has less than the front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.**
- (E) Except as otherwise provided by MCC .2180 and .2184, no sale or conveyance of any portion of a Lot of Record, other than for a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.**

**G. Subsections of the RR – Rural Residential District are amended, added to, or deleted as follows:**

**11.15.2212 Conditional Uses.**

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

(A) Community Service Uses under the provisions of MCC .7005 through .7041.

(B) The following Conditional Uses under the provisions of MCC .7105 through .7640:

- (1) Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005 or exploration, mining and processing of aggregate and other mineral or subsurface resources;
- (2) Commercial processing of agricultural products, primarily raised or grown in the region;
- (3) Raising of any type of fowl, or processing the by-products thereof, for sale at wholesale or retail;
- (4) Feed lots;
- (5) Raising of four or more swine more than four months of age;
- (6) Raising of fur-bearing animals for sale at wholesale or retail;
- (7) Commercial dog kennels;
- (8) ~~Rural p~~Planned developments for single-family residences, as provided in MCC ~~.7705 through .7760~~.6200 through .6226;
- (9) Cottage industries, under the provisions of MCC .7105 through .7640.
- (10) Limited rural service commercial uses, such as local stores, shops, offices, repair services and similar uses; and
- (11) Tourist commercial uses such as restaurants, gasoline stations, motels, guest ranches, and similar uses.

#### 11.15.2214 Accessory Uses

- (A) Signs, pursuant to the provisions of MCC 11.15.7902-.7982.
- (B) Off-street parking and loading;
- (C) Home occupations; ~~and~~
- (D) Other structures or uses customarily accessory or incidental to any use permitted or approved in this district; ~~and~~
- (E) **Family Day Care.**

#### 11.15.2218 Dimensional Requirements.

- (A) Except as provided in MCC .2220, .2222, .2224 and .7720, the minimum lot size shall be five acres.
- (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.
- (C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30



Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

- (D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional requirements not otherwise established by Ordinance.
- (E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.
- (F) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated “2A”, “3A”, or “3C” in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:
  - (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.
  - (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

**H. Subsections of the RC – Rural Center District are amended, added to, or deleted as follows:**

**11.15.2252 Conditional Uses**

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

- (A) Community Service Uses pursuant to the provisions of MCC .7005 through .7041
- (B) The following Conditional Uses pursuant to the provisions of MCC .7105 through .7640:
  - (1) Limited rural service commercial uses such as local stores, shops, offices, repair shops, and similar uses;
  - (2) Tourist commercial uses such as restaurants, taverns, gas stations, motels, guest ranches, and similar uses;
  - (3) The Light Manufacturing Uses of MCC .5120 which require the daily employment of twenty or fewer persons; and
  - (4) Commercial processing of agricultural or forestry products primarily grown in the vicinity.
- (C) ~~Rural p~~Planned developments for single-family residences, as provided in MCC .7705 through .7760 .6200 through .6226. ~~Duplex and apartment dwellings, not to exceed four dwelling units per lot, may be approved by the approval authority pursuant to the provisions of MCC .7750.~~

(D) Existing light industrial uses permitted by MCC .2252(B)(3) may be expanded up to a daily total of 40 employees, based on findings that:

- (1) The proposed expansion is a result of normal growth of the existing use and not required as a result of diversification of the business;
- (2) The use provides a public benefit to the rural center by employing primarily persons who reside within the rural center or surrounding rural area, and this same employment pattern will continue with the proposed expansion;
- (3) The proposed expansion satisfies the applicable elements of Comprehensive Framework Plan Policies:
  - (a) No. 20 – Arrangement of Land Uses,
  - (b) No.30 – Industrial Location (Isolated Light Industrial),
  - (c) No. 36 – Transportation System Development Requirements,
  - (d) No. 37 – Utilities, and
  - (e) No. 38 – Facilities.
- (4) The proposed expansion satisfies the Design Review provisions of MCC .7805 through .7865.

#### 11.15.2254 Accessory Uses

- (A) Signs pursuant to the provisions of MCC 11.15.7902-.7982.
- (B) Off-street parking and loading;
- (C) Home occupations; and
- (D) Other structures or uses customarily accessory or incidental to any use permitted or approved in this district; **and**

#### **(E) Family Day Care.**

#### 11.15.2258 Dimensional Requirements

- (A) Except as provided in MCC .2260, .2262, .2264 and .7720, the minimum lot size shall be one acre.
- (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

#### (C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

- (D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the

necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

- (E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.
  - (F) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
    - (1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
    - (2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**
- I. Subsections of the UF – Urban Future District are amended, added to, or deleted as follows:**
- 11.15.2360 Exceptions to Dimensional Requirements**
- (A) When a lot has been included in a Future Street Plan approved under the Land Division Chapter, MCC 11.45, development of that lot, including area and setback requirements, shall be in compliance with the street and lotting pattern of that Future Street Plan, or approved revision thereof, under MCC 11.45.180.
  - (B) The minimum yard requirement shall be increased to provide for street widening in the event a yard abuts a street having a width less than that specified for the functional classification by MCC Chapter 11.60.
  - (C) Except as provided in the LF district, structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.
  - (D) The approval authority may grant a Lot of Exception to permit the creation of a lot smaller than the minimum required, after July 26, 1979, when in compliance with the other dimensional requirements of the district. Any exception shall be based on findings that the proposal will:
    - (1) Substantially maintain or support the character and stability of the overall land use pattern of the area;
    - (2) Be compatible with accepted farming or forestry practices on adjacent lands;
    - (3) Be consistent with the purposes described in MCC .2354;
    - (4) Satisfy the applicable standards of water supply, sewage disposal and minimum access; and
    - (5) Not require public services beyond those existing in the area.

- (E) Except as provided in MCC .2360(G), no Lot of Exception shall be approved unless:
- (1) The Lot of Record to be divided exceeds the area requirements of the district, and
  - (2) The division will create no more than one lot which is less than the minimum area required in the district.
- (F) The approval authority may attach conditions to the approval of any Lot of Exception to insure that the use is consistent with the Comprehensive Plan and the purposes described in MCC .2354.
- (G) The Planning Director may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in the district; provided that the decision of the Planning Director may be appealed according to the provisions of MCC .8290 and .8295.
- (F) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
  - (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**J. Subsections of the LDRGP – Urban Low Density Residential General Provisions are amended, added to, or deleted as follows:**

**11.15.2480 Exceptions to Dimensional Requirements.**

- (A) When a lot has been included in a future street plan approved under the Land Division Chapter, development of that lot, including area and setback requirements, shall be in compliance with the street and lotting pattern of that future street plan, or approved revisions thereof, under MCC 11.45.180 of the Land Division Chapter.
- (B) In acting to approve a land division under the Land Division Chapter, the approval authority may grant an Exception not to exceed ten percent of the lot area or 25 percent of any other dimensional requirements upon findings that such Exception will result in any of the following:
- (1) More efficient use of the site;
  - (2) A greater degree of privacy, safety or freedom from noise, fumes or glare;
  - (3) An improved solar and climatic orientation;
  - (4) The preservation of natural features, where appropriate; or
  - (5) The provision of pedestrian circulation facilities where needed.
- (C) Cornices, eaves, belt courses, sills, canopies, or similar architectural features may extend or

project into a required yard not more than 30 inches. Fireplace chimneys may project into a required front, side or rear yard not more than two feet, provided the width of such side yard is not reduced to less than three feet.

- (D) Open porches or balconies, not more than 30 inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than four feet and such porches may extend into a required front yard not more than 30 inches.
- (E) The minimum yard requirement shall be increased to provide for street widening in the event a yard abuts a street having a width less than that specified for the functional classification by MCC Chapter 11.60.
- (F) A fence, lattice work, screen, wall or similar feature with a maximum height of six feet may be located in any required yard provided, however, that the maximum height shall be four feet if the feature is within 15 feet of a front property line or five feet of a street side property line.
- (G) Except as provided in the LF District, chimneys, antennae, or similar structures may exceed height maximums established by Ordinance if located at least 20 feet from any property line.
- (H) A two-unit dwelling may be located with one unit on each of two adjoining lots. In such event, the minimum lot size and yard requirements shall apply to each unit, except that no yard shall be required between the units.
- (I) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
  - (1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
  - (2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**K. Subsections of the MHRGP – Urban Medium and High Density Residential General Provisions are amended, added to, or deleted as follows:**

**11.15.2692 Exceptions to Dimensional Requirements**

- (A) When a lot has been included in a future street plan approved under the Land Division Chapter, development of that lot, including area and setback requirements, shall be in compliance with the street and lotting pattern of that future street plan or approved revision thereof, under MCC 11.45.180 of the Land Division Chapter.
- (B) In acting to approve a land division under the Land Division Chapter, the approval authority may grant an exception not to exceed ten percent of the lot area or 25 percent of any other dimensional requirement upon findings of the manner in which such exception will result in any of the following:
  - (1) More efficient use of the site:

- (2) A greater degree of privacy, safety or freedom from noise, fumes or glare;
  - (3) An improved solar and climatic orientation;
  - (4) The preservation of natural features, where appropriate; or
  - (5) The provision of pedestrian circulation facilities, where needed.
- (C) The side yard adjacent to an accessway created under MCC 11.45, the Land Division Chapter may be reduced to five feet for a pre-existing structure, under the provisions of subsection (B) above.
- (D) Cornices, eaves, belt courses, sills, canopies or similar architectural features may extend or project into a required yard not more than 30 inches. Fireplace chimneys may project into a required front, side or rear yard not more than two feet, provided the width of such side yard is not reduced to less than three feet.
- (E) Open porches or balconies, not more than 30 inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than four feet, and such porches may extend into a required front yard not more than 30 inches.
- (F) The minimum yard requirement shall be increased to provided for street widening in the event a yard abuts a street having a width less than that specified for the functional classification by the Street Standards Chapter MCC 11.60.
- (G) A fence, lattice work, screen, wall or similar feature with a maximum height of six feet may be located in any required yard; provided, however, that the maximum height shall be four feet if the feature is within 16 feet of a front property line or five feet of a street side property line.
- (H) Except as provided in the LF district, chimneys, antennae or similar structures may exceed height maximums established by Ordinance, if located at least 20 feet from any property line.
- (I) A two-unit or an apartment dwelling may be located with attached units or adjoining lots. In such event, the minimum lot size and yard requirements shall apply to the units on each lot, except that no yard shall be required adjacent to the common property line.
- (J) The land area dedicated without compensation for the widening or the extension of a public street may be included in calculating the number of dwelling units permitted on a lot in an Urban Medium or High Density Residential District.
- (K) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
  - (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**L. Subsections of the R-40 – Single Family Residential District are amended, added to, or deleted as follows:**

**11.15.2834 Restrictions**

**(A) Lot Size**

The minimum lot size shall be 40,000 square feet. The minimum average lot width shall be 100 feet. The minimum average lot depth shall be 140 feet.

**(B) Yard Requirements:**

(1) Front Yard. There shall be a front yard with a minimum depth of 30 feet.

(2) Side Yard. Side yards shall be a minimum of 10 feet.

(3) Rear Yard. There shall be a rear yard with a minimum depth of 30 feet to any permanent structure.

**(C) Accessory Buildings**

Accessory buildings may be allowed if they fulfill the front, side, and rear yard requirements of the district.

**(D) Off-Street Parking**

Two automobile spaces on the lot shall be provided for each dwelling unit.

**(E) Height Restrictions**

Maximum height of any structure shall be 35 feet.

**(F) Lot Coverage**

The maximum area that may be covered by the dwelling unit and accessory buildings shall not exceed 20% of the total area of the lot.

(G) All lots in this district shall abut a street, or shall have such other access held suitable by the Hearings Officer.

**(H) Half Streets**

The minimum front or side yards or other setbacks as stated herein, shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such case.

(I) No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard, or setback requirements of this district.

**(J) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated “2A”, “3A”, or “3C” in the ESEE analysis made part of the supporting documentation of the comprehensive plan.**

**This yard or setback requirement may be reduced as follows:**

- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
- (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**M. Subsections of the R-30 – Single Family Residential District are amended, added to, or deleted as follows:**

**11.15.2844 Restrictions**

**(A) Lot Size**

The minimum lot size shall be 30,000 square feet. The minimum average lot width shall be 80 feet. The minimum average lot depth shall be 130 feet.

**(B) Yard Requirements**

- (1) Front Yard.** There shall be a front yard with a minimum depth of 30 feet.
- (2) Side Yard.** Side yards shall be a minimum of 10 feet.
- (3) Rear Yard.** There shall be a rear yard with a minimum depth of 30 feet to any permanent structure.

**(C) Accessory Buildings**

Accessory buildings may be allowed if they fulfill the front, side, and rear yard requirements of the district.

**(D) Off-Street Parking**

Two automobile spaces on the lot shall be provided for each dwelling unit.

**(E) Height Restrictions**

Maximum height of any structure shall be 35 feet..

**(F) Lot Coverage**

The maximum area that may be covered by the dwelling unit and accessory buildings shall not exceed 25% of the total area of the lot.

**(G) All lots in this district shall abut a street, or shall have such other access held suitable by the Hearings Officer.**

**(H) Half Streets**

The minimum front or side yards or other setbacks as stated herein, shall be increased where such



yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

- (I) No sales or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.
- (J) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
  - (1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
  - (2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**N. Subsections of the R-20 – Single Family Residential District are amended, added to, or deleted as follows:**

**11.15.2854 Restrictions**

**(A) Lot Size**

The minimum lot size shall be 20,000 square feet. The minimum average lot width shall be 80 feet. The minimum average lot depth shall be 120 feet.

**(B) Yard Requirements**

- (1) **Front Yard.** There shall be a front yard having a minimum depth of 30 feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structures on abutting lots on either side if both lots are occupied; if one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot, plus one-half of the remaining distance to the required 30 foot setback. If neither of the abutting side lots or tracts are occupied by a structure, the setback shall be 30 feet.
- (2) **Side Yard.** Side yards shall be a minimum of 10 feet.
- (3) **Rear Yard.** There shall be a rear yard with a minimum depth of 30 feet to any permanent structure.

**(C) Accessory Buildings**

Accessory buildings may be allowed if they fulfill the front, side, and rear yard requirements of the district.

**(D) Off-Street Parking**

Two automobile spaces on the lot shall be provided for each dwelling unit.

**(E) Height Restrictions**

Maximum height of any structure shall be 35 feet.

**(F) Lot Coverage**

The maximum area that may be covered by the dwelling unit and accessory buildings shall not exceed 30% of the total area of the lot.

**(G) All lots in this district shall abut a street, or shall have such other access held suitable by the Hearings Officer.**

**(H) Half Streets**

The minimum front or side yards or other setbacks as stated herein, shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

**(I) No sales or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.**

**(J) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**

**(1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**

**(2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**O. Subsections of the R-10 – Single Family Residential District are amended, added to, or deleted as follows:**

**11.15.2864 Restrictions**

**(A) Lot Size**

The minimum lot size shall be 10,000 square feet. The minimum average lot width shall be 70 feet, and the minimum lot width at the building line shall be 70 feet. The minimum average lot depth shall be 100 feet.

**(B) Yard Requirements**

**(1) Front Yard.** There shall be a front yard having a minimum depth of 30 feet, unless a

previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structure on abutting lots on either side if both lots are occupied. If one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot, plus one-half the remaining distance to the required 30 foot setback. If neither of the abutting side lots or tracts is occupied by a structure, the setback shall be 30 feet.

(2) **Side Yards.** Side yards shall be a minimum of ten feet.

(3) **Rear Yards.** There shall be a rear yard with a minimum depth of 25 feet to the main building.

(4) **Corner lots** may have a rear yard of not less than 10 feet if the front yard is not less than 30 feet and if the side yards are not less than 20 feet.

**(C) Accessory Buildings**

Accessory buildings may be allowed if they fulfill the following requirements:

(1) If attached to the main building or separated by a breezeway they shall fulfill the front and side yard requirements of the main building.

(2) If detached and located behind the rear most line of the main building, or a minimum of 35 feet from the front lot line, whichever is greater, any one-story accessory building may be located adjacent to or on a rear and/or side lot line not fronting on a street, when in compliance with the Building Code.

**(D) Off-Street Parking**

Two automobile spaces on the lot shall be provided for each dwelling unit.

**(E) Height Restrictions**

Maximum height of any structure shall be 35 feet.

**(F) Lot Coverage**

The maximum area that may be covered by the dwelling unit and accessory building shall not exceed 30% of the total area of the lot.

(G) All lots in this district shall abut a street or shall have such other access held suitable by the Hearings Officer.

**(H) Half Streets**

The minimum front or side yards or other setbacks as stated herein, shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

(I) No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.

**(J) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral**

and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:

- (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.
- (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

**P. Subsections of the R-7 – Single Family Residential District are amended, added to, or deleted as follows:**

**11.15.2874 Restrictions**

**(A) Lot Size**

The minimum lot size shall be 7,000 square feet. The minimum average lot width shall be 60 feet, and the minimum lot width at the building line shall be 60 feet. The minimum average lot depth shall be 80 feet.

**(B) Yard Requirements**

- (1) **Front Yard.** There shall be a front yard having a minimum depth of 20 feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structures on abutting lots on either side if both lots are occupied. If one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot, plus one-half the remaining distance to the required 20 foot setback. If neither of the abutting side lots or tracts are occupied by a structure, the setback shall be 20 feet.
- (2) **Side Yards.** Side yards shall be a minimum of five feet, on corner lots the side yard shall be a minimum of ten feet on the side abutting the street.
- (3) **Rear Yards.** There shall be a rear yard with a minimum depth of 25 feet to the main building.
- (4) **Corner lots** may have a rear yard of not less than 5 feet if the front and side yards are not less than 20 feet.

**(C) Accessory Buildings**

Accessory buildings may be allowed if they fulfill the following requirements:

- (1) If attached to the main building or separated by a breezeway, they shall fulfill the front and side yard requirements of the main building.
- (2) If detached and located behind the rear-most line of the main building, or a minimum of 50 feet from the front lot line, whichever is greater, any one-story accessory building may be located adjacent to or on a rear and/or side lot line fronting on a street, when in compliance with the Building Code.

(D) Off-Street Parking

Two automobile spaces on the lot shall be provide for each dwelling unit.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet.

(F) Lot Coverage

The maximum area that may be covered by the dwelling unit and accessory buildings shall be 35% of the total area of the lot.

(G) All lots in this district shall abut a street or shall have such other access held suitable by the Hearings Officer.

(H) Half Streets

The minimum front or side yards or other setbacks as stated herein shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

(I) No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.

(J) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:

(1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.

(2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

**Q. Subsections of the R-4 – Two-Family Residential District are amended, added to, or deleted as follows:**

**11.15.2884 Restrictions**

(A) Lot Size

The minimum lot size shall be 8,000 square feet for a two-family dwelling, 7,000 square feet for a single-family dwelling, and 4,000 square feet for each dwelling unit in dwelling groups permitted under MCC .2882(C). The minimum average lot width shall be 60 feet, the minimum width at the building line shall be 60 feet, and the minimum average lot depth shall be 80 feet.

(B) Yard Requirements

- (1) Front Yard. There shall be a front yard having a minimum depth of 20 feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structures on abutting lots on either side if both lots are occupied; if one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot, plus one-half the remaining distance to the required 20 foot setback. If neither of the abutting side lots or tracts are occupied by a structure, the setback shall be 20 feet.
- (2) Side Yard. Side yards shall be a minimum of five feet, on corner lots the side yard shall be a minimum of ten feet on the side abutting the street.
- (3) Rear Yard. There shall be a rear yard with a minimum depth of 25 feet to the main building.

(C) Accessory Buildings

Accessory buildings may be allowed if they fulfill the following requirements:

- (1) If attached to the main building or separated by a breezeway they shall fulfill the front and side yard requirements of the district.
- (2) If detached and located behind the rear-most line of the main building, or a minimum of 50 feet from the front lot line, whichever is greater, any one-story accessory building may be located adjacent to or on a rear and/or side lot line not fronting on a street, when in compliance with the Building Code.

(D) Off-Street Parking

Two automobile spaces on the lot shall be provided for each dwelling unit. Off-street parking for dwelling groups permitted under MCC .2882(C) shall be provided according to the requirements of MCC .6100 through .6148.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet.. Maximum height of any structure in a dwelling group permitted under MCC .2882(C) shall be one-story, unless the Planning Director shall determine that a greater height is in harmony with the neighborhood.

(F) Lot Coverage

The maximum area that may be covered by the dwelling(s) and accessory buildings shall not exceed 40% of the total area of the lot.

- (G) All lots in this district shall abut a street or shall have such other access held suitable by the Hearings Officer.

(H) Half Streets

The minimum front or side yards or other setbacks as stated herein shall be increased where such yard or setback abuts a street having insufficient right-of-way widths to serve the area. The

Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

- (I) No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback requirements of this district.
- (J) The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:
  - (1) To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.
  - (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.

**R. Subsections of the A-2 – Apartment Family Residential District are amended, added to, or deleted as follows:**

**11.15.2894 Restrictions**

(A) Lot Size and Coverage.

No. of Dwelling Units	Minimum Lot Size in Square Feet	Percent Lot Coverage
1	7,000	35%
2	8,000	40%

No. of Dwelling Units	Minimum Lot Size in Square Feet	Percent Lot Coverage
3	11,000	40%
4	14,000	45%
5	16,500	45%
6	19,000	45%
7-10	21,500 + 2,250 for each unit over 7	45%
11-20	30,500 + 2,000 for each unit over 11	45%
21-37	50,750 + 1,750 for each unit over 21	50%
38-63	79,500 + 1,500 for each unit over 38	55%
	each unit over 64	55%
	64-up	118,500 + 1,000 for

- (1) The minimum average lot width shall be 60 feet, and the minimum lot width at the building line shall be 60 feet. The minimum average lot depth shall be 80 feet.

- (2) Where the number of dwelling units erected on a lot is calculated in accordance with this Section, no greater number of units shall in any event be permitted at any time except in compliance with MCC .2892(G).

(B) Yard Requirements

- (1) Front Yard. There shall be a front yard having a minimum depth of 20 feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the setbacks of the main structures on abutting lots on either side if both lots are occupied; if one lot is occupied and the other vacant, the setback shall be the setback of the occupied lot plus one-half the remaining distance to the required 20 foot setback. If neither of the abutting side lots or tracts are occupied by a structure, the setback shall be 20 feet.
- (2) Side Yard. For buildings one or two stories in height, side yards shall be a minimum of five feet; for buildings exceeding two stories in height, the side yards shall be a minimum of one foot horizontally for every three feet of building height; on corner lots the side yard for all structures shall be a minimum of ten feet on the side abutting the street.
- (3) Rear Yard. There shall be a rear yard with a minimum depth of 15 feet to the main building.

(C) Accessory Buildings

Accessory buildings may be allowed if they fulfill the following requirements:

- (1) If attached to the main building or separated by a breezeway they shall fulfill the front and side yard requirements of the main building.
- (2) If detached and located behind the rear-most line of the main building, or a minimum of 45 feet from the front lot line, whichever is greater, any one-story accessory building may be located adjacent to or on a rear and/or side lot line not fronting on a street when in compliance with the Building Code.

(D) Off-Street Parking

Off-street parking shall be provided as required in MCC.6100 through .6148.

(E) Height Restrictions

Maximum height of any structure shall be 35 feet. Structures exceeding 35 feet may be permitted if in harmony with the neighborhood after a public hearing before the Hearings Officer.

- (F) All lots in this district shall abut a street or shall have such other access held suitable by the hearings Officer.

(G) Half Street

The minimum front or side yards or other setbacks as stated herein shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Director shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.

- (H) No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot, yard or setback



requirements of this district.

- (H) **The minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**

- (1) **To 50 feet if the property owner records with the Department of General Services a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
- (2) **To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

- S. Subsections of the Planned Development Subdistrict are amended, added to, or deleted as follows:**

**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:
  - (l) 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;
    - (f) The conservation of energy;
    - (g) The efficient use of transportation facilities; and
    - (h) 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).

#### 11.15.6222 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 MUA-20, RR, and RC districts only duplexes and single family detached or attached dwellings are permitted.**
- (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:
  - (1) On individual lots in a subdivision approved for the purpose under MCC 11.45, the Land Division Chapter, subject to the development standards of MCC .2704, except subpart (A) (2) thereof;
  - (2) In a mobile home park, subject to the development standards of MCC .2708.
- (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.

#### **T. Subsections of the Willamette River Greenway Subdistrict are amended, added to, or deleted as follows:**

#### 11.15.6358 Exceptions

A Greenway Permit shall not be required for the following:

- (A) Farm Use, as defined in ORS 215.203(2)(a), including buildings and structures accessory thereto on **“converted wetlands” as defined by ORS 196.905(9) or on upland areas;**
- (B) The propagation of timber or the cutting of timber for public safety or personal use;
- (C) Gravel removal from the bed of the Willamette River, conducted under a permit from the State of Oregon;
- (D) Customary dredging and channel maintenance **and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS 196.905(6);**
- (E) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;
- (F) Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses on public lands;
- (G) On scenic easements acquired under ORS 390.332(2)(a), the maintenance authorized by that statute and ORS 390.368;
- (H) The use of a small cluster of logs for erosion control;
- (I) The expansion of capacity, or the replacement, of existing communications or energy distribution and transmission systems, except substations;
- (J) The maintenance and repair of existing flood control facilities; and
- (K) Uses legally existing on the effective date of this Chapter; provided, however, that any change or intensification of such use shall require a Greenway Permit.

#### 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, 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.**
- (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.

#### 11.15.6372 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.
- (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 ~~vegetative~~ **vegetation fringe** along the river, **lakes, wetlands, and streams** shall be enhanced and protected to the maximum extent practicable to assure scenic quality, protection from erosion, ~~and~~ screening of uses from the river, **and continuous riparian corridors.**
- (K) Extraction of known aggregate deposits may be permitted, pursuant to the provisions of MCC .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.**
- (N) Areas of ecological, scientific, historical or archeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible.
- (O) Areas of erosion or potential erosion shall be protected from loss by appropriate means which are compatible with the character of the Greenway.
- (P) The quality of the air, water and land resources in and adjacent to the Greenway shall be preserved in development, change of use, or intensification of use of land designated WRG.
- (Q) A building setback line of 150 feet from the ordinary low waterline of the Willamette River shall be provided in all rural and natural resource 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. **Any exceptions to this setback must be processed as a Goal Exception under the standards of OAR 660-04-022(4).**
- (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.

**(S) The applicable policies of the Comprehensive Plan are satisfied.**

#### **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 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.

U. Subsections of the Significant Environmental Concern Subdistrict are amended, added to, or deleted as follows:

#### 11.15.6400 Purposes

The purposes of the Significant Environmental Concern 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, ~~historical and~~ archeological 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.

#### 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. The excavation of any archeological site shall require an SEC permit, under MCC .6412, regardless of the zoning designation of the site.
- (B) Any excavation or any removal of materials of archeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit.
- (C) **Any building, structure, or physical improvement within 100 feet of the normal high water level of a Class I stream, as defined by the State of Oregon Forest Practice Rules, shall require an SEC permit under MCC .6412, regardless of the zoning designation of the site.**

#### 11.15.6406 Exceptions

An SEC permit shall not be required for the following:

- (A) Farm use, as defined in ORS 215.203(2)(a), including buildings and structures accessory thereto on **“converted wetlands” as defined by ORS 196.905(9) or on upland areas;**
- (B) Except as provided in MCC .6420(C), 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 ~~from a farm woodlot or less than 20 acres as described in the definition of farm use in ORS 215.203;~~
- (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), but not the placement of spoils;**
- (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) Activities regulated pursuant to the provisions of ORS 390.805 to 390.925 on lands designated as scenic waterways under the Oregon Scenic Waterways System;
- (G) The expansion of capacity, or the replacement, of existing communication or energy distribution and transmission systems, except substations;
- (H) The maintenance and repair of existing flood control facilities; ~~and~~
- (I) Uses legally existing on the effective date of this Chapter; provided, however, that any change or alteration of such use shall require an SEC permit as provided herein; **and**
- (J) **Those Class 1 streams located:**

(1) **Within mineral and aggregate resource areas designated "2A", "3A" or "3C" by a Statewide Planning Goal 5 Economic, Social, Environmental and Energy analysis, or**

(2) **Within the Willamette River Greenway.**

11.15.6420 Criteria for Approval of SEC Permit

- (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, **wetland**, or floodwater storage area.
- (B) Agricultural land and forest land shall be preserved and maintained for farm and forest use.
- (C) The harvesting of timber on lands designated SEC **inside the Urban Growth Boundary** shall be conducted in a manner which will insure that natural, scenic, and watershed qualities will be maintained to the greatest extent practicable or will be restored within a brief period of time.
- (D) A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.
- (E) 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.
- (F) 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.
- (G) Significant fish and wildlife habitats shall be protected.
- (H) The natural ~~vegetative~~ **vegetation fringe** 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**.
- ~~(I) Buildings, structures, and sites of historic significance shall be preserved, protected, enhanced, restored, and maintained in proportion to their importance to the County's history.~~
- (I) Archeological areas shall be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry.
- (J) Extraction of aggregates and minerals, the depositing of dredge spoils, and similar activities permitted pursuant to the provisions of MCC .7105 through .7640, shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, historical or archeological features, vegetation, erosion, stream flow, visual quality, noise, and safety, and to guarantee necessary reclamation.
- (K) 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.
- (L) **Significant wetland areas shall be protected as provided in MCC .6422.**
- (M) Areas of erosion or potential erosion shall be protected from loss by appropriate means which are compatible with the environmental character.



- (N) 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.
- (O) 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.
- (P) 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.
- (Q) The applicable policies of the Comprehensive Plan shall be satisfied.

#### **11.15.6422 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 SEC permit which would impact those wetlands shall be subject to the following:

- (A) In addition to other SEC Permit submittal requirements, the application shall also include:
  - (1) A site plan drawn to scale showing the wetland boundary as determined by a documented field survey, the location of all existing and proposed 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 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.

**V. A Hillside Development and Erosion Control Subdistrict is added as follows:**

**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;
- (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.

**11.15.6710 Permits Required**

- (A) 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) All persons proposing site grading where the volume of soil or earth material disturbed, stored, disposed of or used as fill exceeds 50 cubic yards, or which obstruct or alter a drainage course or on any sites within the Tualatin River Drainage Basin, shall obtain a Grading and Erosion Control Permit as prescribed by this subdistrict, unless exempted by MCC .6715(B)(2) through (8) or .6715(C). Development projects subject to a Hillside Development Permit do not require a separate Grading and Erosion Control Permit.

**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 – All land-disturbing or land-filling activities or soil storage 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 %;

- (2) The disturbed or filled area is 20,000 square feet or less;
  - (3) The volume of soil or earth materials to be stored is 50 cubic yards or less;
  - (4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet;
  - (5) Impervious surfaces, if any, of less than 10,000 square feet are to be created;
  - (6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified;
  - (7) The activity will not take place within 100 feet by horizontal measurement from the top of the bank of a watercourse, the mean high watermark (line of vegetation) of a body of water, or within the wetlands associated with a watercourse or water body, whichever distance is greater; and
  - (8) Any tree clearing work will be subject to the State Forest Practices Act.
- (C) Categorical Exemptions – Notwithstanding MCC .6715(A) and (B)(1) through (8), the following activities are exempt from the permit requirements:
- (1) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished height greater than five feet.
  - (2) Cemetery graves, but not cemetery soil disposal sites.
  - (3) Refuse disposal sites controlled by other regulations.
  - (4) Excavations for wells.
  - (5) Mineral extraction activities as regulated by MCC .7305 through .7335.
  - (6) Exploratory excavations under the direction of certified engineering geologists or geotechnical engineers.
  - (7) Routine agricultural crop management practices.
  - (8) Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazards.

#### **11.15.6720 Application Information Required**

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

- (A) A map showing the property line locations, roads and driveways, existing structures, trees with 8-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal.
- (B) An estimate of depths and the extent and location of all proposed cuts and fills.

- (C) The location of planned and existing sanitary drainfields and drywells.
- (D) Additional narrative, map or plan information necessary to demonstrate compliance with MCC .6730(A),.

#### **11.15.6725 Hillside Development Permit Process and Standards**

- (A) 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 .

#### **(B) Geotechnical Report Requirements**

- (1) A geotechnical investigation in preparation of a Report required by MCC .6725(A)(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.
- (C) 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.

## **11.15.6730 Grading and Erosion Control Permit Standards**

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

### **(A) Design Standards For Grading and Erosion Control**

#### **(1) Grading Standards**

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

#### **(2) *Erosion Control Standards***

- (a) On sites within the Tualatin River Drainage Basin, erosion control plans shall satisfy the requirements of OAR 340-41-455. [An *Erosion Control Plans Technical Guidance Handbook* (November, 1989) is available to assist applicants in meeting State erosion control standards in the Tualatin Basin.]**
- (b) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;**
- (c) Development Plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;**
- (d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;**
- (e) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;**
- (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 location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;
- (n) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

#### **(B) Responsibility**

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

and to return it to its original or equal condition.

**(C) Implementation**

- (1) Performance Bond** – A performance bond may be required to assure the full cost of any required erosion and sediment control measures. The bond may be used to provide for the installation of the measures if not completed by the contractor. The bond shall be released upon determination the 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 Permit or Grading and Erosion Control Permit, 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 questionnaire which must be filled out and certified by a Certified Engineering Geologist or Geotechnical Engineer.

(N) **Landscaping Activities** - The artistic adornment or improvement of a section of ground or site by contouring the land and by planting flowers, shrubs, trees, lawns or groundcover plants.

(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) **Slope:**

- (1) Any ground whose surface makes an angle from the horizontal; or
- (2) The face of an embankment or cut section.

(Q) **Slope Hazard Map** - A series of maps (Figures 1A. through 6A.) prepared by Shannon & Wilson, Inc., dated September, 1978, and on file in the Office of the Director, Department of Environmental Services;

(R) **Spoil Material** - Any rock, sand, gravel, soil or other earth material removed by excavation or other grading activities.

(S) **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.

- (T) **Vegetation** – All plant growth, especially trees, shrubs, grasses and mosses.
- (U) **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.

**W. A Subsection of the CS – Community Service Subdistrict is added as follows:**

**11.15.7010 General Provisions.**

- (A) Application for approval of a Community Service use shall be made in the manner provided in MCC .8205 through .8280.
- (B) Except as provided in MCC .7022(F) and (G), the Approval Authority shall hold a public hearing on each application for a Community Service Use, modification thereof, or time extension.
- (C) The approval of a Community Service Use shall expire two years from the date ~~of such approval if substantial construction or development has not taken place, unless the Approval Authority shall have established a longer period.~~ of issuance of the Board Order in the matter, or two years from the date of final resolution of subsequent appeals, unless:
  - (1) The project is completed as approved, or
  - (2) The Approval Authority establishes an expiration date in excess of the two year period, or
  - (3) The Planning Director determines that substantial construction or development has taken place. That determination shall be processed as follows:
    - (a) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.
    - (b) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on findings that:
      - (i) Final Design Review approval has been granted under MCC .7845 on the total project; and
      - (ii) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined

by MCC .9025(A) or .9027(A).

- (c) **Notice of the Planning Director decision shall be mailed to all parties as defined in MCC .8225.**
- (d) **The decision of the Planning Director shall become final at the close of business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.**
- (D) A Community Service approval shall be for the specific use or uses approved together with the limitations or conditions as determined by the approval authority. Any change of use or modification of limitations or conditions shall be subject to approval authority approval after a public hearing.
- (E) In granting approval of a Community Service Use, the approval authority may attach limitations or conditions to the development, operation or maintenance of such use including but not limited to setbacks, screening and landscaping, off-street parking and loading, access, performance bonds, noise or illumination controls, structure height and location limits, construction standards, periods of operation and expiration dates of approval.
- (F) Uses authorized pursuant to this section shall be subject to Design Review approval under MCC .7805 through .7865.
- (G) A Community Service approval shall not be construed as an amendment of the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification.

#### **11.15.7020 Uses**

- (A) Except as otherwise provided in MCC .2012, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority.
  - (1) Boat moorage, marina or boathouse moorage.
  - (2) Camp, campground or recreational vehicle park.
  - (3) Cemetery, crematory, mausoleum, mortuary or funeral home.
  - (4) Church.
  - (5) Group care facility.
  - (6) Government building or use.
  - (7) Hospital, sanitarium, rest or retirement home.
  - (8) Kindergarten or day nursery.
  - (9) Library.
  - (10) Park, playground, sports area, golf course or recreational use of a similar nature.
  - (11) Philanthropic or eleemosynary institution.

- (12) Power substation or other public utility building or use.
- (13) Private club, fraternal organization, lodge.
- (14) Racetrack.
- (15) Radio and television transmission towers.
  - (a) VHF and UHF television towers, FM radio towers, two-way radio, common carrier, and cellular telephone towers, and fixed point microwave towers are permitted in any district, provided only self-supporting structures are permitted in the Exclusive Farm Use district.
  - (b) Low-power television towers, satellite ground stations, AM radio towers, and building-mounted towers are permitted in any district except urban residential districts, provided only self-supporting structures are permitted in the Exclusive Farm Use district.
  - (c) Ham radio, amateur sole source emitters, Citizen Band transmitters, and structures to support them are permitted in any district as an accessory use and do not require a Community Service use designation if used for non-commercial purposes only. Any such tower shall comply with the regulations of the district in which it is located. Non-amateur sole source emitters shall also comply with the registration requirements of MCC .7035(F)(2).
  - (d) Receive-only facilities in conjunction with a permitted use are exempt from the provisions of this section, but shall comply with all other requirements of MCC. 7020(15), .7035, and .7040.
- (16) Refuse dump or sanitary landfill.
- (17) Resort, dude ranch, hunting or fishing lodge.
- (18) Recycling collection center.
- (19) Riding academy or the boarding of horses for profit.
- (20) School, private, parochial or public; educational institution.
- (21) Transit station.
- (22) Waste collection, transfer, processing, or recovery facility.
- (23) Accessory uses to the above.
- (24) Ambulance Service Substation.
- (25) Regional Sanitary Landfills
- (26) Mining and processing of geothermal resources.**

#### 11.15.7025 Restrictions

A building or use approved under MCC .7020 through .7030 shall meet the following requirements:

- (A) Minimum yards in EFU, CFU, F-2, MUA-20, MUF, RR, RC, UF-20, UF-10, LR-40, LR-30, LR-20, LR-10, R-40, R-30, R-20, and R-10 Districts:
  - (1) Front yards shall be 30 feet.

- (2) Side yards for one-story buildings shall be 20 feet; for two-story buildings, 25 feet.
- (3) Rear yards shall be as required in the district.
- (B) Minimum yards in LR-7.5, LR-7, LR-5, MR-4, MR-3, HR-2, HR- 1, R-7.5, R-7, R-4, A-2, BPO, and A-1-B Districts:
  - (1) Front yards shall be 30 feet.
  - (2) Side yards for buildings 25 feet or less in height shall be 15 feet; for buildings over 25 feet, 20 feet.
  - (3) Rear yards shall be as required in the district.
- (C) Minimum yards in other districts shall be as required in the district.
- (D) Minimum Site Size;
  - (1) A day nursery or kindergarten shall provide not less than 100 square feet per child, of outdoor play area located other than in a required front yard.
  - (2) Primary (kindergarten through fourth grade), private and parochial schools shall be on sites of one acre for each 90 pupils or one acre for each three classrooms, whichever is greater.
  - (3) Elementary public schools shall be on sites of one acre for each 75 pupils or one acre for each two and one-half classrooms, whichever is greater.
  - (4) Churches shall be on sites of 15,000 square feet.
- (E) Off-street parking and loading shall be provided as required in MCC .6100 through .6148.
- (F) Signs for Community Service Uses located in districts in MCC .2002 - .2966 pursuant to the provisions of MCC .7902 - .7982.
- (G) Other restrictions or limitations of use or development not required under this subsection shall be provided in the district.
- (H) **For noise sensitive uses as defined in MCC .7305(E) the minimum yard or setback requirement shall be increased to 200 feet from the property line of a lot or parcel on which there is an existing or approved mineral and/or aggregate extraction use listed in MCC .7320, or on which there is a mineral and/or aggregate resource that is designated "2A", "3A", or "3C" in the ESEE analysis made part of the supporting documentation of the comprehensive plan. This yard or setback requirement may be reduced as follows:**
  - (1) To 50 feet if the property owner records with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby mineral and/or aggregate resources to conduct legally operating extraction uses.**
  - (2) To the yard specified in the zoning district if the Planning Director determines that potential mineral and/or aggregate extraction uses would not occur closer than 250 feet to the proposed noise sensitive location taking into consideration the resource information available.**

**X. Subsections of the CU – Conditional Use Subdistrict are amended, added to, or deleted as follows:**

**11.15.7110 General Provisions**

- (A) Application for approval of a Conditional Use shall be made in the manner provided in MCC .8205 through .8280.
- (B) The Approval Authority shall hold a public hearing on each application for a Conditional Use, modification thereof, time extension or reinstatement of a revoked permit.
- (C) **Except as provided in MCC .7330, the approval of a Conditional Use shall expire two years from the date of such approval if substantial construction or development has not taken place, unless the Approval Authority shall have established a longer period. of issuance of the Board Order in the matter, or two years from the date of final resolution of subsequent appeals, unless:**
  - (1) The project is completed as approved, or
  - (2) The Approval Authority establishes an expiration date in excess of the two year period, or
  - (3) The Planning Director determines that substantial construction or development has taken place. That determination shall be processed as follows:
    - (a) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.
    - (b) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on findings that:
      - (i) Final Design Review approval has been granted under MCC .7845 on the total project; and
      - (ii) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined by MCC .9025(A) or .9027(A).
    - (c) Notice of the Planning Director decision shall be mailed to all parties as defined in MCC .8225.
    - (d) The decision of the Planning Director shall become final at the close of business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.
- (D) A Conditional Use permit shall be issued only for the specific use or uses, together with the limitations or conditions as determined by the Approval Authority. Any change of use or modification of limitations or conditions shall be subject to approval authority approval after a

public hearing.

- (E) The findings and conclusions made by the approval authority and the conditions, modifications or restrictions of approval, if any, shall specifically address the relationships between the proposal and the approval criteria listed in MCC .7120 and in the district provisions.

#### 11.15.7115 Conditions and Restrictions

**Except as provided for Mineral Extraction and Processing activities approved under MCC .7305 through .7325 and .7332 through .7335, the approval authority may attach conditions and restrictions to any conditional use approved. Conditions and restrictions may include a definite time limit, a specific limitation of use, landscaping requirements, off-street parking, performance standards, performance bonds, and any other reasonable conditions, restrictions or safeguards that would uphold the purpose and intent of this Chapter and mitigate any adverse effect upon the adjoining properties which may result by reason of the conditional use allowed.**

#### 11.15.7120 Conditional Use Approval Criteria

- (A) A Conditional Use shall be governed by the approval criteria listed in the district under which the conditional use is allowed. If no such criteria are provided, the approval criteria listed in this section shall apply. In approving a Conditional Use listed in this section, the approval authority shall find that the proposal:

- (A 1) Is consistent with the character of the area;
- (B 2) Will not adversely affect natural resources;
- (C 3) Will not conflict with farm or forest uses in the area;
- (D 4) Will not require public services other than those existing or programmed for the area;
- (E 5) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;
- (F 6) Will not create hazardous conditions; and
- (G 7) Will satisfy the applicable policies of the Comprehensive Plan.

- (B) Except for off-site stockpiling, subpart (A) of this subsection shall not apply to applications for mineral extraction and processing activities. Proposals for mineral extraction and processing shall satisfy the criteria of MCC .7325.

#### 11.15.7122 Exclusive Farm Use Conditional Use Approval Criteria

- (A) In addition to the criteria of MCC .7120, an applicant for a Conditional Use listed in MCC .2012(B) must demonstrate that the use:
  - (1) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
  - (2) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- (B) For the purposes of this subsection surrounding lands devoted to farm or forest use shall not include:

(1) **Parcels with a single family residence approved under MCC .2012(B)(3);**

(2) **Exception areas; or**

(3) **Lands within the Urban Growth Boundary.**

(C) **Any conditions placed on a conditional use approved under this subsection shall be clear and objective.**

#### 11.15.7305 Definitions

(A) **Mining means the removal of minerals or aggregate material, whether extracted from land or water, by any method, including but not limited to shoveling, blasting, scooping, and dredging.**

(B) **Minerals include any and all solid mineral products, metallic and non-metallic, ~~solid, liquid or gaseous, and mineral waters of all kinds~~ extracted for commercial, industrial or construction use from natural deposits.**

(C) **~~Geothermal Resources shall have the meaning contained in ORS 522.005~~ Aggregate material includes crushed or uncrushed gravel, crushed stone, or sand from natural deposits.**

(D) **Reclamation Plan shall have the meaning contained in ORS 517.750.**

(E) **Noise Sensitive Uses include dwellings, schools, public parks, churches, hospitals, public libraries, offices or other similar uses determined to be noise-sensitive uses by the Department of Environmental Quality.**

(F) **Dust Sensitive Uses include dwellings, schools, public parks, churches, hospitals, public libraries, offices, food service or other similar uses determined to be dust-sensitive uses by the Department of Environmental Quality.**

(G) **ESEE is an abbreviation for the “Economic, Social, Environmental, and Energy” analysis procedure for Goal 5 resources described in OAR 660-16-000 through 660-16-025 and which is adopted as a part of the Comprehensive Plan.**

#### 11.15.7315 Purposes

The purposes of the Mineral Extraction section are to promote the public health, safety and general welfare, all in accordance with ORS 215, ORS 517, and 522, LCDC Statewide Planning Goal #5, and the Multnomah County Comprehensive Plan. The regulation of uses within this district are designed to:

(A) **Recognize mineral and aggregate resource extraction as a land use influenced largely by the location of the natural resource and the location of the market;**

(B) **Provide maximum flexibility for location of the extraction process within a variety of underlying zones, while at the same time minimizing potentially adverse effects on the public and property surrounding the extraction site;**

(C) **~~Recognize the potential for future changes in the character of the area in which the extraction site may be located, and allow for periodic modification of restrictions which may be placed upon the extraction operation in recognition of these changes~~ Recognize mineral and aggregate resource sites which receive an ESEE designation of “2A”, “3A”, or “3C” as being appropriate for extraction operations when in compliance with MCC .7325 – .7332; and**



- (D) Recognize mineral extraction as a temporary use dependent to a large degree upon market conditions and resource size and that reclamation and the potential for future use of the land for other activities must also be considered.

#### **11.15.7322 Exceptions**

**Exempted from the requirements of this section are those mineral extraction sites and activities which:**

- (A) If zoned EFU, produce less than 1,000 cubic yards of material and affect less than one acre, or**
- (B) Produce less than 5,000 cubic yards of material and affect less than one acre in any consecutive 12 month period, and which over time affect less than a total of five acres, or**
- (C) Produce materials which are used by the owner or tenant for construction and maintenance of on-site access roads, and farming or forest practices.**

#### **11.15.7325 Criteria for Approval**

The approval authority shall find that:

- (A) ~~An economic deposit of the mineral resource proposed to be extracted exists~~ The site is designated "2A", "3A", or "3C" through an ESEE analysis.**
- (B) There is a proposed reclamation plan which ~~is in conformance with~~ will allow the property to be utilized as envisioned by the Comprehensive Plan and the underlying district .**
- (C) ~~Adverse impacts on surrounding areas with regard to the following have been, or can be mitigated~~ The following general operation requirements and standards have been, or will be met:**
  - (1) Access and traffic:**
    - (a) Prior to any surface mining activity, all on-site roads used in the mining operation and all roads from the site to a public right-of-way shall be designed and constructed to accommodate the vehicles and equipment which will use them.**
    - (b) All on-site and private access roads shall be paved or adequately maintained to minimize dust and mud generation within 100 feet of a public right-of-way or 250 feet of a dust sensitive land use.**
    - (c) No material which creates a safety or maintenance problem shall be tracked or discharged in any manner onto any public right-of-way.**
    - (d) The applicant shall identify the most commonly used routes of travel from the site and the County Engineer shall certify that those roads:**
      - (i) Are adequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, or**
      - (ii) Are inadequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, but the applicant has committed to finance installation of the necessary improvements under the provisions of 02.200(a) or (b) of the**

***Multnomah County Rules for Street Standards.***

**(2) Screening, landscaping, ~~lighting~~, and visual appearance;**

- (a) All existing vegetation and topographic features which would provide screening and which are within 50 feet of the boundary of the proposed area of extraction shall be preserved.**
- (b) If existing natural vegetation and topography is found to be insufficient to obscure views of the site, the site shall be screened with landscape berms, hedges, trees, walls, fences or similar features. Required screening shall be in place prior to commencement of the extraction activities.**
- (c) The Approval Authority shall grant exceptions to the screening requirements only upon finding that:**
  - (i) The proposed extraction area is not visible from any dwelling, school, public park, church, hospital, public library, or publicly maintained road, or**
  - (ii) Screening will be ineffective because of the topographic location of the site with respect to surrounding properties, or**
  - (iii) The area is part of the completed portion of a reclamation plan.**

**(3) Signing†**

**Signing shall be controlled by the standards of MCC .7932(A)-(D), except that only one sign for each point of access to each differently named improved street may be allowed for any operation not in a GC, EC, LM, GM, HM, C-2, M-4, M-3, M-2, and M-1 district.**

**(4) Hours and days of operation†**

**Operating hours shall be allowed from 7:00 am to 6:00 pm. No operation shall be allowed on Sundays or on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day.**

- (a) The Approval Authority may allow alternative hours on sites for which the ESEE analysis has identified other potential operating time periods;**
- (b) Short-term exceptions to the hours and days of operation may be approved pursuant to the provisions of MCC .8705.**

**(5) Air, water, and noise ~~pollution~~ quality.**

- (a) The discharge of airborne contaminants and dust created by the extraction operation shall comply with the air quality standards established by the Department of Environmental Quality.**
- (b) Sedimentation and erosion resulting from the extraction operation shall comply with the standards established by the Department of Environmental Quality.**
- (c) Sound generated by an operation shall comply with the noise standards of the Department of Environmental Quality. Methods to control and minimize the effects of sound generated by the operation on off-site**

locations may include, but not be limited to, the installation of earth berms, equipment location, limitations on the hours of operation, and relocation of access roads.

(6) ~~Insurance and liability;~~ Fish and wildlife protection.

- (a) Fish and wildlife habitat identified by the Comprehensive Plan, or recognized as significant by an ESEE analysis, or found to be significant during project review shall be protected to the maximum possible. Where appropriate, such habitat may be mitigated by such enhancement measures as the provision of additional feed and cover for wildlife or fish stream habitat.
- (b) The extent of the operation's impact on and the importance of the fish and wildlife values present shall be determined in consultation with the State Department of Fish and Wildlife.
- (c) Streamside riparian vegetation shall be retained for all streams not a part of direct extraction activities.

(7) ~~Architectural designs of structures;~~ Setbacks.

- (a) For mineral and aggregate processing activities:
  - (i) 200 feet to a property line, or
  - (ii) 400 feet to a noise sensitive land use existing on February 20, 1990;
- (b) For access roads and residences located on the same parcel as the mining or processing activity, setbacks shall be as required by the underlying district; and
- (c) For mineral extraction and all other activities:
  - (i) 50 feet to a property line, or
  - (ii) 250 feet to a noise sensitive land use existing on February 20, 1990.

(8) Reclaimed Topography ~~Excavation depths, lateral support, and slopes.~~

All final reclaimed surfaces shall be stabilized by sloping, benching, or other ground control methods. Reclaimed surfaces shall blend into the natural landforms of the immediately surrounding terrain.

(9) ~~Blasting and other vibration-causing actions;~~ shall be restricted to the hours of 9:00 am to 5:00 pm, Monday through Saturday.

(10) Safety and security;

Safety and security measures, including fencing, gates, signing, lighting, or similar measures, shall be provided to prevent public trespass to identified hazardous areas such as steep slopes, water impoundments, or other similar hazard where it is found that such trespass is probable and not otherwise preventable.

(11) Phasing program; ~~and.~~

**All phases of an extraction operation shall be reclaimed before beginning the next, except where the Approval Authority finds that the different phases cannot be operated and reclaimed separately.**

**(12) Reclamation Schedule.**

**The reclamation plan shall include a timetable for continually reclaiming the land. The timetable shall provide for beginning reclamation within twelve (12) months after extraction activity ceases on any segment of the mined area and for completing reclamation within three (3) years after all mining ceases.**

- (D) The proposed operations will not result in the creation of a geologic hazard to surrounding properties, such as through slumping, sliding, or drainage modifications, and have been certified by a registered soils or mining engineer, or engineering geologist as meeting this requirement.
- (E) ~~Setbacks for the proposed operations are appropriate for the nature of the use and the area where the use is to be conducted~~ Proposed blasting activities will not adversely affect the quality or quantity of groundwater within wells in the vicinity of the operation.
- (F) Conditional or preliminary approval for all phases of the proposed operation, including reclamation, has been received from all governmental agencies having jurisdiction over mineral extraction, and the applicable requirements in ORS 517 and ORS 522 have been complied with.
- (G) ~~The applicable standards in MCC .7120 have been complied with~~ The Approval Authority may establish a program for periodic monitoring and reporting.

**11.15.7328 Operation Limitations**

**On sites with an ESEE analysis designation of "3C" the Approval Authority may place restrictions on extraction activities found to impact other Statewide Planning Goal 5 resources, noise sensitive uses, and other conflicting uses identified in the ESEE analysis. Restrictions may include limitations on the operating season and size or location of extraction activity, among others. Restrictions shall be site specific and directly related to the findings of the ESEE analysis and shall consider the need to balance the importance of the competing resources and conflicting uses against the mineral and aggregate resource.**

**11.15.7329 Off-Site Stockpiling and Processing**

**Stockpiling, processing, and distribution activities listed in MCC .7320, related to but not including extraction, may be approved by the Approval Authority under the procedural provisions of MCC .7110 through .7120 on sites other than ESEE designated "2A", "3A", and "3C" resource locations upon a finding that the applicable standards of MCC .7325 are satisfied.**

**11.15.7330 Time Limit**

**A Conditional Use permit hereunder shall be valid for a maximum of five years from date of final approval. The Approval Authority may allow a time limit of a maximum of ten years on sites for which the ESEE analysis has identified a longer potential time limit. The applicant may apply for renewal not less than 90 days prior to the expiration of such permit. The renewal application may be denied, approved subject to previous conditions, or approved subject to new conditions in light of the following factors, among others:**

- (A) Previous impacts of the use upon surrounding lands and activities;

~~(B) Changes in surrounding land uses and activities; and~~

~~(B) Changes in technology and activities of the operation which will impact the surrounding lands and activities, and~~

(C) Compliance with MCC .7325 and conditions of approval.

#### **11.15.7332 Monitoring**

**The Planning Director shall periodically monitor all extraction operations. If the Director determines that an extraction operation is not in compliance with MCC .7325, such enforcement proceedings deemed appropriate by the Multnomah County Legal Counsel shall be instituted to require compliance.**

**Y. Subsections MCC .7705 – .7760 (Rural Planned Development) are deleted.**

**Z. Subsections of the Action Proceedings are amended, added to, or deleted as follows:**

#### **11.15.8220 Notice of Hearing – Contents**

(A) Notice of hearing before the Planning

Commission or Hearings Officer shall contain the following:

- (1) The date, time and place of the hearing;
- (2) A legal description of the subject property;
- (3) **A street address or other easily understood geographical reference to the subject property;**
- (4) **The nature of the proposed action and the proposed use or uses that could be authorized;**
- (5) **A listing of the applicable Zoning Code and comprehensive plan policies that apply to the application;**
- (6) A statement that all interested parties may appear and be heard;
- (7) **A statement that failure to raise an issue, either in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to LUBA based on that issue;**
- (8) A statement that the hearing shall be held pursuant to the adopted Rules of Procedure; ~~and~~
- (9) In the case of a hearing by the Planning Commission, the names of the members of the Commission and, in the case of a hearing by the Hearings Officer, the name of the Officer **and the name of the staff representative to contact and the telephone number where additional information may be obtained;**
- (10) **A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;**

**(11) A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and.**

**(12) A copy of the Planning Commission's Rules of Procedure.**

- (B) When the proposed action is a change of zone classification, the Planning Director may include in the notice of hearing a statement that the approval authority may consider classifications other than that for which the action is initiated.
- (C) In addition to the notice required by MCC .8120(B) and any other notice required by law, notice shall be mailed at least ~~ten~~ **twenty** days prior to the hearing to the following persons:
- (1) The applicant;
  - (2) All record owners of property within ~~100 feet of the subject property on matters listed under MCC .8205(D) and (E), and to record owners of property within 250 feet of the subject property on all other matters:~~
    - (a) **100 feet of the subject property on matters listed under MCC .8205(D) and (E), and on all other matters within the Urban Growth Boundary.**
    - (b) **250 feet of the subject property where the subject property is outside the Urban Growth Boundary and not within a farm or forest zone;**
    - (c) **500 feet of the subject property where the subject property is within a farm or forest zone.**
  - (3) **Owners of *Public Use Airports* when the property subject to a zone change application is:**
    - (a) **Within 5,000 feet of the side or end runway of an airport determined by the Department of transportation to be a *visual airport*, or**
    - (b) **Within 10,000 feet of the side or end runway of an airport determined by the Department of Transportation to be an *instrument airport*.**
  - (4) **All tenants of a mobile home park when the proposed action is a zone change request involving all or part of that mobile home park.**
- (D) The record of the Department of Administrative Services shall be used to determine who is entitled to mailed notice; and persons whose names and addresses are not on record at the time of the initiation of the proposed action need not be notified of the hearing. The failure of a property owner to receive notice shall not invalidate the action if a good faith attempt was made to notify all persons entitled to mailed notice.
- (E) In addition to the notice required by MCC .8220(C), the party initiating an action under MCC .8205(A), (B), (C) or (F) shall, at the party's expense, post signs on the property conspicuously displaying notice of the pending hearing at least ten days prior to the date of the hearing. One sign shall be required for each 300 feet, or part thereof, of frontage of the subject property on any street. The content, design, size and location of the signs shall be as determined by the Planning Director to assure that the information thereon is legible from the public right-of-way. As a precondition to a hearing, the party shall file an Affidavit of such posting with the Planning Director not less than five days prior to the hearing.
- (F) A hearing may be continued from time to time as necessary. If a hearing is adjourned to a date

certain, no additional notice shall be given unless ordered by the approval authority.

#### 11.15.8240 Decisions

- (A) The Planning Commission or Hearings Officer may approve an application as submitted, deny it, or approve it with such modifications or conditions as may be necessary to carry out the Comprehensive Plan or to obtain the objectives of subsection (D)(2) below.
- (B) In the case of an action by the Planning Commission, a decision to approve a zone change, community service use or conditional use, shall be by majority vote of the entire Commission.
- (C) The Planning Commission or Hearings Officer shall render a decision upon the close of the hearing or at the time to which the matter is continued. Within ten days after a decision is made, it shall be reduced to writing, signed by the Chairperson of the Planning Commission or by the Hearings Officer, filed by the Planning Director with the Clerk of the Board, and mailed to those persons entitled to mailed notice under MCC .8220(C), and to such other persons who request the same.
- (D) The following limitations shall be applicable to conditional approvals:
  - (1) Conditions shall be fulfilled within a time limitation set forth in the approval thereof, or if no time limit is set, within a reasonable time.
  - (2) Conditions shall be reasonably designed to fulfill public needs emanating from the proposed land use in either of the following respects:
    - (a) Protection of the public from the potentially deleterious effects of the proposed use; or
    - (b) Fulfillment of the need for public services created by the proposed use.
  - (3) Failure to fulfill any conditions to the grant of a proposal within the time limitations provided may be grounds for initiation of an action.
  - (4) A bond, in a form acceptable to the Planning Director, or a cash deposit from the property owner in such an amount as will assure compliance with the conditions imposed pursuant to this subsection, may be required.
- (E) Any change or alteration of conditions attached to conditional approvals shall be processed as a new action, except that the Planning Director may approve a change or alteration which does not:
  - (1) Increase density;
  - (2) Change boundaries;
  - (3) Change any use; or
  - (4) Change the location or amount of land devoted to specific land uses.
- (F) An alternative zoning classification may be substituted by the Planning Commission or Hearings Officer for the proposed action if the alternative classification is in the same general classification (i.e., residential, commercial, industrial) and the hearing notice included notification of this possibility as provided by MCC .8220(C).
- (G) If the application is denied, either initially and no review taken, or upon review by the Board or by action of the courts, no new application for the same or substantially similar action shall be filed for at least six months from the date of the final action denying the application.

- (H) Age, gender or physical disability shall not be an adverse consideration in making a land use decision.**

**11.15.8280. Board Decision**

- (A) The Board may affirm, reverse or modify the decision of the Planning Commission or Hearings Officer and may grant approval subject to such modifications or conditions as may be necessary to carry out the Comprehensive Plan or to achieve the objectives of MCC .8240(D).**
- (B) The Board shall state all decisions upon the close of its hearing or upon continuance of the matter to a time certain.**
- (C) Written findings of fact and conclusions, based upon the record, shall be signed by the Presiding Officer of the Board and filed with the Clerk of the Board with a decision within five business days following announcement of the decision under subsection (B) above.**
- (D) The Board's decision shall be final at the close of business on the tenth day after the Decision, Findings of Fact and Conclusions have been filed under subsection (C) above, unless the Board on its own motion grants a rehearing under MCC .8285(A).**
- (E) The Board shall render a decision within 120 days from the time the application for that action is accepted as being complete, except when:**
- (1) A participant requests an extension before the conclusion of the initial evidentiary hearing, in which case the extension shall not be subject to the 120 day limitation, or**
  - (2) Additional documents or evidence is provided in support of the application less than 20 days prior to or at the initial evidentiary hearing and a party requests a continuance of the hearing, in which case the continuance shall not be subject to the 120 day limitation.**

**AA. Subsections of Variances are amended, added to, or deleted as follows:**

**11.15.8505 Variance Approval Criteria**

- (A) The Approval Authority may permit and authorize a variance from the requirements of this Chapter only when there are cause practical difficulties in the application of the Chapter. A Major Variance shall be granted only when all of the following criteria are met. A Minor Variance shall meet criteria (3) and (4).**
- (1) A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or district. The circumstance or condition may relate to the size, shape, natural features and topography of the property or the location or size of physical improvements on the site or the nature of the use compared to surrounding uses.**
  - (2) The zoning requirement would restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or district.**
  - (3) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or adversely affects the appropriate development of adjoining properties.**
  - (4) The granting of the variance will not adversely affect the realization of the Comprehensive**



Plan nor will it establish a use which is not listed in the underlying zone.

- (B) A variance shall be void if **the Planning Director finds that** no substantial construction or substantial expenditure of funds **has** occurred on the affected property within 18 months after the variance is granted. **That determination shall be processed as follows:**

- (1) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.
- (2) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on findings that:
  - (a) Final Design Review approval has been granted under MCC .7845 on the total project, if appropriate; and
  - (b) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined by MCC .9025(A) or .9027(A).
- (3) Notice of the Planning Director decision shall be mailed to all parties as defined in MCC .8225.
- (4) The decision of the Planning Director shall become final at the close of business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.

**BB. Subsections of Non-Conforming Uses are amended, added to, or deleted as follows:**

**11.15.8805 ~~Non-Conforming Uses~~ Restoration, Replacement, or Abandonment of a Non-Conforming Use**

- (A) ~~A non-conforming structure or use may not be changed or altered in any manner except as provided herein, unless such change or alteration more nearly conforms with the regulations of the district in which it is located~~ Restoration or replacement of a non-conforming use shall be permitted when the restoration or replacement is made necessary by fire, other casualty or natural disaster. Restoration or replacement shall be commenced within one year from the date of occurrence of the fire, casualty or natural disaster.
- (B) ~~In case of destruction beyond reasonable repair as determined by the Hearings Officer, by fire or other causes, a non-conforming structure or use shall not be rebuilt unless it conforms to all requirements of the district in which it is located~~ If a non-conforming structure or use is abandoned or discontinued for any reason for more than two years, it shall not be re-established unless the resumed use conforms with the requirements of this code at the time of the proposed resumption.
- (C) ~~If a non-conforming structure or use is abandoned or discontinued for any reason for more than one year, it shall not be re-established unless specifically approved by the Hearings Officer~~ A non-conforming structure or use may be maintained with ordinary care.

~~(D) A non-conforming structure or use may be maintained with ordinary care.~~

#### **11.15.8810 Alteration of a Non-Conforming Use**

**(A) Alteration of a non-conforming use includes:**

- (1) A change in the use of no greater adverse impact on the neighborhood.**
- (2) A change in the structure or physical improvements of no greater impact to the neighborhood.**

**(B) Alteration of a non-conforming use shall be permitted when necessary to comply with any lawful requirement for alteration in the use.**

**(C) An alteration as defined in (A) above may be permitted to reasonably continue the use.**

**(D) A proposal for an alteration under (C) above shall be considered a contested case and a hearing conducted under the provisions of MCC .8205 - .8295 using the standards of (E) below.**

**(E) An alteration of a non-conforming use may be permitted if the alteration will affect the surrounding area to a lesser negative extent than the current use, considering:**

- (1) The character and history of the use and of development in the surrounding area;**
- (2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line;**
- (3) The comparative numbers and kinds of vehicular trips to the site;**
- (4) The comparative amount and nature of outside storage, loading and parking;**
- (5) The comparative visual appearance;**
- (6) The comparative hours of operation;**
- (7) The comparative effect on existing vegetation;**
- (8) The comparative effect on water drainage;**
- (9) The degree of service or other benefit to the area; and**
- (10) Other factors which tend to reduce conflicts or incompatibility with the character or needs of the area.**

### **SECTION 3. ZONING MAP AMENDMENTS**

The following Sectional Zoning Maps are amended to reflect those new boundaries of the Significant Environmental Concern subdistrict as depicted in that collection of maps entitled *1989 Amendments of the Significant Environmental Concern Subdistrict*: No. 5, 29, 37, 548 – 549, 550 – 551, 556 – 563, 574, 586, 592, 638, 639, 649 – 652, 653 – 656, 657a – 657d, 658 – 661, 662 – 665, 666, 667 – 670, 744, 759, 760, 764, 765, 772, 773, 774, 775, 776, 779, 783, 784, 786, and 787.

#### SECTION 4. ADOPTION

This ordinance being necessary for the health, safety, and welfare of the people of Multnomah County, an emergency is declared to exist and this ordinance shall take effect on its passage, pursuant to Section 5.50 of the Charter of Multnomah County.

ADOPTED THIS 20th day of February 19~~89~~<sup>90</sup>, being the date of its second reading before the Board of County Commissioners of Multnomah County.

#### BOARD OF COUNTY COMMISSIONERS OF MULTNOMAH COUNTY, OREGON

(SEAL)

By Gladys McCoy  
Gladys McCoy, County Chair

Reviewed:  
Lawrence Kressel, Multnomah County Counsel

by:

John DuBay

John DuBay  
Chief Deputy County Counsel

**Appendix to Ordinance No. 643**

**Form-1 — Geotechnical Reconnaissance and Stability Questionnaire**



Department of Environmental Services  
Division of Planning and Development  
2115 SE Morrison Street  
Portland, Oregon 97214  
(503) 248-3043

**Form-1 — GEOTECHNICAL RECONNAISSANCE AND STABILITY  
QUESTIONNAIRE**

1. What is the general topography of the property? Attach topographic survey or sketch with pertinent notes.
  
  
  
  
  
  
  
  
  
  
2. Are there any visible signs of instability or other potentially adverse site features (landslides, slumps, mud flows, creep, ravines, fills, cuts, seeps, springs, ponds, *etc.*) within the surrounding area for a minimum distance of 100 feet beyond the subject property boundaries? Describe and indicate on attached topographic survey or sketch.
  
  
  
  
  
  
  
  
  
  
3. Is any earthwork proposed in connection with site development?  

(Please Circle)YesNo

If yes, indicate depth and extent of cuts/fills; describe fill types.

4. In your opinion, will the proposed earthwork cause potential stability problems for the subject and/or adjacent properties?

*(Please Circle)*

Yes

No

If yes, express probability. *(Please Circle)*

Very Probable

Possibly

Possible, but remote

If Very Probable or Possibly, explain.

5. In your opinion, will the proposed development (structures, foundations, parking area, streets, etc.) create potential stability problems for the subject and/or adjacent properties?

*(Please Circle)*

Yes

No

If yes, express probability. *(Please Circle)*

Very Probable

Possibly

Possible, but remote

If Very Probable or Possibly, explain.

6. In your opinion would the subsurface disposal of sewage effluent on the site (*i.e.*, drain fields) have an adverse affect on stability of the site or adjacent areas?

*(Please Circle)*

Yes

No

If yes, express probability. *(Please Circle)*

Very Probable

Possibly

Possible, but remote

If Very Probable or Possibly, explain.

7. If answer is Very Probable or Possibly to questions 4 or 5, is it your opinion, on the basis of a visual evaluation, that adequate stability might be achieved by preferred siting of the development, alternative foundation support, earthwork, drainage, *etc.*?

(Please Circle)

Yes

No

If yes, explain.

8. Do you recommend additional geotechnical studies (*i.e.*, mapping, testing pits or borings, stability analysis, *etc.*) prior to site development?

(Please Circle)

Yes

No

If yes, explain.

Signature \_\_\_\_\_ Date \_\_\_\_\_

*Affix State of Oregon  
Registration Stamp and  
Number*