

ANNOTATED MINUTES

Tuesday, March 4, 1997 - 9:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

BOARD BRIEFING/POLICY DISCUSSION

Chair Beverly Stein convened the meeting at 9:35 a.m., with Commissioners Sharron Kelley and Tanya Collier present, and Vice-Chair Gary Hansen and Commissioner Dan Saltzman excused.

- B-1 Recommended Construction Schedule for Hawthorne Bridge Painting and Redecking Project. Presented by John Lindenthal and Karen Schilling.

KAREN SCHILLING, JOHN LINDENTHAL AND LARRY NICHOLAS PRESENTATION AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION.

- B-2 Board Discussion Regarding Restructure of Assessment and Taxation; Operation of Animal Control without General Fund Support; Changes in Facilities Capital Plan and Maintenance Schedules to Save General Fund Dollars; and Whether Service Reductions Dictate Consolidating Facilities. Presented by Larry Nicholas, Mike Oswald, Lance Duncan, Kathy Tuneberg, Bob Ellis, F. Wayne George, Jim Emerson, Shaun Coldwell, Hank Miggins and Steve Raimo.

LARRY NICHOLAS, KATHY TUNEBERG, BOB ELLIS, JOHN RILES, STEVE RAIMO, WAYNE GEORGE AND JIM EMERSON PRESENTATIONS AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION.

There being no further business, the meeting was adjourned at 11:08 a.m.

Thursday, March 6, 1997 - 9:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

REGULAR MEETING

Chair Beverly Stein convened the meeting at 9:34 a.m., with Commissioners Sharron Kelley, Tanya Collier and Dan Saltzman present, and Vice-Chair Gary Hansen excused.

CONSENT CALENDAR

UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER COLLIER, THE CONSENT CALENDAR (ITEMS C-1 THROUGH C-8) WAS UNANIMOUSLY APPROVED.

NON-DEPARTMENTAL

- C-1 Appointment of Ronald W. Thrasher to the DEPARTMENT OF ENVIRONMENTAL SERVICES CITIZEN BUDGET ADVISORY COMMITTEE
- C-2 Appointment of Helen A. Ellison to the DEPARTMENT OF SUPPORT SERVICES CITIZEN BUDGET ADVISORY COMMITTEE

DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-3 Intergovernmental Agreement 300977 with the Oregon Department of Transportation, Using Local Assistance Grant to Build a Bikeway/Walkway on SW 49th Avenue from Hidalgo Street to McNary Parkway
- C-4 ORDER Authorizing Execution of Deed D971410 Upon Complete Performance of a Contract to Anil Lal
- ORDER 97-31.**
- C-5 ORDER Authorizing Execution of Deed D971412 Upon Complete Performance of a Contract to Danny Ralston
- ORDER 97-32.**
- C-6 ORDER Authorizing Execution of Deed D971417 Upon Complete Performance of a Contract to Jerome H. Straub

ORDER 97-33.

SHERIFF'S OFFICE

- C-7 Renewal of Intergovernmental Agreement 800877 with the Oregon Department of Transportation, Providing Revenue for Sheriff's Office Motor Carrier Safety Unit to Enforce Commercial Motor Vehicles Safety Rules and Regulations

DEPARTMENT OF HEALTH

- C-8 Renewal of Intergovernmental Agreement 201077 with Oregon Health Sciences University for the Continued Provision of Radiology Consultation for County Providers

REGULAR AGENDA

PUBLIC COMMENT

- R-1 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

NO ONE WISHED TO COMMENT.

NON-DEPARTMENTAL

- R-2 PROCLAMATION Honoring Employers of People with Developmental Disabilities and Designating the Month of March, 1997 as DEVELOPMENTAL DISABILITY AWARENESS MONTH

COMMISSIONER SALTZMAN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-2. PROCLAMATION READ. COMMISSIONER SALTZMAN INTRODUCED LYNNAE RUTTLEDGE OF THE STATE VOCATIONAL REHABILITATION DIVISION. BOARD ACKNOWLEDGED, GREETED AND PRESENTED PROCLAMATIONS TO EMPLOYER RECIPIENTS JIM FRANCESCONI, CAROL LAFFERTY OF U.S. BANK, JIM LEWIS OF DEVELOPMENTAL SYSTEMS, INC., JOHN MARTIN OF CASCADE ATHLETIC CLUB, GRESHAM, PAT MAXWELL OF DIVISION MAYTAG, ROBERT McDONNELL OF FASTBREAK, MICHAEL MILLER OF GOODWILL INDUSTRIES OF THE COLUMBIA WILLAMETTE, KURT SHUSTERICH OF KAISER PERMANENTE, AND DAN YATES OF PORTLAND SPIRIT. MR. MILLER INTRODUCED TWO COLLEAGUES FROM GOODWILL. MS.

***RUTTLEDGE TESTIMONY IN SUPPORT OF
RECOGNIZING EMPLOYERS WHO HIRE THE
DEVELOPMENTALLY DISABLED. PROCLA-
MATION 97-34 UNANIMOUSLY APPROVED.***

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-3 Second Reading and Adoption of an ORDINANCE Amending the Exclusive Farm Use Zoning District and Related Subsections of Multnomah County Code 11.15 to Bring Multnomah County's Land Use Regulations into Compliance with Oregon Revised Statute Chapter 215 and Oregon Administrative Rule 660, Division 33 Requirements for Agricultural Land

***ORDINANCE READ BY TITLE ONLY. COPIES
AVAILABLE. COMMISSIONER KELLEY MOVED
AND COMMISSIONER SALTZMAN SECONDED,
APPROVAL OF SECOND READING AND
ADOPTION. ORDINANCE 876 UNANIMOUSLY
APPROVED.***

DEPARTMENT OF AGING SERVICES

- R-4 Briefing and Consideration of RESOLUTION Accepting the Implementation Plan to Transfer Services for People with Disabilities from State to County Administration. Presented by Chris Reisner and, Laurie Sitton.
- R-5 Intergovernmental Agreement 400017 with the State of Oregon Department of Human Resources, Senior and Disabled Services Division, for Transfer of Disability Services Office from State to County Administration

***JIM McCONNELL, CHRIS REISNER AND LAURIE
SITTON PRESENTATIONS AND RESPONSE TO
BOARD QUESTIONS AND DISCUSSION.
COMMISSIONER SALTZMAN MOVED AND
COMMISSIONER COLLIER SECONDED, APPROVAL
OF RESOLUTION. ROB NOSSE OF OREGON
PUBLIC EMPLOYEES UNION TESTIMONY
CONCERNING POTENTIAL BREAKDOWN OF
VARIOUS BARGAINING NEGOTIATIONS WITH
STATE AND THE INITIAL MEMORANDUM OF***

**UNDERSTANDING. RESOLUTION 97-35 UN-
ANIMOUSLY APPROVED.**

**COMMISSIONER SALTZMAN MOVED AND
COMMISSIONER COLLIER SECONDED, APPROVAL
OF INTERGOVERNMENTAL AGREEMENT. JIM
McCONNELL EXPLANATION OF PROPOSED
AMENDMENTS PER WRITTEN MEMO AND
RESPONSE TO BOARD QUESTIONS. MR.
McCONNELL, MR. NOSSE AND KEN UPTON
RESPONSE TO BOARD QUESTIONS AND
DISCUSSION. COMMISSIONER COLLIER MOVED
AND COMMISSIONER SALTZMAN SECONDED,
APPROVAL OF AMENDMENT ADDING
"REPRESENTATIVES FROM MULTNOMAH
COUNTY LABOR RELATIONS, OREGON PUBLIC
EMPLOYEES UNION AND AFSCME WILL MEET TO
CLARIFY OUTSTANDING LABOR ISSUES
IDENTIFIED IN THE MEMORANDUM OF
AGREEMENT WITH AFSCME, ATTACHMENT B."
AMENDMENT UNANIMOUSLY APPROVED. UPON
MOTION OF COMMISSIONER COLLIER,
SECONDED BY COMMISSIONER KELLEY,
AMENDMENTS TO SECTIONS III, IV AND THE
MEMORANDUM OF AGREEMENT/DSO TRANSFER
TO MULTNOMAH COUNTY AS OUTLINED IN MR.
McCONNELL'S MARCH 5, 1997 MEMO, WERE
UNANIMOUSLY APPROVED. AGREEMENT
UNANIMOUSLY APPROVED, AS AMENDED.**

There being no further business, the meeting was adjourned at 10:39

a.m.

*OFFICE OF THE BOARD CLERK
FOR MULTNOMAH COUNTY, OREGON*

Deborah L. Bogstad

Deborah L. Bogstad



MULTNOMAH COUNTY OREGON

BOARD CLERK	BOARD OF COUNTY COMMISSIONERS		
OFFICE OF BEVERLY STEIN, COUNTY CHAIR	BEVERLY STEIN ▪	CHAIR	▪248-3308
1120 SW FIFTH AVENUE, SUITE 1515	DAN SALTZMAN ▪	DISTRICT 1	▪ 248-5220
PORTLAND, OREGON 97204	GARY HANSEN ▪	DISTRICT 2	▪248-5219
TELEPHONE ▪ (503) 248-3277	TANYA COLLIER ▪	DISTRICT 3	▪248-5217
FAX ▪ (503) 248-3013	SHARRON KELLEY ▪	DISTRICT 4	▪248-5213

*MEETINGS OF THE MULTNOMAH COUNTY
BOARD OF COMMISSIONERS*

AGENDA

FOR THE WEEK OF

MARCH 3, 1997 - MARCH 7, 1997

Tuesday, March 4, 1997 - 9:30 AM - Briefing/Policy Discussion..... Page 2

Thursday, March 6, 1997 - 9:30 AM - Regular Meeting.....Page 2

*Thursday Meetings of the Multnomah County Board of Commissioners are *cable-cast* live and taped and can be seen by Cable subscribers in Multnomah County at the following times:*

Thursday, 9:30 AM, (LIVE) Channel 30

Friday, 10:00 PM, Channel 30

Sunday, 1:00 PM, Channel 30

Produced through Multnomah Community Television

INDIVIDUALS WITH DISABILITIES MAY CALL THE BOARD CLERK AT (503) 248-3277, OR MULTNOMAH COUNTY TDD PHONE (503) 248-5040, FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.

AN EQUAL OPPORTUNITY EMPLOYER

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1021 SW Fourth, Portland

BOARD BRIEFING/POLICY DISCUSSION

- B-1 *Recommended Construction Schedule for Hawthorne Bridge Painting and Redecking Project. Presented by John Lindenthal and Karen Schilling. 15 MINUTES REQUESTED.*
- B-2 *Board Discussion Regarding Restructure of Assessment and Taxation; Operation of Animal Control without General Fund Support; Changes in Facilities Capital Plan and Maintenance Schedules to Save General Fund Dollars; and Whether Service Reductions Dictate Consolidating Facilities. Presented by Larry Nicholas, Mike Oswald, Lance Duncan, Kathy Tuneberg, Bob Ellis, F. Wayne George, Jim Emerson, Shaun Coldwell, Hank Miggins and Steve Raimo. 2 HOURS REQUESTED.*
-

Thursday, March 6, 1997 - 9:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

REGULAR MEETING

CONSENT CALENDAR

NON-DEPARTMENTAL

- C-1 *Appointment of Ronald W. Thrasher to the DEPARTMENT OF ENVIRONMENTAL SERVICES CITIZEN BUDGET ADVISORY COMMITTEE*
- C-2 *Appointment of Helen A. Ellison to the DEPARTMENT OF SUPPORT SERVICES CITIZEN BUDGET ADVISORY COMMITTEE*

DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-3 *Intergovernmental Agreement 300977 with the Oregon Department of Transportation, Using Local Assistance Grant to Build a Bikeway/Walkway on SW 49th Avenue from Hidalgo Street to McNary Parkway*

- C-4 *ORDER Authorizing Execution of Deed D971410 Upon Complete Performance of a Contract to Anil Lal*
- C-5 *ORDER Authorizing Execution of Deed D971412 Upon Complete Performance of a Contract to Danny Ralston*
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SHERIFF'S OFFICE

- C-7 *Renewal of Intergovernmental Agreement 800877 with the Oregon Department of Transportation, Providing Revenue for Sheriff's Office Motor Carrier Safety Unit to Enforce Commercial Motor Vehicles Safety Rules and Regulations*

DEPARTMENT OF HEALTH

- C-8 *Renewal of Intergovernmental Agreement 201077 with Oregon Health Sciences University for the Continued Provision of Radiology Consultation for County Providers*

REGULAR AGENDA

PUBLIC COMMENT

- R-1 *Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.*

NON-DEPARTMENTAL

- R-2 *PROCLAMATION Honoring Employers of People with Developmental Disabilities and Designating the Month of March, 1997 as DEVELOPMENTAL DISABILITY AWARENESS MONTH*

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-3 *Second Reading and Adoption of an ORDINANCE Amending the Exclusive Farm Use Zoning District and Related Subsections of Multnomah County Code 11.15 to Bring Multnomah County's Land Use Regulations into Compliance with Oregon Revised Statute Chapter 215 and Oregon Administrative Rule 660, Division 33 Requirements for Agricultural Land*

DEPARTMENT OF AGING SERVICES

- R-4 *Briefing and Consideration of RESOLUTION Accepting the Implementation Plan to Transfer Services for People with Disabilities from State to County Administration. Presented by Chris Reisner and, Laurie Sitton. ONE HOUR REQUESTED.*
- R-5 *Intergovernmental Agreement 400017 with the State of Oregon Department of Human Resources, Senior and Disabled Services Division, for Transfer of Disability Services Office from State to County Administration*

GARY HANSEN
Multnomah County Commissioner
District 2



1120 S.W. Fifth Avenue, Suite 1500
Portland, Oregon 97204
(503) 248-5219

M E M O R A N D U M

TO: Office Of The Board Clerk
Chair Beverly Stein
Commissioner Dan Saltzman
Commissioner Sharron Kelley
Commissioner Tanya Collier

FROM: Juana Arrdondo, Commissioner Hansen's Office

RE: Absence from February 27th - March 7th Board Meetings

DATE: February 11, 1997

BOARD OF
COUNTY COMMISSIONERS
97 FEB 11 PM 1:52
MULTNOMAH COUNTY
OREGON

Commissioner Hansen will not be able to attend any of the Board Meeting on the week of
February 27th - March 7th because he will be in Washington DC

MEETING DATE: MAR 06 1997

AGENDA #: C-1

ESTIMATED START TIME: 9:30am

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Appointment to Citizen Advisory Boards & Commissions

BOARD BRIEFING:

DATE REQUESTED:

REQUESTED BY:

AMOUNT OF TIME NEEDED:

REGULAR MEETING:

DATE REQUESTED: March 6, 1997

AMOUNT OF TIME NEEDED:

DEPARTMENT: Nondepartmental

DIVISION: Chair's Office

CONTACT: Delma Farrell

TELEPHONE #: 248-3953

BLDG/ROOM #: 106/1515

PERSON(S) MAKING PRESENTATION:

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUGGESTED AGENDA TITLE:

Appointment of Ron Thrasher to Position #6 on the Department of Environmental Services Citizen Budget Advisory Committee for a term ending September 30, 1999

SIGNATURES REQUIRED:

ELECTED OFFICIAL: Beverly Steind

(OR)

DEPARTMENT

MANAGER: _____

97 FEB 21 AM 11: 23
MULTNOMAH COUNTY
OREGON
BOARD OF
COUNTY COMMISSIONERS

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277 or 248-5222

MULTNOMAH COUNTY CITIZEN INVOLVEMENT COMMITTEE
CBAC INTEREST FORM

NAME Ronald W Thrasher
HOME ADDRESS 9318 SE Hawthorn ZIP 97216 PHONE 257-1029
EMPLOYER Oregon Army National Guard - CSMS Camp Withycomb
OCCUPATION Mvt. Mobile Equip - Mech. Clackamas
OPTIONAL: Age 53 Sex M
African American _____ Native American _____ Hispanic _____
Asian/Pacific _____ White X Other _____

ARE YOU A RESIDENT OF MULTNOMAH COUNTY? YES X NO _____

AREAS OF INTEREST:
Human Services _____ Youth _____
Justice Services _____ Aging _____
Environmental Services _____ Health _____
Facilities, transportation X General government X
Other _____

VOLUNTEER/BOARD/COMMITTEE EXPERIENCE Church Board of Trustees/Deacons in Charge of Property

OTHER RELEVANT EXPERIENCE Home Owner, Previously self employed

- PLEASE LIST NAME, ADDRESS AND TELEPHONE NUMBERS OF TWO REFERENCES:
- Virginia Chappo 9048 SE Hamhill Pld OR 97214
 - John Patwama 9279 SE Hawthorne Pld OR 97218

WOULD YOU HAVE A POTENTIAL CONFLICT OF INTEREST RELATIVE TO ANY COUNTY DEPARTMENT? no

SIGNATURE Ronald W Thrasher DATE 5 Feb 97

Please return to: Office of Citizen Involvement, 2115 SE Morrison
Portland, Oregon 97214; Phone: 248-3450

MEETING DATE: MAR 06 1997

AGENDA #: C-2

ESTIMATED START TIME: 9:30 Am

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Appointment to Citizen Advisory Boards & Commissions

BOARD BRIEFING:

DATE REQUESTED:

REQUESTED BY:

AMOUNT OF TIME NEEDED:

REGULAR MEETING:

DATE REQUESTED: March 6, 1997

AMOUNT OF TIME NEEDED:

DEPARTMENT: Nondepartmental

DIVISION: Chair's Office

CONTACT: Delma Farrell

TELEPHONE #: 248-3953

BLDG/ROOM #: 106/1515

PERSON(S) MAKING PRESENTATION:

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUGGESTED AGENDA TITLE:

Appointment of Helen Ellison to Position#5 on the Department of Support Services Citizen Budget Advisory Committee for a term ending September 30, 1998.

SIGNATURES REQUIRED:

ELECTED OFFICIAL: Beverly Stein

(OR)

DEPARTMENT

MANAGER: _____

97 FEB 21 AM 11:23
MULTNOMAH COUNTY
OREGON
BOARD OF
COUNTY COMMISSIONERS

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277 or 248-5222

MULTNOMAH COUNTY CITIZEN INVOLVEMENT COMMITTEE
CBAC INTEREST FORM

NAME Helew A. Ellison
HOME ADDRESS 2727 NE WYGANT Portland ZIP 97211 (503) PHONE 284-072

EMPLOYER - N/A -

OCCUPATION "Community Activist"

OPTIONAL: Age 57 Sex FEM
African American _____ Native American _____ Hispanic _____
Asian/Pacific _____ White X Other _____

ARE YOU A RESIDENT OF MULTNOMAH COUNTY? YES X NO _____

AREAS OF INTEREST:
Human Services _____ Youth _____
Justice Services _____ Aging X
Environmental Services X Health _____
Facilities, transportation _____ General government X
Other _____

VOLUNTEER/BOARD/COMMITTEE EXPERIENCE ^(Pres) Bd Mem - Housing Our Families Comm Dev
Bd Memb/Neighborhood Assn's; Comm Mem - NEIGHBORHOOD Livability & Public
Safety Committees; Comm Member - MHRE Disabilities Comm;

OTHER RELEVANT EXPERIENCE Avid Volunteer for several Non-Profit Community
in areas of Human Services; Housing & Comm Dev;
Prev work experience - Paraprof. Account & Bus. Office Mgr.

PLEASE LIST NAME, ADDRESS AND TELEPHONE NUMBERS OF TWO REFERENCES:

- Kathleen Todd 2229 NE CLACKAMAS ST PDX (H) 282-1283 (W) 248-3452
- Don Mc Innis, P.C.C. 12000 SW 19TH Ave Pdx 97219 (W) (503) 977-4451

WOULD YOU HAVE A POTENTIAL CONFLICT OF INTEREST RELATIVE TO ANY COUNTY DEPARTMENT? NO

SIGNATURE Helew A. Ellison DATE January 25, 1997

Please return to: Office of Citizen Involvement, 2115 SE Morrison
Portland, Oregon 97214; Phone: 248-3450

MEETING DATE: MAR 06 1997

AGENDA NO: C-3

ESTIMATED START TIME: 9:30 am

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: SW 49th Ave. Bikeway/Walkway Grant

BOARD BRIEFING Date Requested: _____

Requested by: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: March 6, 1997

Amount of Time Needed: Consent Calendar

DEPARTMENT: Environmental Services DIVISION: Transportation and Land Use Planning

CONTACT: Karen Schilling TELEPHONE #: 26998

BLDG/ROOM #: 425

PERSON(S) MAKING PRESENTATION: Karen Schilling

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUGGESTED AGENDA TITLE:

Contract approval for Local Assistance Grant from ODOT to build a bikeway/walkway on SW 49th Ave. from Hidalgo St. to McNary Parkway.

3/6/97 originals to CAROLY KRAMER

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: *Laura E. Nicholas*

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
97 FEB 27 2 39



MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES
TRANSPORTATION AND LAND USE PLANNING DIVISION
1620 SE 190TH AVENUE
PORTLAND, OREGON 97233
(503) 248-5050

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: BOARD OF COUNTY COMMISSIONERS

FROM: Larry F. Nicholas, P.E., Director, Department of Environmental Services
Karen Schilling, Transportation Planning Specialist

TODAY'S DATE: February 10, 1997

REQUESTED PLACEMENT DATE: March 6, 1997

RE: SW 49th Ave. Bikeway/Walkway Local Assistance Grant

I. Recommendation/Action Requested:

Approve contract agreement with ODOT to construct a bikeway/walkway on SW 49th Ave. from Hidalgo St. to McNary Parkway.

II. Background/Analysis:

The County received a local assistance grant from ODOT to build a bikeway and walkway on SW 49th Ave. from Hidalgo St. to McNary Parkway. This facility will provide a safe connection to Portland Community College from the surrounding neighborhoods for bicyclists and pedestrians.

III. Financial Impact:

The total project is estimated to cost \$150,000. The County is responsible for \$50,000 and any cost overruns. The grant is for 80% of the total project cost or \$100,000, whichever is less.

County funding is identified in the 1996-2000 Capital Improvement Program for this project.

IV. Legal Issues:

There are no legal issues with this agreement.

V. Controversial Issues:

There are no controversial issues with this agreement.

VI. Link to Current County Policies:

It is the County's policy (Comprehensive Plan Policy 33A and 33C) to provide a safe and efficient multi-modal transportation system.

VII. Citizen Participation:

Informal citizen input identified the need for better facilities on this roadway. Citizen testimony is not expected at the Board meeting.

VIII. Other Government Participation:

This project is within the City of Lake Oswego and connects to a facility in the City of Portland. Both jurisdictions have been informed about this project. Portland Community College has also been informed about the project.

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

(See Administrative Procedures CON-1)

Renewal []

Contract # 300977

Prior-Approved Contract Boilerplate: _____ Attached: Not Attached

Amendment # _____

<p style="text-align: center;">CLASS I</p> <p><input type="checkbox"/> Professional Services under \$25,000</p> <p><input type="checkbox"/> Intergovernmental Agreement under \$25,000</p>	<p style="text-align: center;">CLASS II</p> <p><input type="checkbox"/> Professional Services over \$25,000 (RFP, Exemption)</p> <p><input type="checkbox"/> PCR B Contract</p> <p><input type="checkbox"/> Maintenance Agreement</p> <p><input type="checkbox"/> Licensing Agreement</p> <p><input type="checkbox"/> Construction</p> <p><input type="checkbox"/> Grant</p> <p><input type="checkbox"/> Revenue</p>	<p style="text-align: center;">CLASS III</p> <p><input checked="" type="checkbox"/> Intergovernmental Agreement over \$25,000</p> <p style="text-align: center;">APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</p> <p style="text-align: center;">AGENDA # <u>C-3</u> DATE <u>3/6/97</u></p> <p style="text-align: center;"><u>DEB BOGSTAD</u></p> <p style="text-align: center;">BOARD CLERK</p>
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Department: Environmental Services Division: Transportation & Land Use Planning Date: 2/11/97

Contract Originator: Karen Schilling Phone: 26998 Bldg/Room: #425/Yeon

Administrative Contact: Cathey Kramer Phone: 248-5050 x22589 Bldg/Room: #425/Yeon

Description of Contract: **Local assistance grant from Oregon Department of Transportation to build a bikeway and walkway on SW 49th Avenue from Hidalgo Street to McNary Parkway.**

RFP/BID #: _____ Date of RFP/BID: _____ Exemption Expiration Date: _____

ORS/AR # _____ (Check all boxes that apply) Contractor is JMBE JWBE JQRF JN/A None

Original Contract No. _____ (ONLY FOR ORIGINAL RENEWALS)

<p>Contractor Name: <u>Oregon Dept. of Transportation</u></p> <p>Mailing Address: <u>Transportation Building, Room 210</u></p> <p>City State Zip: <u>Salem, Oregon 97310</u></p> <p>Point of Contact: <u>(Michael Ronkin)</u></p> <p>Phone: <u>(503) 986-3555</u></p> <p>Employer ID# or SS#: _____</p> <p>Effective Date: <u>July 1, 1997</u></p> <p>Termination Date: <u>October 1, 1998</u></p> <p>Original Contract Amount: <u>\$150,000.00 *</u></p> <p>Total Amt of Previous Amendments: _____</p> <p>Amount of Amendment: _____</p> <p>Total Amount of Agreement: _____</p>	<p style="text-align: right;">* 100,000 ODOT Maximum 50,000 County Match \$150,000</p> <p>Remittance Address (if different) _____</p> <p>Payment Schedule Terms</p> <p><input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt</p> <p><input type="checkbox"/> Monthly \$ _____ <input type="checkbox"/> Net 30</p> <p><input checked="" type="checkbox"/> Other <u>\$50,000 then balance</u> <input type="checkbox"/> Other</p> <p><input type="checkbox"/> Requirements contract - Requisition Required</p> <p>Purchase Order No. _____</p> <p><input type="checkbox"/> Requirements Not to Exceed \$ _____</p> <p>Encumber: Yes <input type="checkbox"/> No <input type="checkbox"/></p>
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REQUIRED SIGNATURES:

Department Manager: *RCT [Signature]* Date: 2/11/97

Purchasing Manager: _____ Date: _____

(Class II Contracts Only)

County Counsel: *[Signature]* Date: 2/25/97

County Chair/Sheriff: *[Signature]* Date: March 6, 1997

Contract Administration: _____ Date: _____

(Class I, Class II Contracts Only)

VENDOR CODE				VENDOR NAME				TOTAL AMOUNT: \$			
LINE NO.	FUND	AGENCY	ORGANIZATION	SUB ORG	ACTIVITY	OBJECT/REV SRC	SUB OBJ	REPT CATEG	LGFS DESCRIP	AMOUNT	INC DEC
01	154	030	6220			2353					
02											
03											

If additional space is needed, attach separate page. Write contract # on top of page.

APPROVED ODOT Staff
DATE: December 12, 1996

Misc. Contracts & Agreements
No. 14,929

BIKEWAY/WALKWAY PROJECT AGREEMENT

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and MULTNOMAH COUNTY, acting by and through its Elected Officials, hereinafter referred to as "County."

WITNESSETH

RECITALS

1. By the authority granted in ORS 366.514, funds received from the State Highway Trust Fund are to be expended by the State and the various counties and cities for the establishment of footpaths and bicycle trails. The establishment and maintenance of such footpaths and bicycle trails are for highway, road, and street purposes when constructed within the right of way.
2. By the authority granted in ORS 190.110, 366.770 and 366.775, State may enter into cooperative agreements with counties and cities for the performance of work on certain types of improvement projects; with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
3. Under such authority, State and County plan and propose to construct the Hildalgo Street to McNary Parkway Section of the 49th Avenue Bikeway and Walkway, hereinafter referred to as "project." The location of the project is approximately as shown on the sketch map attached hereto, marked "Exhibit A," and by this reference made a part hereof.
4. County has determined that the actual total cost of the project is estimated to be \$150,000. This cost shall be shared by 80% by State and 20% by County; in no event shall State participation exceed the total sum of \$100,000 or 80% of the actual cost, whichever is the lesser.

NOW THEREFORE, the premises being in general as stated in the foregoing RECITALS, it is agreed by and between the parties hereto as follows:

COUNTY OBLIGATIONS

1. County shall perform the work described in this agreement. County or its consultant shall conduct the necessary field surveys, prepare plans and contract documents; advertise for bid proposals, award all contracts, and supervise construction of the project. Actual

Contract No. 14,929
Multnomah County

construction of the project may be accomplished by County forces, by contract, or by any combination of these methods, as County shall elect.

2. County shall submit a copy of the plans and specifications to State's Bicycle and Pedestrian Program Manager for review and concurrence prior to construction. The project design, signing, and marking shall be in conformance with the Oregon Bicycle and Pedestrian Plan.
3. County shall by October 1, 1997, enter into a contract for development of project with a private contractor or commence actual development if project is to be accomplished by the use of County forces. Preparation of construction plans may be considered development of project. This deadline may be extended by mutual agreement, but shall not be extended beyond May 1, 1998, in which case State funding shall revert to the State. County shall complete project within one calendar year from initiation of a contract or commencement of the project.
4. County shall, upon completion of project, submit to State Bicycle and Pedestrian Program an itemized statement of the final actual total cost of the project.
5. County shall, upon completion of project, thereafter maintain and operate the completed project at its own cost and expense, and in a manner satisfactory to State.
6. County shall enter into and execute this agreement during a duly authorized session of its Board of Commissioners.
7. Cost records and accounts pertaining to the work covered by this agreement shall be kept available for inspection by representatives of ODOT for a period of three years following date of final payment. Copies of such records shall be made available upon request.
8. County agrees to comply with all federal, state, and local laws and ordinances applicable to the work under this agreement. County agrees that the provision of ORS 279.312, 279.314, 279.320, and 279.555 shall apply to and govern the performance of this agreement.
9. County agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. County also shall comply with the Americans with Disabilities Act of 1990 (Pub L No. 101-336) including Title II of the Act, ORS 659.425, and all applicable regulations and administrative rules established pursuant to those laws.

Contract No. 14,929
Multnomah County

ODOT OBLIGATIONS

1. State's Bicycle and Pedestrian Program Manager shall review and concur in the plans prepared by County before construction begins, and shall process all billings submitted by County.
2. Upon receipt of notification that the County is prepared to proceed with the development of project, State shall deposit with County the sum of \$50,000, such amount being equal to 50 percent of the agreed maximum State share of project costs. Said deposit shall not be made prior to July 1, 1997. Upon completion of project, inspection by the Bicycle and Pedestrian Program staff (or a representative of ODOT Region), and receipt from County of an itemized statement of the actual total cost of the project, State shall deposit with County a final payment in an amount which, when added to the initial deposit, would equal State's proportional share of the total project costs, but in no event shall participation by State exceed the total sum of \$100,000.
3. In the event this agreement is terminated for any reason, County shall provide an itemized statement of the costs and expenses to date of termination. County and State shall share expenses in proportion to the rate established in Recital #4 and if funds are left from the advance deposit they will be refunded to State.
4. ODOT certifies, at the time this agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this agreement within ODOT's current appropriation or limitation of current biennial budget.

GENERAL PROVISIONS

1. The Contractor, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.

2. This agreement may be terminated by mutual consent of both parties, or by either party upon 30 days' notice, in writing and delivered by certified mail or in person.

ODOT may terminate this agreement effective upon delivery of written notice to County, or at such later date as may be established by ODOT, under any of the following conditions, but not limited to these conditions.

- a) If County fails to provide services called for by this agreement within the time specified herein or any extension thereof.
- b) If County fails to perform any of the other provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with

Contract No. 14,929
Multnomah County

its terms, and after receipt of written notice from ODOT fails to correct such failures within 10 days or such longer period as ODOT may authorize.

3. The parties shall not waive, alter, modify, supplement or amend this agreement without written agreement signed by the parties.

4. ODOT, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of County which are directly pertinent to the specific agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

The Oregon Transportation Commission approved this grant on December 18, 1996, as part of the Fiscal Year 1998 Bicycle and Pedestrian Program. At that time the Chief Engineer was authorized to execute this agreement for and on behalf of the Commission.

This format approved as to legal sufficiency on December 12, 1996, by Dale K. Hormann, Assistant Attorney General.

APPROVAL RECOMMENDED

STATE OF OREGON, by and through its Department of Transportation

By Michael Proulx Date 1-7-97
Bicycle and Pedestrian Program Mgr.

By Thomas D Lulay Date 1/6/97
Chief Engineer

MULTNOMAH COUNTY by and through its Elected Officials:

Beverly Stein Date March 6, 1997
Beverly Stein, Chair

Larry F. Nicholas Date 2/18/97
Larry F. Nicholas, P. E., Director of

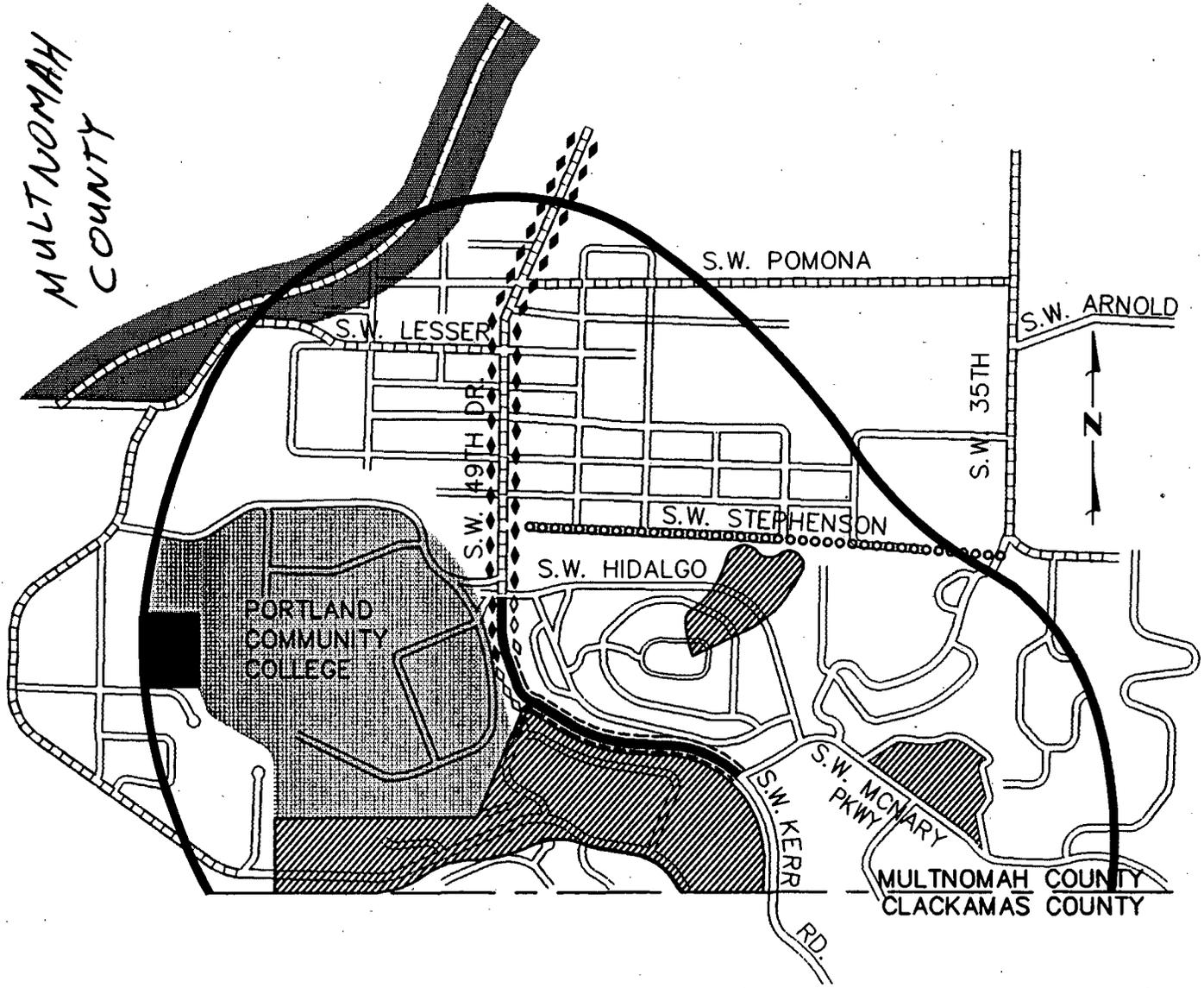
Sandra Duffy Date 2/25/97
Sandra Duffy, Assistant County
Counsel

viewed:

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS

AGENDA # C-3 DATE 3/6/97
multnagr.doc DEB BOGSTAD
BOARD CLERK

MULTNOMAH COUNTY



LEGEND

- PROJECT
- PROPOSED BIKE LANES
- EXISTING SIDEWALKS
- PROPOSED SIDEWALKS
- EXISTING MULTI-USE PATH
- PROPOSED MULTI-USE PATH
- PROPOSED SHOULDER BIKEWAY

ZONING

- MULTI-FAMILY
- PARKS/OPEN SPACES
- PUBLIC FACILITY
- COMMERCIAL
- SINGLE FAMILY
- HALF MILE RADIUS

EXHIBIT A

MEETING DATE: MAR 06 1997

AGENDA NO: C-4

ESTIMATED START TIME: 9:30 Am

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: **Request Approval of Deed to Contract Purchaser for Completion of Contract.**

BOARD BRIEFING: Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: _____

Amount of Time Needed: Consent

DEPARTMENT: Environmental Services DIVISION: Assessment & Taxation

CONTACT: Kathy Tuneberg TELEPHONE #: 248-3590

BLDG/ROOM #: 166/300/Tax Title

PERSON(S) MAKING PRESENTATION: Kathy Tuneberg

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUGGESTED AGENDA TITLE:

Request approval of deed to contract purchaser, ANIL LAL, for completion of Contract #15743 (Property purchased at auction).

Deed D971410 and Board Order attached.

3/6/97 ORIGINAL DEED & COPIES OF ALL TO TAX TITLE

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

(OR)

DEPARTMENT MANAGER: *K. A. Tuneberg* *Paul E. Nicholas*

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
97 FEB 27 PM 2:31

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES.

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the matter of the Execution of)
Deed D971410 Upon Complete Performance of)
a Contract to)
ANIL LAL)

ORDER
97- 31

It appearing that heretofore, on May 13, 1993, Multnomah County entered into a contract with ANIL LAL for the sale of the real property hereinafter described; and

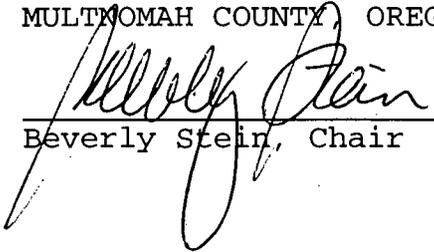
That the above contract purchaser have fully performed the terms and conditions of said contract and are now entitled to a deed conveying said property to said purchaser;

NOW THEREFORE, it is hereby ORDERED that the Chair of the Multnomah County Board of County Commissioners execute a deed conveying to the contract purchaser the following described real property, situated in the County of Multnomah, State of Oregon:

LOTS 41-43, BLOCK 43, PENINSULAR ADD #4, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.

Dated at Portland, Oregon this 6th day of March, 1997.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair



REVIEWED:
Laurence Kressel, County Counsel
for Multnomah County, Oregon

By 
Matthew O. Ryan, Asst County Counsel

DEED D971410

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to ANIL LAL, Grantee, the following described real property, situated in the County of Multnomah, State of Oregon:

LOTS 41-43, BLOCK 43, PENINSULAR ADD #4, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.

The true and actual consideration paid for this transfer, stated in terms of dollars is \$9,100.00.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Until a change is requested, all tax statements shall be sent to the following address:

ANIL LAL
2616 N WILLIS BLVD
PORTLAND OR 97217

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of County Commissioners this 6th day of March, 1997, by authority of an Order of the Board of County Commissioners heretofore entered of record.



BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

By *Beverly Stein*
Beverly Stein, Chair

REVIEWED:

Laurence Kressel, County Counsel
for Multnomah County, Oregon

By *Matthew O. Ryan*
Matthew O. Ryan, Asst. County Counsel

DEED APPROVED:

Kathy Tuneberg, Acting Director
Assessment & Taxation

By *K.A. Tuneberg*
Kathleen A. Tuneberg

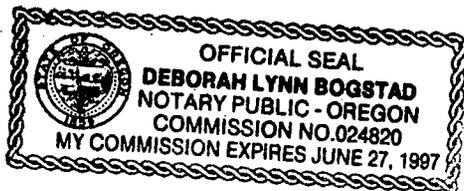
After recording, return to Multnomah County Tax Title/166/300

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

On this 6th day of March, 1997, before me, a Notary Public in and for the County of Multnomah and State of Oregon, personally appeared Beverly Stein, Chair, Multnomah County Board of Commissioners, to me personally known, who being duly sworn did say that the attached instrument was signed and sealed on behalf of the County by authority of the Multnomah County Board of Commissioners, and that said instrument is the free act and deed of Multnomah County.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first in this, my certificate, written.

Deborah Lynn Bogstad
Notary Public for Oregon
My Commission expires: 6/27/97



MEETING DATE: MAR 06 1997

AGENDA NO: C-5

ESTIMATED START TIME: 9:30AM

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: **Request Approval of Deed to Contract Purchaser for Completion of Contract.**

BOARD BRIEFING: Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: _____

Amount of Time Needed: Consent

DEPARTMENT: Environmental Services DIVISION: Assessment & Taxation

CONTACT: Kathy Tuneberg TELEPHONE #: 248-3590

BLDG/ROOM #: 166/300/Tax Title

PERSON(S) MAKING PRESENTATION: Kathy Tuneberg

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUGGESTED AGENDA TITLE:

Request approval of deed to contract purchaser, DANNY RALSTON, for completion of Contract #15807 (Property purchased at auction).

Deed D971412 and Board Order attached.

3/6/97 ORIGINAL DEED & COPIES of ALL to TAX TITLE

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

(OR)

DEPARTMENT MANAGER: *K. A. Tuneberg & Lou E. Nicholas*

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
97 FEB 27 PM 2:58

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the matter of the Execution of)
Deed D971412 Upon Complete Performance of) ORDER
a Contract to) 97-32
)
)
DANNY RALSTON)

It appearing that heretofore, on March 21, 1996, Multnomah County entered into a contract with DANNY RALSTON for the sale of the real property hereinafter described; and

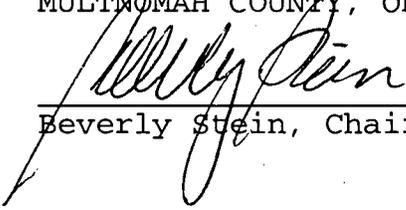
That the above contract purchaser have fully performed the terms and conditions of said contract and are now entitled to a deed conveying said property to said purchaser;

NOW THEREFORE, it is hereby ORDERED that the Chair of the Multnomah County Board of County Commissioners execute a deed conveying to the contract purchaser the following described real property, situated in the County of Multnomah, State of Oregon:

S 1/2 OF LOT 2, BLOCK 9 S 1/2 OF LOT 1, BLOCK 9, STANSBERRYS ADD, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.

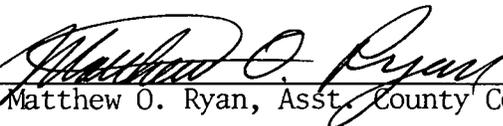
Dated at Portland, Oregon this 6th day of March, 1997.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair



REVIEWED:
Laurence Kressel, County Counsel
for Multnomah County, Oregon

By 
Matthew O. Ryan, Asst. County Counsel

DEED D971412

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to DANNY RALSTON, Grantee, the following described real property, situated in the County of Multnomah, State of Oregon:

S 1/2 OF LOT 2, BLOCK 9 S 1/2 OF LOT 1, BLOCK 9, STANSBERRYS ADD, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.

The true and actual consideration paid for this transfer, stated in terms of dollars is \$20,500.00.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Until a change is requested, all tax statements shall be sent to the following address:

DANNY RALSTON
4808 SE 72ND
PORTLAND OR 97206

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of County Commissioners this 6th day of March, 1997, by authority of an Order of the Board of County Commissioners heretofore entered of record.



BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

By Beverly Stein
Beverly Stein, Chair

REVIEWED:

Laurence Kressel, County Counsel
for Multnomah County, Oregon

By Matthew O. Ryan
Matthew O. Ryan, Asst. County Counsel

DEED APPROVED:

Kathy Tuneberg, Acting Director
Assessment & Taxation

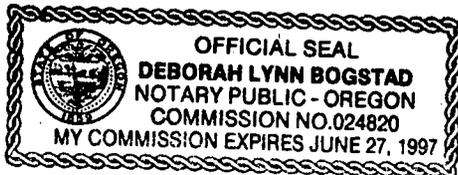
By K. A. Tuneberg
Kathleen A. Tuneberg

After recording, return to Multnomah County Tax Title/166/300

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

On this 6th day of March, 1997, before me, a Notary Public in and for the County of Multnomah and State of Oregon, personally appeared Beverly Stein, Chair, Multnomah County Board of Commissioners, to me personally known, who being duly sworn did say that the attached instrument was signed and sealed on behalf of the County by authority of the Multnomah County Board of Commissioners, and that said instrument is the free act and deed of Multnomah County.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first in this, my certificate, written.



Deborah Lynn Bogstad

Notary Public for Oregon

My Commission expires: 6/27/97

MEETING DATE: MAR 06 1997

AGENDA NO: C-6

ESTIMATED START TIME: 9:30am

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: **Request Approval of Deed to Contract Purchaser for Completion of Contract.**

BOARD BRIEFING: Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: _____

Amount of Time Needed: Consent

DEPARTMENT: Environmental Services DIVISION: Assessment & Taxation

CONTACT: Kathy Tuneberg TELEPHONE #: 248-3590

BLDG/ROOM #: 166/300/Tax Title

PERSON(S) MAKING PRESENTATION: Kathy Tuneberg

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUGGESTED AGENDA TITLE:

Request approval of deed to contract purchaser, JEROME H. STRAUB, for completion of Contract #15707 (Property purchased at auction).

Deed D971417 and Board Order attached.

3/6/97 ORIGINAL Deed & copies of all TO TAX TITLE

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

(OR)

DEPARTMENT MANAGER: *K.A. Tuneberg* *Ken E. Nicholas*

97 FEB 27 PM 2:34
MULTNOMAH COUNTY
OREGON
BOARD OF
COUNTY COMMISSIONERS

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the matter of the Execution of)
Deed D971417 Upon Complete Performance of) ORDER
a Contract to) 97-33
)
)
JEROME H. STRAUB)

It appearing that heretofore, on September 2, 1992, Multnomah County entered into a contract with JEROME H. STRAUB for the sale of the real property hereinafter described; and

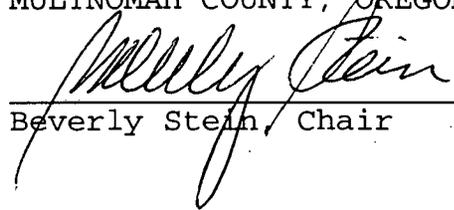
That the above contract purchaser have fully performed the terms and conditions of said contract and are now entitled to a deed conveying said property to said purchaser;

NOW THEREFORE, it is hereby ORDERED that the Chair of the Multnomah County Board of County Commissioners execute a deed conveying to the contract purchaser the following described real property, situated in the County of Multnomah, State of Oregon:

LOT 8, BLOCK 45, WEST PORTLAND PARK, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.

Dated at Portland, Oregon this 6th day of March, 1997.

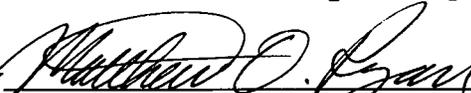
BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair



REVIEWED:

Laurence Kressel, County Counsel
for Multnomah County, Oregon

By 
Matthew O. Ryan, Asst. County Counsel

DEED D971417

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to JEROME H. STRAUB, Grantee, the following described real property, situated in the County of Multnomah, State of Oregon:

LOT 8, BLOCK 45, WEST PORTLAND PARK, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.

The true and actual consideration paid for this transfer, stated in terms of dollars is \$2,800.00.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Until a change is requested, all tax statements shall be sent to the following address:

JEROME H. STRAUB
8879 SE OWEN DR
PORTLAND, OR 97266

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of County Commissioners this 6th day of March, 1997, by authority of an Order of the Board of County Commissioners heretofore entered of record.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

By Beverly Stein
Beverly Stein, Chair



REVIEWED:
Laurence Kressel, County Counsel
for Multnomah County, Oregon

By Matthew O. Ryan
Matthew O. Ryan, Asst. County Counsel

DEED APPROVED:
Janice Druian, Director
Assessment & Taxation

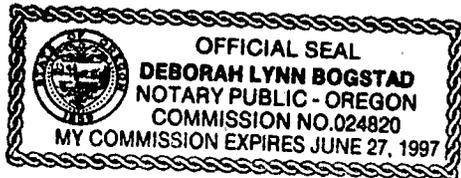
By K.A. Tuneberg
Kathleen A. Tuneberg

After recording, return to Multnomah County Tax Title/166/300

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

On this 6th day of March, 1997, before me, a Notary Public in and for the County of Multnomah and State of Oregon, personally appeared Beverly Stein, Chair, Multnomah County Board of Commissioners, to me personally known, who being duly sworn did say that the attached instrument was signed and sealed on behalf of the County by authority of the Multnomah County Board of Commissioners, and that said instrument is the free act and deed of Multnomah County.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first in this, my certificate, written.



Deborah Lynn Bogstad

Notary Public for Oregon
My Commission expires: 6/27/97

Contract # 800877

MEETING DATE: MAR 06 1997
AGENDA #: C-7
ESTIMATED START TIME: 9:30am

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: IGA BETWEEN OREGON DEPT OF TRANSPORTATION AND THE SHERIFF'S OFFICE

BOARD BRIEFING: Date Requested: _____
Requested By: _____
Amount of Time Needed: _____

REGULAR MEETING: Date Requested: FEBRUARY 27, 1997
Amount of Time Needed: _____

DEPARTMENT: Sheriff's Office DIVISION: Enforcement

CONTACT: Larry Aab TELEPHONE #: 251-2489
BLDG/ROOM #: 313/228

PERSON(S) MAKING PRESENTATION: Consent Item

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

IGA between Oregon Dept of Transportation and the Sheriff's Office, providing revenue for Sheriff's Office Motor Carrier Safety Unit to enforce commercial motor vehicles safety rules and regulations for the period October 1, 1996 through September 30, 1997. (RENEWAL)

3/6/97 originals to Larry Aab

SIGNATURE REQUIRED:

ELECTED OFFICIAL: *Don [Signature]*
OR

DEPARTMENT MANAGER: _____
ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-30516C/63

BOARD OF COUNTY COMMISSIONERS
97 FEB 27 2 39 PM '97
MULTNOMAH COUNTY OREGON

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

Contract # 800877

Prior-Approved Contract Boilerplate: Attached: Not Attached:

Amendment # _____

<p style="text-align: center;">CLASS I</p> <input type="checkbox"/> Professional Services under \$25,000 <input type="checkbox"/> Intergovernmental Agreement under \$25,000	<p style="text-align: center;">CLASS II</p> <input type="checkbox"/> Professional Services over \$25,000 (RFP, Exemption) <input type="checkbox"/> PCR B Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue	<p style="text-align: center;">CLASS III</p> <input checked="" type="checkbox"/> Intergovernmental Agreement over \$25,000 <p style="text-align: center;">APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</p> <p style="text-align: center;">AGENDA # <u>C-7</u> DATE <u>3/6/97</u> <u>DEB BOGSTAD</u> BOARD CLERK</p>
---	---	--

Department: SHERIFF'S OFFICE Division: ENFORCEMENT Date: JANUARY 24, 1997

Contract Originator: SGT. JOHN BLACKMAN Phone: 251-2451 Bldg/Room: _____

Administrative Contact: LARRY AAB Phone: 251-2489 Bldg/Room: 313/228

Description of Contract:

REVENUE FOR SHERIFF'S OFFICE MOTOR CARRIER SAFETY UNIT TO ENFORCE COMMERCIAL MOTOR VEHICLE SAFETY RULES AND REGULATIONS

BID #: _____ Date of RFP/BID: _____ Exemption Expiration Date: _____

ORS/AR #: _____ Contractor is MBE WBE QRF

<p>Contractor Name: OREGON DEPT OF TRANSPORTATION 550 CAPITOL STREET NE SALEM OR 97310-1380</p> <p>Phone: 378-6736 Employer ID# or SS#: _____ Effective Date: <u>OCTOBER 1, 1996</u> Termination Date: <u>SEPTEMBER 30, 1997</u> Original Contract Amount: \$ <u>93,600</u> Total Amt of Previous Amendments: \$ _____ Amount of Amendment: \$ _____ Total Amount of Agreement: \$ _____</p>	<p>Remittance Address (if different): _____</p> <p>Payment Schedule Terms</p> <input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt <input type="checkbox"/> Monthly \$ _____ <input type="checkbox"/> Net 30 <input type="checkbox"/> Other \$ _____ <input type="checkbox"/> Other <input type="checkbox"/> Requirements contract - Requisition Required Purchase Order No. _____ <input type="checkbox"/> Requirements Not to Exceed \$ _____ Encumber: Yes <input type="checkbox"/> No <input type="checkbox"/>
---	---

REQUIRED SIGNATURES:

Department Manager: *Mel Hedgpeth*
 Purchasing Manager: *[Signature]*
 (Class II Contracts Only)
 County Counsel: *[Signature]*
 County Chair/Sheriff: *[Signature]*
 Contract Administration: _____
 (Class I, Class II Contracts Only)

Date: 2/13/97
 Date: _____
 Date: 2/25/97
 Date: 2/13/97
 Date: _____

VENDOR CODE				VENDOR NAME				TOTAL AMOUNT: \$			
LINE NO.	FUND	AGENCY	ORGANIZATION	SUB ORG	ACTIVITY	OBJECT-REV SRC	SUB ORG	REPT CATEG	LGFS DESCRIP	AMOUNT	IN CE EC
01	100	025	3315			2009					
02											
03											

If additional space is needed, attach separate page. Write contract number on top of page.

DISTRIBUTION: Original Signatures - Contract Administration, Initiator, Finance

**MEMORANDUM OF AGREEMENT BETWEEN
OREGON DEPARTMENT OF TRANSPORTATION AND
MULTNOMAH COUNTY
FFY-97**

General:

In order to maximize the utilization of commercial vehicle, driver, and cargo inspection resources; to avoid duplication of effort; to expand the number of inspections performed; to advance uniformity of inspection; and to minimize delays in schedules incurred by industry inherent to this type of enforcement activity, the undersigned parties enter into this Memorandum of Agreement.

Pursuant to the provisions contained in the Intermodal Surface Transportation Efficiency Act of 1991 (the Act), the Oregon Department of Transportation (ODOT), acting as Oregon's lead agency in motor carrier safety matters, submitted to the U.S. Department of Transportation Oregon's State Enforcement Plan (the Plan) on June 30, 1996.

For federal fiscal year 1997 (October 1, 1996, through September 30, 1997), Oregon has been awarded \$962,749 for its commercial vehicle safety program.

Based on fiscal and program data submitted to ODOT by participating agencies, the prorated share of Oregon's FFY-97 contract is: \$93,600 for Multnomah County.

To ensure the total Oregon FFY-97 allocation is exhausted not later than September 30, 1997, ODOT may adjust subcontractors' roadside vehicle inspection allocations in August. Subcontractors who have not achieved their year-to-date minimum inspection commitment preceding the adjustment period may lose a percentage of their allocated funds.

In the event a subcontractor fails to attain its prorated inspection minimums preceding the adjustment period, ODOT may reallocate and redistribute such monies to those agencies exceeding their minimum commitment.

Reimbursement Compensation:

Reimbursement amounts for roadside commercial vehicle/driver inspections are \$39 for each Level I, and \$50 for each Level II or Level III inspection initiated after a probable cause traffic stop. To encourage drug interdiction activities, any inspection resulting in a commercial driver drug arrest, will be compensated at a rate of \$400. This award will not increase the total contractual grant allocation; but rather, supplant inspection commitment and reimbursement revenue.

ODOT will bill the Federal Highway Administration (FHWA) monthly and reimburse inspection contractors on a monthly basis for the number of inspections completed during the billing period. The aggregate total of all monthly payments will not exceed the total contractual grant allocation.

In furtherance of ODOT's contractual obligations to the FHWA, and in recognition of ODOT's sponsorship and responsibility to coordinate the motor carrier safety activities of participating agencies, ODOT agrees to:

1. Function as Oregon's lead motor carrier safety agency and coordinate and assist Multnomah County and all other contracted partners to the extent motor carrier safety activities contained in the Oregon State Enforcement plan are met;
2. Coordinate and assist Multnomah County in the preparation and timely submission to ODOT of required safety program documentation;
3. Coordinate and assist Multnomah County in its preparation and timely submission to ODOT of required fiscal documentation;
4. Process written requests for capital expenditures for carrying out the provisions of the Plan and this Agreement. It is understood that ODOT must first have written authority to make such expenditures, and that no such expenditure will be made before such written authority is obtained;
5. Consolidate participating agencies' safety activities and fiscal reports, and submit a monthly billing to the U.S. Department of Transportation;
6. Receive on a monthly basis payment from the U.S. Department of Transportation, and make payment to participating agencies for services performed in accordance with this agreement; and
7. Train, retrain (as necessary or desirable), test, and certify the inspectors of Multnomah County, in accordance with ORS 810-560, this agreement, The Oregon Board of Public Safety Standards and Training, and as applicable, the Commercial Vehicle Safety Alliance (CVSA).

MULTNOMAH COUNTY agrees to:

1. Ensure that all personnel who engage in the inspection of commercial motor vehicles and their drivers are trained and certified by ODOT pursuant to ORS 810.560. (ORS 810.560, enacted by the 67th Legislative Assembly, requires, in part, that all personnel stopping commercial motor vehicles and drivers for purposes of enforcing the motor carrier safety regulations must be trained and certified by ODOT as a commercial vehicle inspector.);
2. Enforce Oregon's Commercial Vehicle Safety and Hazardous Material Rules and Regulations in a manner consistent with the approved state MCSAP Enforcement Plan and MCSAP/CVSA approved inspection procedures;

3. Conduct a minimum of 1,584 Level I commercial vehicle/driver inspections of which no fewer than 144 shall involve vehicles transporting hazardous materials. This activity amounts to \$61,776 (or 2/3 of the total grant allocation at \$39 an inspection). The remaining portion of the allocation, \$31,824, may be expended on Level I inspections at \$39 per inspection; or Level II and III inspections initiated after a probable cause traffic stop at \$50 per inspection in whatever combination, at the discretion of Multnomah County;
4. Conduct all inspections on public highways, and to conduct at least 25 percent of the inspections during "off peak" hours. (Hours other than from 7 a.m. to 5 p.m. on weekdays; and Saturdays and Sundays.);
5. Record inspections on ODOT Driver/Equipment Compliance Check form number 735-9242 (Level I), and number 735-9242A (Level II and III), and forward completed inspections to ODOT within five (5) working days of the inspection;
6. Report to ODOT within 15 days after the end of each month on ODOT Form 457B all direct and indirect expenditures in performance of this agreement. The total of expenditures shown on all ODOT Form 457A's submitted for FFY-97 will total **\$93,600**; (federal MCSAP funds awarded; plus \$23,400 matching share (20 percent) to the federal assistance awarded);
7. Maintain the updated "maintenance of effort" level of expenditures (\$170,781) for the motor carrier safety activities, exclusive of federal assistance awarded. The updated maintenance of effort was calculated based on the average actual expenditures for the federal fiscal years 1989, 1990, and 1991, as required by the Act;
8. Report in writing to the state contract office (Paul Henry, ODOT) all proposed capital expenditures. Such report shall contain an exact identification of the proposed purchase, cost, use, and justification; and
9. Comply with all provisions contained in Exhibit A, attached hereto and incorporated herein.

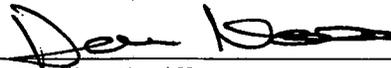
This agreement expires September 30, 1997, unless sooner terminated by mutual agreement. Either party desiring to terminate this agreement shall provide written notice to the other party not less than sixty (60) days prior to the date of termination.

OREGON DEPARTMENT OF
TRANSPORTATION

MULTNOMAH COUNTY



Paul R. Henry, Manager
Investigations, Safety & Federal Programs
Motor Carrier Transportation Branch



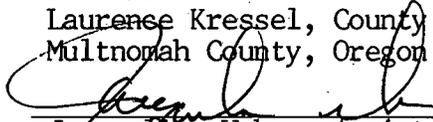
Dan Noelle, Sheriff

14 Jan 97
Date

2/13/97
Date

REVIEWED

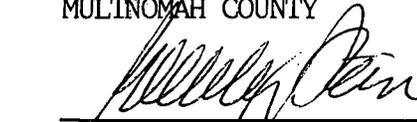
Laurence Kressel, County Counsel for
Multnomah County, Oregon



Jacqueline Weber, Assistant Counsel

2/25/97
Date

MULTNOMAH COUNTY



Beverly Stein, Chair

March 6, 1997

Date

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS

AGENDA # C-7 DATE 3/6/97

DEB BOGSTAD

BOARD CLERK

GENERAL PROVISIONS FOR MCSAP AGREEMENT

1. General Provisions: The State will comply with all Federal laws and requirements which are applicable to grant agreements, and imposed by the Federal Highway Administration (FHWA) concerning special requirements of law, program requirements, and other administrative requirements.
2. Regulation Requirements: The State hereby assures and certifies that it will comply with the regulations, policies, guidelines, and requirements of the Commercial Motor Vehicle Safety Act of 1986, and the new Federal Common Rule 49 CFR, Part 18, and 49 CFR, Part 90 (Audits of State and Local Governments), and OMB Circular No. A-87 as they relate to the application, acceptance and use of Federal funds for this federally-assisted project.
3. Modifications: This agreement may be amended at any time by a written modification properly executed by both the FHWA and the State.
4. Retention and Custodial for Records:
 - (a) Financial records, supporting documents, statistical records, and all other records pertinent to this instrument shall be retained for a period of three years, with the following exception:
 - (1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation claims, or audit findings involving the records have been resolved.
 - (2) Records for nonexpendable property, if any, required with Federal funds shall be retained for three years after its final disposition.
 - (3) When records are transferred to or maintained by FHWA, the 3-year retention requirement is not applicable to the recipient.
 - (b) The retention period starts from the date of the submission of the final expenditure report.
 - (c) The Secretary of Transportation and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the recipient, and its contractors and subcontractors, to make audits, examinations, excerpts, and transcripts.
5. Equal Employment Opportunity:
 - (a) The application/recipient agrees to incorporate in all contracts having a value of over \$10,000, the provisions requiring compliance with Executive Order 11246, as amended, and implementing regulations of the United States Department of Labor at 41 CFR 60, the provisions of which, other than the standard EEO clause and applicable goals for employment of minorities and women, may be incorporated by reference.
 - (b) The applicant/recipient agrees to ensure that its contractors and subcontractors, regardless of tier, awarding contracts and/or issuing purchase orders for material, supplies or equipment over \$10,000 in value will incorporate the required EEO provisions in such contracts and purchase orders.
 - (c) The applicant/recipient further agrees that its own employment policies and practices will be without discrimination based on race, color, religion, sex, national origin, handicap or age; and that it has or will develop and submit to FHWA by August 1, an affirmative action plan consistent with the Uniform Guidelines on Employee Selection Procedures, 29 CFR 1607, and the Affirmative Action Guidelines, 29 CFR 1608.
6. Copeland Act: All contracts in excess of \$2,000 for construction or repair awarded by recipient and its contractors or subcontractors shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, or give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to FHWA.
7. Davis-Bacon Act: When required by the Federal program legislation, all construction contracts awarded by the recipient and its contractors or subcontractors of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wage specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the G/CAO.

8. Contract Work Hours and Safety Standards Act: Where applicable, all contracts awarded by recipient in excess of \$2,500 that involve the employment of mechanics or laborers, shall include a provision of compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workday of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at the rate of not less than 1-1/2 times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek. Section 107 of the Act if applicable to construction work provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
9. Access to Records: All negotiated contracts (except those of \$10,000 or less) awarded by recipients shall include a provision to the effect that the recipient, FHWA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts, and transcriptions.
10. Civil Rights Act: The recipient shall comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352), and in accordance with Title VI of that Act, no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any program or activity for which the recipient received Federal financial assistance and shall immediately take any measures necessary to effectuate this Agreement. It shall comply with Title VI of the Civil Rights Acts of 1964 (42 U.S.C. 2000d) prohibiting employment discrimination where:
 - (a) The primary purpose of an instrument is to provide employment, or
 - (b) Discriminatory employment practices will result in unequal treatment of persons who are or should be benefiting from the grant-aided activity.
11. Nondiscrimination: The applicant/recipient hereby agrees that, as a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d), related nondiscrimination statutes, and applicable regulatory requirements to the end that no person in the United States shall, on the grounds of race, color, national origin, sex, handicap or age, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity for which the applicant/recipient receives Federal financial assistance. The specific requirements of the United State Department of Transportation standard Civil Rights assurances with regard to the States' highway safety programs (required by 49 CFR 21.7 and on file with the U.S. DOT) are incorporated in this grant agreement.
12. Rehabilitation Act: The recipient shall comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C 794, P.L. 93-112), and all requirements imposed by or pursuant to the regulations of the Department of Health, Education, and Welfare (45 CFR, Parts 80, 81 and 84), promulgated under the foregoing statute. It agrees that, in accordance with the foregoing requirements, no otherwise qualified handicapped person, by reason of handicap, shall be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, and that it shall take any measures necessary to effectuate this Agreement.
13. Government Rights (Unlimited): FHWA shall have unlimited rights for the benefit of the Government in all other work developed in the performance of this Agreement, including the right to use same on any other Government work without additional cost to FHWA.

MEETING DATE: MAR 06 1997
AGENDA NO.: C-8
ESTIMATED START TIME: 9:30 am

(Above space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Renewal of Intergovernmental Agreement with Oregon Health Sciences University

BOARD BRIEFING Date Requested: _____

Requested By: _____

Amount of Time Needed: _____

REGULAR MEETING Date Requested: _____

Amount of Time Needed: 5 minutes or less

DEPARTMENT: Health DIVISION: _____

CONTACT: Gary Sawyer* TELEPHONE #: x22429

BLDG/ROOM #: 160/10

PERSON(S) MAKING PRESENTATION: Tom Fronk

ACTION REQUESTED:

[] INFORMATIONAL ONLY [] POLICY DIRECTION [X] APPROVAL [] OTHER

SUGGESTED AGENDA TITLE:

Intergovernmental Agreement 201077 with Oregon Health Sciences University for the continued provision of radiology consultation for County providers.

3/6/97 ORIGINALS to Karen Garber

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
97 FEB 27 PM 2 38

SIGNATURES REQUIRED:

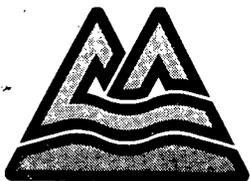
ELECTED OFFICIAL: _____

Or

DEPARTMENT MANAGER: Billi Odgaard

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222



MULTNOMAH COUNTY OREGON



HEALTH DEPARTMENT
426 S.W. STARK STREET, 8TH FLOOR
PORTLAND, OREGON 97204-2394
(503) 248-3674
FAX (503) 248-3676
TDD (503) 248-3816

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

Date: February 13, 1997
To: Board of County Commissioners
From: Billi Odegaard, Director, Health Department
Subject: Contract #201077 with Oregon Health Sciences University for radiology consultation

I. Recommendation/Action Requested: The Health Department recommends Board ratification of Contract #201077 with Oregon Health Sciences University for the period November 1, 1996, through October 31, 1998. The agreement is retroactive due to delays in finalizing the compensation rate for this year.

II. Background/Analysis: This is a renewal of an agreement which originated in 1993. OHSU's Department of Diagnostic Radiology will continue to provide consultation on the interpretation of x-rays referred to them by Health Department providers.

To reduce administrative processing, this agreement is being renewed for a two-year term. In the event that circumstances change and the agreement is no longer desirable, either party may terminate the agreement upon 60 days' notice.

III. Financial Impact: The County will pay OHSU on a fee-for-service basis at \$6.25 per reading. Expenditures are expected to total approximately \$40,000 annually. Funds have been budgeted.

The compensation rate is guaranteed through October 31, 1997. With prior written notice to the County, OHSU may adjust its rates for the second year, but the increase may not exceed the most recently published Portland-area medical CPI.

IV. Legal Issues: None

V. Controversial Issues: None

VI. Link to Current County Policies: Continuing to collaborate with other agencies in the provision of health care.

VII. Citizen Participation: None

VIII. Other Government Participation: None

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

(See Administrative Procedures CON-1)

Renewal [X]

Contract # 201077

Previously Approved Contract Boilerplate: [X] Attached [] Not Attached

Amendment # _____

<p style="text-align: center;">CLASS I</p> <p><input type="checkbox"/> Professional Services under \$25,000</p> <p><input type="checkbox"/> Intergovernmental Agreement under \$25,000</p> <p style="padding-left: 20px;"><input type="checkbox"/> Expenditure</p> <p style="padding-left: 20px;"><input type="checkbox"/> Revenue</p>	<p style="text-align: center;">CLASS II</p> <p><input type="checkbox"/> Professional Services over \$25,000 (RFP, Exemption)</p> <p><input type="checkbox"/> PCRB Contract</p> <p><input type="checkbox"/> Maintenance Agreement</p> <p><input type="checkbox"/> Licensing Agreement</p> <p><input type="checkbox"/> Construction</p> <p><input type="checkbox"/> Grant</p> <p><input type="checkbox"/> Revenue</p>	<p style="text-align: center;">CLASS III</p> <p><input checked="" type="checkbox"/> [X] Intergovernmental Agreement over \$25,000</p> <p style="text-align: center;">APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</p> <p style="text-align: center;">AGENDA # <u>C-8</u> DATE <u>3/6/97</u></p> <p style="text-align: center;"><u>DEB BOGSTAD</u></p> <p style="text-align: center;">BOARD CLERK</p>
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Department: Health Division: Support Services Date: 1/9/97

Contract Originator: Gary Sawyer Phone: x2429 Bldg/Room: 160/10

Administrative Contact: Karen Garber Phone: x6207 Bldg/Room: 160/7

Description of Contract:

Radiology services - interpretation of x-rays referred by County.

RFP/BID #: _____ Date of RFP/BID: _____ Exemption Expiration Date: _____

ORS/AR # _____ Contractor is [] MBE [] WBE [] QRF [X] N/A [] None

Original Contract No. 200904* (FOR RENEWALS ONLY) *Then 201405 and now 201077.

<p>Contractor: <u>Oregon Health Sciences University</u></p> <p>Address: <u>Department of Diagnostic Radiology*</u></p> <p style="padding-left: 40px;"><u>3181 SW Sam Jackson Park Rd L340</u></p> <p style="padding-left: 40px;"><u>Portland, OR 97201</u></p> <p>Phone: <u>494-4512 (Fax 494-4982)</u></p> <p>Employer ID# or SS#: <u>93-1176109</u></p> <p>Effective Date: <u>November 1, 1996</u></p> <p>Termination Date: <u>October 31, 1998</u></p> <p>Original Contract Amount: <u>\$ Requirements*</u></p> <p>Total Amt of Previous Amendments: \$ _____</p> <p>Amount of Amendment: \$ _____</p> <p>Total Amount of Agreement: \$ _____</p>	<p>*School of Medicine</p> <p>Bill Greenbaum, Dept of Diagnostic Radiology</p> <p>Dave Bunnell, Contracts Manager, 494-4768</p> <p>Remittance Address: <u>University Radiologists, PC</u></p> <p style="padding-left: 40px;"><u>3181 SW Sam Jackson Park Road, L340</u></p> <p style="padding-left: 40px;"><u>Portland, OR 97201</u></p> <p>Payment Schedule _____ Terms _____</p> <p><input type="checkbox"/> [] Lump Sum \$ _____ <input type="checkbox"/> [] Due on Receipt</p> <p><input checked="" type="checkbox"/> [X] Monthly \$ <u>6.25 per reading</u> <input checked="" type="checkbox"/> [X] Net 30</p> <p><input type="checkbox"/> [] Other \$ _____ <input type="checkbox"/> [] Other</p> <p><input type="checkbox"/> [] Requirements contract - Requisition Required</p> <p>Purchase Order No. _____</p> <p><input type="checkbox"/> [] Requirements Not to Exceed \$ _____</p> <p>Encumber: Yes <input type="checkbox"/> [] No <input type="checkbox"/> []</p> <p>*Estimated annual expenditures: \$40,000</p>
--	--

REQUIRED SIGNATURES:

Department Manager: *Bill Odgaard* Date: 2/18/97

Purchasing Director: _____ Date: _____

(Class II Contracts Only)

County Counsel: *Sally Gait* Date: 2/25/97

County Chair/Sheriff: *Malley Stein* Date: March 6, 1997

Contract Administration: _____ Date: _____

(Class I, Class II Contracts Only)

VENDOR CODE				VENDOR NAME				TOTAL AMOUNT: \$			
LINE NO.	FUND	AGENCY	ORGANIZATION	SUB ORG	ACTIVITY	OBJECT/REV SRC	SUB OBJ	REPT CATEG	LGFS DESCRIPTION	AMOUNT	INC DEC
01	*See Attached										
02											
03											

If additional space is needed, attach separate page. Write contract # on top of page.

DISTRIBUTION: Contract Administration, Finance, HD Contracts Unit, HD Payables/Receivables, HD Program Manager

**INTERGOVERNMENTAL AGREEMENT
FOR RADIOLOGY SERVICES**

THIS INTERGOVERNMENTAL AGREEMENT is between MULTNOMAH COUNTY, acting by and through its Health Department, hereafter "COUNTY," and OREGON HEALTH SCIENCES UNIVERSITY, a public corporation, hereafter "OHSU."

WITNESSETH:

WHEREAS, COUNTY's Health Department requires radiology services which OHSU is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, OHSU is licensed by the Board of Medical Examiners and Board Certified by the American Board of Radiology and is able and prepared to provide such radiology services as COUNTY does hereinafter require, under those terms and conditions set forth; now therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereafter, the parties agree as follows:

1. TERM

This Agreement shall become effective when fully executed retroactive to November 1, 1996, and shall expire October 31, 1998, unless sooner terminated under the provisions hereof.

2. SERVICES

A. OHSU's services under this Agreement shall consist of the following:

- 1) Provide radiologic consultation services for the interpretation of x-rays referred from COUNTY during normal work hours (8:00 a.m. to 5:00 p.m.) Monday through Friday.
- 2) Provide automatic notification to ordering physician in the event of critical findings.
- 3) Provide "STAT" service when requested.
- 4) Provide reports on referred films which include the following:
 - a) Most likely differential diagnosis when pathology is present
 - b) Client name and aliases.
 - c) Client date of birth.
 - d) Client identification.
 - e) Name of ordering provider.
 - f) Name of ordering facility.
 - g) Pertinent comment.
 - h) Date film was taken.
 - i) Date film was read.
 - j) Radiologist signature.

5) OHSU's turnaround time for written evaluations for COUNTY's Corrections Health Clinic shall be no more than 24 hours from receipt of film. Results of film received by OHSU on a Friday or a day before a holiday will be called to the Corrections Health Clinic (248-3976) that day with the written report to follow.

6) OHSU's turnaround time for written evaluations for all other COUNTY facilities shall be no more than three working days from receipt of film.

B. COUNTY shall arrange the schedule for the pickup and delivery of films between OHSU's clinic and COUNTY's clinics.

3. COMPENSATION

A. COUNTY agrees to pay OHSU for the performance of those services provided hereunder, which payment shall be based upon the following terms:

1) COUNTY shall reimburse OHSU monthly at the rate of \$6.25 per reading upon receipt of a billing invoice. This compensation rate is guaranteed through October 31, 1997. OHSU shall retain the right, upon sixty (60) days prior written notice to COUNTY, to adjust its fees for each year thereafter. Annual fee increases shall not exceed the most recently published Portland-area medical CPI.

2) OHSU shall submit separate invoices for each referring facility. All invoices shall be sent to:

Gary Sawyer, Laboratory Manager
Multnomah County Health Department
426 SW Stark Street, 10th Floor
Portland, OR 97204

3) OHSU shall submit invoices to COUNTY within 180 days of the date of service. COUNTY shall not be responsible for payment of invoices submitted more than 180 days after the date of service.

4) COUNTY makes no guarantee as to the quantity of referrals which will be made under this Agreement.

B. COUNTY certifies that sufficient funds are available and authorized to finance the costs of this Agreement through the fiscal year ending June 30, 1997. In the event that funds cease to be available to COUNTY in the amounts anticipated during the remainder of the fiscal year, or in the event that sufficient funds are not approved and authorized in the next fiscal year, either COUNTY or OHSU may terminate the Agreement or the parties by mutual agreement may reduce Agreement funding accordingly. COUNTY will notify OHSU as soon as it receives notification from funding source. Reduction or termination will not affect payment for accountable expenses prior to the effective date of such action.

**INTERGOVERNMENTAL AGREEMENT
STANDARD CONDITIONS**

1. INDEPENDENT CONTRACTOR STATUS

OHSU is an independent contractor and is solely responsible for the conduct of its programs. OHSU, its employees and agents shall not be deemed employees or agents of COUNTY.

2. INDEMNIFICATION

- A. OHSU shall defend, hold and save harmless COUNTY, its officers, agents, and employees from damages arising out of the tortious acts of OHSU, or its officers, agents, and employees acting within the scope of their employment and duties in performance of this Agreement subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and any applicable provisions of the Oregon Constitution.
- B. COUNTY shall defend, hold and save harmless OHSU, its officers, agents, and employees from damages arising out of the tortious acts of COUNTY, or its officers, agents, and employees acting within the scope of their employment and duties in performance of this Agreement subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and any applicable provisions of the Oregon Constitution.

3. WORKERS' COMPENSATION INSURANCE

OHSU shall maintain workers' compensation insurance coverage for all non-exempt workers, employees, and subcontractors either as a carrier-insured employer or a self-insured employer as provided in Chapter 656 of Oregon Revised Statutes.

4. TAXPAYER IDENTIFICATION NUMBER

OHSU shall furnish to COUNTY its federal employer identification number, as designated by the Internal Revenue Service.

5. SUBCONTRACTS AND ASSIGNMENT

OHSU shall neither subcontract with others for any of the work prescribed herein, nor assign any of OHSU's rights acquired hereunder without obtaining prior written approval from COUNTY. COUNTY by this Agreement incurs no liability to third persons for payment of any compensation provided herein to OHSU.

6. RECORD CONFIDENTIALITY

COUNTY and OHSU agree to keep all client records confidential in accordance with state and federal statutes and rules governing confidentiality.

7. ACCESS TO RECORDS

OHSU agrees to permit authorized representatives of COUNTY, and/or the applicable federal or state government audit agency to make such review of the records of OHSU as COUNTY or auditor may deem necessary to satisfy audit and/or program evaluation purposes. OHSU shall permit authorized representatives of COUNTY Health Department to site-visit all programs covered by this Agreement. Agreement costs disallowed as the result of such audits, review or site visits will be the sole responsibility of OHSU. If an Agreement

cost is disallowed after reimbursement has occurred, OHSU will make prompt repayment of such cost.

8. ADHERENCE TO LAW

- A. OHSU shall adhere to all applicable laws governing its relationship with its employees, including but not limited to laws, rules, regulations and policies concerning workers' compensation, and minimum and prevailing wage requirements.
- B. OHSU shall not unlawfully discriminate against any individual with respect to hiring, compensation, terms, conditions or privileges or employment, nor shall any person be excluded from participation in, be denied the benefits, or be subjected to discrimination under any program or activity because of such individual's race, color, religion, sex, national origin, age or handicap. In that regard, OHSU must comply with all applicable provisions of Executive Order Number 11246 as amended by Executive Order Number 11375 of the President of the United States dated September 24, 1965, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)) and Section 504 of the Rehabilitation Act of 1973 as implemented by 45 C.F.R. 84.4 and the Americans with Disabilities Act of 1990, Public Law Number 101-336 and all enacting regulations of the EEOC and Department of Justice. OHSU will also comply with all applicable rules, regulations and orders of the Secretary of Labor concerning equal opportunity in employment and the provision of ORS Chapter 659.

9. MODIFICATION

- A. In the event that COUNTY's Agreement obligation is amended by a federal- or state-initiated change, COUNTY shall amend this Agreement through written notification of changes sent to OHSU by mail. OHSU shall return to COUNTY within twenty (20) working days a signed acknowledgment of receipt of COUNTY's notification document.
- B. Any other amendments to the provisions of this Agreement, whether initiated by COUNTY or OHSU, shall be reduced to writing and signed by both parties.

10. WAIVER OF DEFAULT

Waiver of a default shall not be deemed to be a waiver of any subsequent default. Waiver of any breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the provisions of this Agreement

11. EARLY TERMINATION

- A. Violation of any of the rules, procedures, attachments, or conditions of this Agreement may, at the option of either party, be cause for termination of the Agreement and, unless and until corrected, of funding support by COUNTY and services by OHSU, or be cause for placing conditions on said funding and/or service, which may include withholding of funds. Waiver by either party of any violation of this Agreement shall not prevent said party from invoking the remedies of this paragraph for any succeeding violations of this Agreement.
- B. This Agreement may be terminated by either party by sixty (60) days written notice to the other party.

- C. Immediate termination or amendment by COUNTY may occur under any of the following conditions:
 - 1) Upon notice of denial, revocation, suspension or non-renewal of any license or certificate required by law or regulation to be held by OHSU to provide a service under this Agreement.
 - 2) Upon notice if OHSU fails to begin services on the date specified in this Agreement, or if OHSU fails to continue to provide service for the entire Agreement period.
 - 3) Upon notice to COUNTY of evidence that OHSU has endangered or is endangering the health and safety of clients/residents, staff, or the public.
- D. Payment to OHSU will include all services provided through the day of termination and shall be in full satisfaction of all claims by OHSU against COUNTY under this Agreement.
- E. Termination under any provision of this section shall not affect any right, obligation or liability of OHSU or COUNTY which accrued prior to such termination.

12. NOTICE OF LITIGATION

Each party shall give the other immediate notice in writing of any action or suit filed or any claim made against that party which may result in litigation in any way related to this Agreement.

13. OREGON LAW AND FORUM

This Agreement shall be construed and governed according to the laws of the State of Oregon.

14. INTEGRATION

This Agreement contains the entire Agreement between the parties pertaining to its subject matter and supersedes all prior written or oral discussions or agreements.

15. CERTIFICATION REGARDING LOBBYING

- A. OHSU certifies, to the best of OHSU's knowledge and belief, that no federally appropriated funds have been paid or will be paid, by or on behalf of OHSU, to any person for influencing or attempting to influence an officer or an employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Agreement, OHSU shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

16. OMB CIRCULAR A-128

If OHSU is a sub-recipient of federal funds passed through COUNTY, OHSU shall submit to COUNTY an annual federal compliance audit in conformity with OMB Circular A-128 and the federal Single Audit Act of 1984.

IN WITNESS WHEREOF, the parties have caused this Agreement, including the Standard Conditions and any attachments incorporated herein, to be executed by their duly authorized officers.

OREGON HEALTH SCIENCES
UNIVERSITY

By David C. Bunnell
Title OHSU Senior Contract Officer

Date 1/10/97

93-1176109

Federal Tax ID Number

MULTNOMAH COUNTY, OREGON

By Beverly Stein
Beverly Stein, Multnomah County Chair
Date March 6, 1997

HEALTH DEPARTMENT

By Billi Odegaard
Billi Odegaard, Director
Date 2/13/97

By Gary Sawyer
Gary Sawyer, Program Manager
Date 2/15/97

REVIEWED:

Laurence B. Kressel, County Counsel for
Multnomah County, Oregon

By Katie Gaetjens
Katie Gaetjens, Asst. County Counsel
Date 2/25/97

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # C-8 DATE 3/6/97
DEB BOGSTAD
BOARD CLERK

MEETING DATE: MAR 06 1997

AGENDA #: R-2

ESTIMATED START TIME: 9:30am

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Ceremony Honoring Employers of People with Developmental Disabilities and Recognizing March, 1997 as Developmental Disabilities Month.

BOARD BRIEFING:

DATE REQUESTED:

REQUESTED BY: Andrea Jilovec

AMOUNT OF TIME NEEDED:

REGULAR MEETING:

DATE REQUESTED: March 6, 1997

AMOUNT OF TIME NEEDED: 15 minutes

DEPARTMENT: Non Departmental

DIVISION: Commissioner Saltzman

CONTACT: Andrea Jilovec

TELEPHONE #: 248-5220

BLDG/ROOM #: 106/1500

PERSON(S) MAKING PRESENTATION: Dan Saltzman, Lynnae Rutledge, Assistant Administrator Vocational Rehabilitation Division, State of Oregon

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUGGESTED AGENDA TITLE:

To Honor Employers of People with Developmental Disabilities and to Recognize March 1997 as Developmental Disabilities Awareness Month.

3/6/97 ORIGINALS TO RECIPIENTS & ANDREA JILOVEC

SIGNATURES REQUIRED:

Don Saltzman

ELECTED OFFICIAL:

(OR)

DEPARTMENT MANAGER:

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
97 FEB 27 PM 2 34

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES
Any Questions: Call the Office of the Board Clerk 248-3277 or 248-5222

TO: BOARD OF COUNTY COMMISSIONERS

FROM: Andrea Jilovec, Commissioner Saltzman's Office

DATE: February 20, 1997

REQUESTED PLACEMENT DATE: March 6, 1997

RE: Resolution to Recognize March 1997 as Developmental Disabilities Month in Multnomah County and Honoring Employers of People with Developmental Disabilities

I. Recommendation/Action Requested:

Approval of the Resolution

II. Background/Analysis:

Expresses the County's honor and praise for employers that work with the County to employ people with Developmental Disabilities.

III. Financial Impact:

None

IV. Legal Issues:

N/A

V. Controversial Issues:

N/A

VI. Link to Current County Policies:

Employment opportunities for people with Developmental Disabilities are more important than ever and is linked to the County's Benchmark for reducing poverty.

VII. Citizen Participation:

Employers were nominated by both county personnel and by private sector citizens.

VIII. Other Government Participation:

N/A

**Recipients of 1997 Certificate of Award as an
Outstanding Employer of People with Developmental Disabilities**

Bybee , Rex

Unifirst 14321 NE Sandy Blvd Portland OR 97230

General Manager 256-5224

Francesconi , James

City of Portland 1400 SW Fifth, 7th Flr Portland OR 97204

City Commissioner, attorney (503) 823-4147

Lafferty , Carol

US Bank 17650 NE Sandy Portland OR 97208

Proof Department Supervisor 401-5512

Lewis , Jim

Developmental Systems, Inc 10700 SE Division Portland OR 91266

Executive Director 762-1120

Martin , John

Cascade Athletic Club - Gresham 19201 SE Division Gresham OR 97030

Manager 665-4142

Maxwell , Pat

Division Maytag 4035 SE Division Portland OR 97202

Owner 234-0873

McDonell , Robert

Fast Break 3250 NW Yeon Portland OR 97210

President 227-0410

Miller , Michael

Goodwill Industries of the Columbia Willamette 1943 SE Sixth Ave Portland OR 97214

President 238-6100

Morgan , Joe

US Bank 17650 NE Sandy Portland OR 97208

Operations Manager 401-5512

Shusterich , Kurt

Kaiser Permanente 500 NE Multnomah Portland, OR 97232

Director of Organization Effectiveness 813-4780

Yates , Dan

Portland Spirit 842 SW First Portland OR 97204

President and General Manager 224-3900

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

In the Matter of Honoring Employers of People with)
Developmental Disabilities and designating the month of)
March 1997 as Developmental Disability Awareness Month)

PROCLAMATION
97-34

WHEREAS, developmental disabilities affect more than 7 million American children and adults and their families, more than 45,000 families in the State of Oregon, and nearly 20,000 children and adults in Multnomah County; and

WHEREAS, the most effective weapons for alleviation of the serious problems associated with developmental disabilities are public knowledge, understanding, and economic opportunity; and

WHEREAS, the potential for citizens with developmental disabilities to function more independently and productively must be fostered; and

WHEREAS, forging vital employment and educational opportunities with the private sector to create the potential for a better quality of life is more important than ever before;

THEREFORE, the Board of Commissioners of Multnomah County does hereby Honor and Praise

Employers of People with Developmental Disabilities,

who provide their employees opportunities for dignity, economic and personal growth; and

FURTHERMORE, the Board of Commissioners of Multnomah County, does hereby proclaim the period of March, 1997 as

Developmental Disability Awareness Month

in Multnomah County, and urges that the citizens of this community give full support to efforts toward enabling people with development disabilities to live productive lives and achieve their potential.

ADOPTED this 6th day of March, 1997.

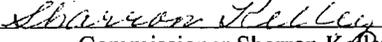
BOARD OF COUNTY COMMISSIONERS FOR MULTNOMAH COUNTY, OREGON

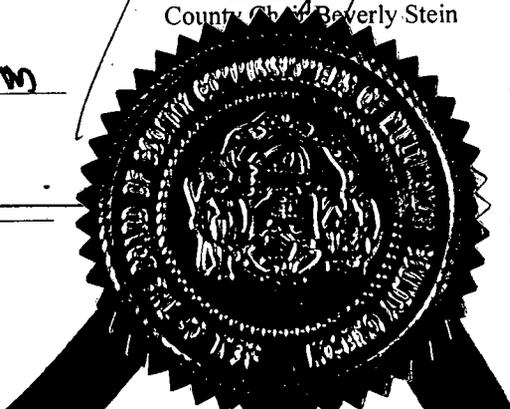

Commissioner Dan Saltzman


Commissioner Tanya Collier


County Chair Beverly Stein


Commissioner Gary Hansen


Commissioner Sharron Kelley



MAR 06 1997

MEETING DATE: FEB 27 1997

AGENDA #: R-6 R-3

ESTIMATED START TIME: 9:55am
9:45am

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Amendments to the Exclusive Farm Use (EFU) Provisions of the Multnomah County Zoning Code

BOARD BRIEFING: DATE REQUESTED: _____
REQUESTED BY: _____
AMOUNT OF TIME NEEDED: _____

REGULAR MEETING: DATE REQUESTED: February 27, 1997
AMOUNT OF TIME NEEDED: 45 minutes

DEPARTMENT: DES DIVISION: Transportation and Land Use

CONTACT: R. Scott Pemble TELEPHONE #: 83182
BLDG/ROOM #: 412/103

PERSON(S) MAKING PRESENTATION: R. Scott Pemble

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUGGESTED AGENDA TITLE:

Amendments to the Exclusive Farm Use (EFU) Provisions of the Multnomah County Zoning Code: MCC 11.15.2002 through MCC 11.15.2030, MCC 11.15.7020, MCC 11.15.7120 and MCC 11.15.7122.

3/6/97 copy to R. Scott Pemble
3/7/97 copies to ordinance distribution list

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____
(OR)
DEPARTMENT MANAGER: Louis E. Nicholas

BOARD OF COUNTY COMMISSIONERS
97 FEB 18 AM 11:30
MULTNOMAH COUNTY
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

MEMORANDUM

TO: Board of County Commissioners

FROM: R. Scott Pemble

DATE: February 12, 1997

RE: Amendments to the EFU Zoning Code Provisions

I. Recommendation/Action Requested: Amend Exclusive Farm Use (EFU) provisions of the Multnomah County Zoning Code by repealing and replacing section MCC 11.15.2002 through 11.15.2030, deleting section MCC 11.15.7122 and amending sections MCC 11.15.7120 and 11.15.7020.

II. Background/Analysis: The EFU provisions of the County's Zoning Code were last amended in 1990. The 1993 and 1995 legislature made significant changes to the Statutes governing EFU lands. Also, the Land Conservation and Development Commission made substantial changes to the Oregon Administrative Rules pertaining to "Agriculture Lands" (Chapter 660, Division 33). The County's Exclusive Farm Use zoning code provisions need to be updated to comply with the current state laws and rules.

III. Financial Impact: NA

IV. Legal Issues: Current statutes and administrative rules make the County's EFU provisions obsolete and not useable. The proposed changes will bring these provisions into to compliance with state laws and rules.

V. Controversial Issues: The Planning Commission included sections 11.15.2008(N)(4) and 11.15.2008(O)(4) as criterion for the approval of schools and churches¹. Both of these uses are listed as "Uses Permitted Outright" in the Planning Commission EFU Zoning Code recommendation to the BCC and as a 'sub 1' uses in the EFU statutes [*i.e.*, ORS 215.283(1)]. These 'sub 1' uses are the focus of the landmark Brentmar vs Jackson County case where the legislative intent was clarified concerning the approval requirements of uses listed under ORS 215.283(1). (See Celeste J. Doyle's September 6, 1995 memo to Richard

¹ Requires the finding that: "the maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU land."

Benner for a summary of holdings of the Oregon Supreme Court case in Brentmar vs Jackson County.) In the Department of Land Conservation and Development's review of the proposed Planning Commission amendments, Ron Eber, Rural Plan Analyst, calls out the Brentmar issue with this type of approval criteria. (See Ron Eber's January 21, 1997 letter.) County Counsel has reviewed this issue and concurs that there is a Brentmar problem because of the Conditional Use approval criteria nature of these two provisions. Staff recommends deleting both MCC 11.15.2008(N)(4) and MCC 11.15.2008(O)(4) criteria.

- VI. Link to Current County Policies: The County's Comprehensive Framework Plan designates Exclusive Farm Use (EFU) lands as required by Statewide Land Use Goal 3. The Exclusive Farm Use provisions of the Multnomah County Zoning Code implement the County's EFU land use designations and must comply with the applicable state statutes and administrative rules. The proposed EFU amendments to the County's Zoning Code will implement the County's EFU policy in manner consistent with current state laws and rules.
- VII. Citizen Participation: The Planning Commission considered the EFU amendments pursuant to the State's and the County's Code requirements. Three public testified at the Planning Commission hearing and three comments were received from public. (Two letters and one fax are included in your packet.)
- VIII. Other Government Participation: The Department of Land Conservation and Development reviewed the Planning Commission's recommended draft. (Ron Eber's letter is enclosed in your packet.) County staff discussed Brentmar issues with Planning Staff from other Counties.

**LEGAL OPINIONS
AND
DEPARTMENT OF LAND CONSERVATION AND
DEVELOPMENT COMMENT**

THEODORE R. KULONGOSKI
ATTORNEY GENERAL

THOMAS A. BALMER
DEPUTY ATTORNEY GENERAL



100 Justice Building
1162 Court Street NE
Salem, Oregon 97310
FAX: (503) 378-3571
TDD: (503) 378-5938
Telephone: (503) 378-8247

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

MEMORANDUM

DATE: September 6, 1995

TO: Richard Benner, Director
Department of Land Conservation
and Development

FROM: Celeste J. Doyle *Celeste*
Assistant Attorney General

SUBJECT: Brentmar v. Jackson County
DOJ File No. 660-004-660004-95

Dear Dick:

Your agency has received several inquiries about the scope and impact of the recent opinion by the Oregon Supreme Court in Brentmar v. Jackson County OR ____ (1995) (SC S41765). In turn, you asked me to advise you as to the most commonly asked questions. This letter summarizes the history of the case and its holding, and then provides answers to your questions.

On August 24, 1995, the Oregon Supreme Court issued its opinion in Brentmar v. Jackson County, OR ____ (1995) (SC S41765) (hereinafter Brentmar). The case involved the appeal of Jackson County's denial of Petitioner Brentmar's application for a conditional use permit for an agricultural and horticultural school and associated facilities and commercial activities. (Slip Opinion at 1.) Jackson County's Land Development Ordinance (LDO) identifies schools and "commercial activities that are in conjunction with farm use" as conditional uses in EFU zones. The LDO further provides that such uses may be approved only if they meet certain, listed criteria. LDO 218.040 and 218.060. The County hearings officer concluded that the application did not show, and Brentmar did not establish, that the proposed use satisfied all the applicable criteria in the LDO, and so denied the application. The hearings officer's conclusions and denial were upheld by the County Board of Commissioners, the Land Use Board of Appeals (LUBA) and the Oregon Court of Appeals.

Richard Benner
Page 2
September 6, 1995

Brentmar appealed to the Supreme Court, arguing that ORS 215.213(1) and 215.283(1) allow schools (and other listed uses) in EFU zones "as of right" and that the County could not apply its own approval criteria to deny the application. The Land Conservation and Development Commission filed a *amicus curiae* brief in support of the County's reliance on its own, acknowledged criteria to deny the application. In a 20-page opinion, the Supreme Court essentially agreed with Brentmar that the uses listed in ORS 215.213(1) and 215.283(1) are allowed in EFU zones, state-wide, "as of right," and that a county "may not enact or apply legislative criteria of its own that supplement those found in ORS 215.213(1) and 215.283(1)." Slip Opinion at 19. The Supreme Court reversed the decisions of the Court of Appeals and LUBA, and remanded the case back to LUBA for further proceedings. Slip Opinion at 20.

Before offering answers to your questions, it may be helpful to focus on the actual holding in this case. In two short paragraphs, the Supreme Court said:

After our review of the text, context, and legislative history of ORS 215.213(1), we conclude that the legislature intended that the uses delineated in ORS 215.213(1) be uses "as of right," which may not be subjected to additional local criteria.

In conclusion, under ORS 215.213(1) and 215.283(1), a county may not enact or apply legislative criteria of its own that supplement those found in ORS 215.213(1) and 215.283(1). Under ORS 215.213(2) and 215.283(2), however, a county may enact and apply legislative criteria of its own that supplement those found in ORS 215.213(2) and 215.283(2).

Slip Opinion at 19. Although direct and succinct, the holding does not use specific terminology, and so seems to raise more questions than it answers. With that in mind, I now address your questions:

1. Does this decision prohibit a county from applying siting, as opposed to approval criteria, to applications for uses listed in ORS 215.213(1)?

The scope of the prohibition against county "legislative criteria* * *that supplement those found in ORS 215.213(1) and 215.283(1)" is unclear from the holding. However, in context, the Court's review was focused on approval criteria, not siting or design standards. I believe that the Court left intact county authority to adopt and apply siting and design standards to the uses listed in ORS 215.213(1) and 215.283(1).

Richard Benner
Page 3
September 6, 1995

2. May counties adopt ordinances that interpret the terms of the statutory criteria applicable to each listed use, or other subjective terms in ORS 215.213(1) and 215.283(1)?

Yes, to the extent such terms are ambiguous and have not been defined by LCDC rule, or by the courts in cases such as Brentmar.

3. What effect does this decision have on Statewide Planning Goal 3. (Agricultural Lands) and its implementing rules, OAR ch 660, div 33?

The Brentmar opinion does not address this issue at all: The Court did not discuss LCDC's authority, pursuant to ORS ch 197, to adopt Statewide Planning Goals and administrative rules protecting agricultural lands. Absent a clear ruling to the contrary, the Goal and the rules remain in effect.

rp/CDJ0312.mem

c: Stephanie Striffler, DOJ
John Bagg, DOJ

RECEIVED

JAN 23 1997

Multnomah County
Zoning Division

DEPARTMENT OF
LAND
CONSERVATION
AND
DEVELOPMENT

January 21, 1997

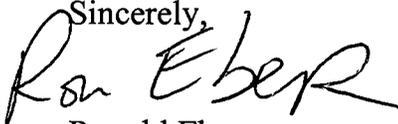
R. Scott Pemble, Director
Multnomah County
Transportation & Land Use Planning
2115 SE Morrison Street
Portland, Oregon 97214-2865

Dear Scott:

I have reviewed the proposed amendments to the county's EFU zoning district to comply with ORS Chapter 215 and OAR 660, Division 33. As we discussed, they are consistent with these provisions except with regard to one item. County Code 11.15.2008(N)(4), regarding the approval standards for public and private schools, adds a criterion that is not required by statute or rule. I suggest reviewing this provision with county counsel because it appears to conflict with the Oregon Supreme Court holding in Brentmar v. Jackson County, 321 Or 481 (1995) that the uses listed under ORS 215.213(1) and 215.283(1) may not be subjected to additional local legislative criteria.

Thank you for the opportunity to comment on these proposed revisions and I compliment you on a job well done. If you have any additional questions, please call me at (503) 373-0090.

Sincerely,



Ronald Eber
Rural Plan Analyst

c: James B. Knight, Community Assistance Manager
Mike Rupp, Rural Plan Coordinator
PA File No. 006-96 (Multnomah County)

John A. Kitzhaber
Governor



1175 Court Street NE
Salem, OR 97310-0590
(503) 373-0050
FAX (503) 362-6705

**WRITTEN PUBLIC COMMENT RECEIVED
SUBMITTED AT
PLANNING COMMISSION HEARING
NOVEMBER 4 , 1996**

The following is testimony for the Multnomah County Planning Commission

The high cost urban sprawl and poor land use continue to weaken our local and national economy to a point at which we will be unable to respond to domestic needs, unable to compete in the global marketplace. In order to attain and sustain a viable economy we must learn to utilize our limited natural resources more efficiently. Effective land-use planning is one of the keys to a viable economy.

This is to request that the following non-farm uses be eliminated from the list of allowable uses in Exclusive Farm Use (EFU) zones:

1. Golf courses
2. Private airports
3. New dog kennels
4. Nonfarm dwellings
5. Lot-of-record dwellings on high value farmland
6. Private parks and campgrounds

Dan L. McFarling
20585 SW Cheshire Ct
Aloha, Oregon 97007-3737

(503) 642-4077



96 NOV -8 PM 3:33

November 7, 1996

Multnomah County Planning Commission
2115 SE Morrison Street
Portland, OR 97214

Dear Planning Commission:

Please enter these comments into the record of proceedings on your current consideration of implementing the agricultural lands provisions of Goal 3 and OAR chapter 660, division 33.

1000 Friends supports your efforts to limit the number and variety of nonfarm uses allowed on Multnomah County agricultural land, most of which is high-value farmland. We support your current proposal to eliminate entirely the authorization for golf courses, nonfarm dwellings, and personal use airports in the county's farm zones. We also urge you to eliminate the authorization for nonfarm "lot-of-record" dwellings on high-value farmland. We also urge you to prohibit the expansion of existing golf courses onto high-value farmland.

Multnomah County has a very limited quantity of this very valuable resource -- and it is making a significant economic contribution as well as contributing to the fine quality of life of all Multnomah County residents.

As you know, the growth pressures in this area are unprecedented. The demand for less expensive, undeveloped farmland is never-ending. It is critical to be VERY strict about allowing additional nonfarm development on this limited resource. 1000 Friends therefore urges you to limit these uses within the limits of your authority as described in *Brentmar v. Jackson County*. This means you may prohibit nonfarm dwelling, lot-of-record dwellings, golf courses, golf course expansions, and personal use airports.

We urge you to exercise this authority so our county's farmland is as intact in 100 years, as it is today. Thank you for the opportunity to comment.

Very truly yours,

Blair Batson
Staff Attorney
1000 Friends of Oregon

Eulia J. Mishima...840 N. W. Sixth, Gresham, Oregon 97030...Ph & Fax 503-666-1932

October 16, 1996

Leonard Yoon, Chair
Multnomah County Planning Commission
C/O Stuart Farmer
2115 S. E. Morrison
Portland, Oregon 97214

Dear Mr Yoon:

Subject: Exceptions to meeting the \$80,000 requirements to build a dwelling as stated in Land Conservation and Development Commission OAR 660, Division 33, Agricultural Land.

Recently my husband and I learned we can not build a dwelling on our farm at 28765 S. E. Stone Road with description: Section 19 1 S 4 E Lot Block, TL# 133, 14.39 Acres because the \$80,000 minimum requirements as described within OAR 660, Division 33 are not met.

As the Multnomah Planning Commission deliberates and sets codes and ordinances for Oar 660, Division 33, we ask that properties classed for exclusive farm use be given exception for meaningful rationale.

We offer reasons we believe our farm should be allowed exception to meeting the \$80,000 requirements:

We have owned the land for more than thirty-one years. When the twenty acre minimum restriction for a home came into being our property of 14.39 acres was grandfathered in so that we could still build a home on the site.

This site has been approved by the Sanitarian for an on-site sewage disposal system.

Much of the lower land along Stone Road that fronts the property is not suitable for farm use because it is wet many months of the year. Also most of the higher land is on a slope. In addition Johnson Creek runs through the property and we believe it is best to leave the watershed undisturbed and promote restoration for a better local ecology.

\$80,000 is not a realistic figure to expect this property to produce. Explanations supporting this position in detail can be provided by agriculture experts.

Slowly over the years we have made improvements to the property in order to build a future home. We have paid to have culverts put in the creek, paid for a well and barn.

We have paid property taxes for over 30 years on the property classed as residential and then as green belt.

We have planted nursery stock on some of the upper acreage for several years but have generated small income.

OREGON REVISED STATUTE, CHAPTER 215
AND
OREGON ADMINISTRATIVE RULE, CHAPTER 660,
DIVISION 33

Chapter 215

1995 EDITION

County Planning; Zoning; Housing Codes

COUNTY PLANNING

- 215.010 Definitions for ORS chapter 215
- 215.020 Authority to establish county planning commissions
- 215.030 Membership of planning commission
- 215.042 County to appoint planning director; term and duties of director
- 215.044 Solar access ordinances; purpose; standards
- 215.047 Effect of comprehensive plan and land use regulations on solar access ordinances
- 215.050 Comprehensive planning, zoning and subdivision ordinances; copies available
- 215.060 Procedure for action on plan; notice; hearing
- 215.080 Power to enter upon land
- 215.090 Information made available to commission
- 215.100 Cooperation with other agencies
- 215.110 Recommendation of ordinances to implement plan; content; enactment; referral; retroactivity prohibited
- 215.130 Application of ordinances; alteration of nonconforming use
- 215.170 Authority of cities in unincorporated area
- 215.185 Remedies for unlawful structures or land use
- 215.190 Violation of ordinances or regulations

AGRICULTURAL LAND USE

(Exclusive Farm Use Zones)

- 215.203 Zoning ordinances establishing exclusive farm use zones; definitions
- 215.207 Absence of farming activity due to illness; rules of Department of Revenue
- 215.213 Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993
- 215.215 Reestablishment of nonfarm use
- 215.223 Procedure for adopting zoning ordinances; notice
- 215.233 Validity of ordinances and development patterns adopted before September 2, 1963
- 215.236 Establishing nonfarm dwelling in exclusive farm use zone; procedures; disqualification for farm use valuation; additional tax or penalty; requalification
- 215.243 Agricultural land use policy
- 215.253 Restrictive local ordinances affecting farm use zones prohibited; exception
- 215.263 Review of land divisions in exclusive farm use zones; criteria for approval; exemptions
- 215.273 Applicability to thermal energy power plant siting determinations
- 215.277 Seasonal farmworker housing; compliance with agricultural land use policy required
- 215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties

- 215.284 Dwelling not in conjunction with farm use; existing lots or parcels; new lots or parcels
- 215.293 Dwelling in exclusive farm use or forest zone; condition; declaration; recordation
- 215.294 Railroad facilities handling materials regulated under ORS chapter 466 allowed
- 215.296 Standards for approval of certain uses in exclusive farm use zones; violation of standards; complaint; penalties; exceptions to standards
- 215.298 Mining in exclusive farm use zone; land use permit
- 215.301 Blending materials for cement prohibited near vineyards; exception
- 215.304 Rule adoption; limitations
- 215.306 Conducting filming activities in exclusive farm use zones
- 215.311 Parking log trucks in exclusive farm use zones
(Marginal Lands)
- 215.316 Termination of adoption of marginal lands
- 215.317 Permitted uses on marginal land
- 215.327 Divisions of marginal land

PLANNING AND ZONING HEARINGS AND REVIEW

- 215.402 Definitions for ORS 215.402 to 215.438 and 215.700 to 215.780
- 215.406 Planning and zoning hearings officers; duties and powers; authority of governing body or planning commission to conduct hearings
- 215.412 Adoption of hearing procedure
- 215.416 Application for permits; consolidated procedures; hearings; notice; approval criteria; decision without hearing
- 215.418 Approval of development on wetlands; notice
- 215.422 Review of decision of hearings officer or other authority; notice of appeal; establishment of fees; appeal of final decision
- 215.425 Review of decision relating to aggregate resources
- 215.428 Final action on permit or zone change application required within 120 days; exceptions; refund of application fees; mandamus authorized
- 215.431 Plan amendments; hearings by planning commission or hearings officer; exceptions

PERMITTED USES IN ZONES

- 215.438 Transmission towers; location; conditions
- 215.448 Home occupations; parking; where allowed; conditions
- 215.452 Winery; conditions; local government findings and criteria
- 215.455 Effect of approval of winery on land use laws

NOTICE TO PROPERTY OWNERS

- 215.503 Legislative act by ordinance; mailed notice to individual property owners required by county for land use actions
- 215.508 Individual notice not required if funds not available
- 215.513 Notice form; forwarding of notice to property purchaser

COUNTY HOUSING CODES

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COUNTY PLANNING; ZONING; HOUSING CODES

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COUNTY PLANNING

215.010 Definitions for ORS chapter 215. As used in ORS chapter 215:

(1) The terms defined in ORS 92.010 shall have the meanings given therein, except that "parcel":

(a) Includes a unit of land created:

(A) By partitioning land as defined in ORS 92.010;

(B) In compliance with all applicable planning, zoning and partitioning ordinances and regulations; or

(C) By deed or land sales contract, if there were no applicable planning, zoning or partitioning ordinances or regulations.

(b) Does not include a unit of land created solely to establish a separate tax account.

(2) "Tract" means one or more contiguous lots or parcels under the same ownership.

(3) The terms defined in ORS chapter 197 shall have the meanings given therein.

(4) "Farm use" has the meaning given that term in ORS 215.203.

(5) "The Willamette Valley" is Benton, Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and the portion of Lane County lying east of the summit of the Coast Range. [Amended by 1955 c.756 §25; 1963 c.619 §1 (1); 1985 c.717 §4; 1993 c.792 §8]

215.020 Authority to establish county planning commissions. (1) The governing body of any county may create and provide for the organization and operations of one or more county planning commissions.

(2) This section shall be liberally construed and shall include the authority to create more than one planning commission, or subcommittee of a commission, for a county or the use of a joint planning commission or other intergovernmental agency for planning as authorized by ORS 190.003 to 190.110. [Amended by 1973 c.552 §1; 1975 c.767 §15]

215.030 Membership of planning commission. (1) The county planning commission shall consist of five, seven or nine members appointed by the governing body for four-year terms, or until their respective successors are appointed and qualified; provided that in the first instance the terms of the initial members shall be staggered for one, two, three and four years.

(2) A commission member may be removed by the governing body, after hearing, for misconduct or nonperformance of duty.

(3) Any vacancy on the commission shall be filled by the governing body for the unexpired term.

(4) Members of the commission shall serve without compensation other than reimbursement for duly authorized expenses.

(5) Members of a commission shall be residents of the various geographic areas of the county. No more than two voting members shall be engaged principally in the buying, selling or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of occupation, business, trade or profession.

(6) The governing body may designate one or more officers of the county to be nonvoting members of the commission.

(7) Except for subsection (5) of this section, the governing body may provide by ordinance for alternative rules to those specified in this section. [Amended by 1963 c.619 §2; 1973 c.552 §2; 1977 c.766 §1]

215.035 [1973 c.552 §10; renumbered 244.135 in 1993]

215.040 [Amended by 1973 c.552 §3; repealed by 1977 c.766 §16]

215.042 County to appoint planning director; term and duties of director. (1)

The governing body of each county shall designate an individual to serve as planning director for the county responsible for administration of planning. The governing body shall provide employees as necessary to assist the director in carrying out responsibilities. The director shall be the chief administrative officer in charge of the planning department of the county, if one is created.

(2) The director shall provide assistance, as requested, to the planning commission and shall coordinate the functions of the commission with other departments, agencies and officers of the county that are engaged in functions related to planning for the use of lands within the county.

(3) The director shall serve at the pleasure of the governing body of the county. [1973 c.552 §9]

215.044 Solar access ordinances; purpose; standards. (1) County governing bodies may adopt and implement solar access ordinances. The ordinances shall provide and protect to the extent feasible solar access to the south face of buildings during solar heating hours, taking into account latitude, topography, microclimate, existing development, existing vegetation and planned uses and densities. The county governing body shall consider for inclusion in any solar access ordinance, but not be limited to, standards for:

(a) The orientation of new streets, lots and parcels;

(b) The placement, height, bulk and orientation of new buildings;

(c) The type and placement of new trees on public street rights of way and other public property; and

(d) Planned uses and densities to conserve energy, facilitate the use of solar energy, or both.

(2) The Office of Energy shall actively encourage and assist county governing bodies' efforts to protect and provide for solar access.

(3) As used in this section, "solar heating hours" means those hours between three hours before and three hours after the sun is at its highest point above the horizon on December 21. [1981 c.722 §2]

215.046 [1973 c.552 §1; repealed by 1977 c.766 §16]

215.047 Effect of comprehensive plan and land use regulations on solar access ordinances. Solar access ordinances shall not be in conflict with acknowledged comprehensive plans and land use regulations. [1981 c.722 §3]

215.050 Comprehensive planning, zoning and subdivision ordinances; copies available. (1) Except as provided in ORS 527.722, the county governing body shall adopt and may from time to time revise a comprehensive plan and zoning, subdivision and other ordinances applicable to all of the land in the county. The plan and related ordinances may be adopted and revised part by part or by geographic area.

(2) Zoning, subdivision or other ordinances or regulations and any revisions or amendments thereof shall be designed to implement the adopted county comprehensive plan.

(3) A county shall maintain copies of its comprehensive plan and land use regulations, as defined in ORS 197.015, for sale to the public at a charge not to exceed the cost of copying and assembling the material. [Amended by 1955 c.439 §2; 1963 c.619 §3; 1973 c.552 §4; 1977 c.766 §2; 1981 c.748 §41; 1987 c.919 §5; 1991 c.363 §1]

215.055 [1955 c.439 §3; 1963 c.619 §4; 1971 c.13 §2; 1971 c.739 §1; 1973 c.80 §43; 1975 c.153 §1; repealed by 1977 c.766 §16]

215.060 Procedure for action on plan; notice; hearing. Action by the governing body of a county regarding the plan shall have no legal effect unless the governing body first conducts one or more public hearings on the plan and unless 10 days' advance public notice of each of the hearings is published in a newspaper of general circulation in the county or, in case the plan as it is to be heard concerns only part of the

county, is so published in the territory so concerned and unless a majority of the members of the governing body approves the action. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, radio and television. [Amended by 1963 c.619 §5; 1967 c.589 §1; 1973 c.552 §6]

215.070 [Repealed by 1963 c.619 §16]

215.080 Power to enter upon land. The commission, and any of its members, officers and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain the necessary monuments and markers thereon.

215.090 Information made available to commission. Public officials, departments and agencies, having information, maps or other data deemed by the planning commission pertinent to county planning shall make such information available for the use of the commission. [Amended by 1977 c.766 §3]

215.100 Cooperation with other agencies. The county planning commission shall advise and cooperate with other planning commissions within the state, and shall upon request, or on its own initiative, furnish advice or reports to any city, county, officer or department on any problem comprehended in county planning.

215.104 [1955 c.439 §4; 1963 c.619 §6; 1967 c.589 §2; 1973 c.552 §7; repealed by 1977 c.766 §16]

215.108 [1955 c.439 §5; 1961 c.607 §1; repealed by 1963 c.619 §16]

215.110 Recommendation of ordinances to implement plan; content; enactment; referral; retroactivity prohibited. (1) A planning commission may recommend to the governing body ordinances intended to implement part or all of the comprehensive plan. The ordinances may provide, among other things, for:

(a) Zoning;

(b) Official maps showing the location and dimensions of, and the degree of permitted access to, existing and proposed thoroughfares, easements and property needed for public purposes;

(c) Preservation of the integrity of the maps by controls over construction, by making official maps parts of county deed records, and by other action not violative of private property rights;

(d) Conservation of the natural resources of the county;

(e) Controlling subdivision and partitioning of land;

(f) Renaming public thoroughfares;

(g) Protecting and assuring access to incident solar energy;

(h) Protecting and assuring access to wind for potential electrical generation or mechanical application; and

(i) Numbering property.

(2) The governing body may enact, amend or repeal ordinances to assist in carrying out a comprehensive plan. If an ordinance is recommended by a planning commission, the governing body may make any amendments to the recommendation required in the public interest. If an ordinance is initiated by the governing body, it shall, prior to enactment, request a report and recommendation regarding the ordinance from the planning commission, if one exists, and allow a reasonable time for submission of the report and recommendation.

(3) The governing body may refer to the electors of the county for their approval or rejection an ordinance or amendments thereto for which this section provides. If only a part of the county is affected, the ordinance or amendment may be referred to that part only.

(4) An ordinance enacted by authority of this section may prescribe fees and appeal procedures necessary or convenient for carrying out the purposes of the ordinance.

(5) An ordinance enacted by authority of this section may prescribe limitations designed to encourage and protect the installation and use of solar and wind energy systems.

(6) No retroactive ordinance shall be enacted under the provisions of this section. [Amended by 1963 c.619 §7; 1973 c.696 §22; 1975 c.153 §2; 1977 c.766 §4; 1979 c.671 §2; 1981 c.590 §7]

215.120 [Amended by 1957 c.568 §2; repealed by 1963 c.619 §16]

215.124 [1955 c.683 §2, 4; 1957 c.568 §3; repealed by 1959 c.387 §1]

215.126 [1955 c.683 §3; 1957 c.568 §1; 1959 c.387 §2; repealed by 1963 c.619 §16]

215.130 Application of ordinances; alteration of nonconforming use. (1) Any legislative ordinance relating to land use planning or zoning shall be a local law within the meaning of, and subject to, ORS 250.155 to 250.235.

(2) An ordinance designed to carry out a county comprehensive plan and a county comprehensive plan shall apply to:

(a) The area within the county also within the boundaries of a city as a result of extending the boundaries of the city or creating a new city unless, or until the city has by ordinance or other provision provided otherwise; and

(b) The area within the county also within the boundaries of a city if the governing body of such city adopts an ordinance

declaring the area within its boundaries subject to the county's land use planning and regulatory ordinances, officers and procedures and the county governing body consents to the conferral of jurisdiction.

(3) An area within the jurisdiction of city land use planning and regulatory provisions that is withdrawn from the city or an area within a city that disincorporates shall remain subject to such plans and regulations which shall be administered by the county until the county provides otherwise.

(4) County ordinances designed to implement a county comprehensive plan shall apply to publicly owned property.

(5) The lawful use of any building, structure or land at the time of the enactment or amendment of any zoning ordinance or regulation may be continued. Alteration of any such use may be permitted to reasonably continue the use. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. A change of ownership or occupancy shall be permitted.

(6) Restoration or replacement of any use described in subsection (5) of this section may be permitted when the restoration is made necessary by fire, other casualty or natural disaster. Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster.

(7) Any use described in subsection (5) of this section may not be resumed after a period of interruption or abandonment unless the resumed use conforms with the requirements of zoning ordinances or regulations applicable at the time of the proposed resumption.

(8) Any proposal for the alteration of a use under subsection (5) of this section, except an alteration necessary to comply with a lawful requirement, for the restoration or replacement of a use under subsection (6) of this section or for the resumption of a use under subsection (7) of this section shall be subject to the provisions of ORS 215.416.

(9) As used in this section, "alteration" of a nonconforming use includes:

(a) A change in the use of no greater adverse impact to the neighborhood; and

(b) A change in the structure or physical improvements of no greater adverse impact to the neighborhood. [Amended by 1961 c.607 §2; 1963 c.577 §4; 1963 c.619 §9; 1969 c.460 §1; 1973 c.503 §2; 1977 c.766 §5; 1979 c.190 §406; 1979 c.610 §1; 1993 c.792 §32]

215.140 [Repealed by 1963 c.619 §16]

215.150 [Amended by 1955 c.439 §8; repealed by 1963 c.619 §16]

215.160 [Repealed by 1963 c.619 §16]

215.170 Authority of cities in unincorporated area. The powers of an incorporated city to control subdivision and other partitioning of land and to rename thoroughfares in adjacent unincorporated areas shall continue unimpaired by ORS 215.010 to 215.190 and 215.402 to 215.438 until the county governing body that has jurisdiction over the area adopts regulations for controlling subdivision there. Any part of the area subject to the county regulations shall cease to be subject to the two powers of the city, unless otherwise provided in an urban growth area management agreement jointly adopted by a city and county to establish procedures for regulating land use outside the city limits and within an urban growth boundary acknowledged under ORS 197.251. [Amended by 1963 c.619 §10; 1983 c.570 §4]

215.180 [1955 c.439 §6; 1963 c.619 §11; repealed by 1977 c.766 §16]

215.185 Remedies for unlawful structures or land use. (1) In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used, or any land is, or is proposed to be, used, in violation of an ordinance or regulation designed to implement a comprehensive plan, the governing body of the county or a person whose interest in real property in the county is or may be affected by the violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use. When a temporary restraining order is granted in a suit instituted by a person who is not exempt from furnishing bonds or undertakings under ORS 22.010, the person shall furnish undertaking as provided in ORCP 82 A(1).

(2) The court may allow the prevailing party reasonable attorney fees and expenses in a judicial proceeding authorized by this section that involves a dwelling approved to relieve a temporary hardship. However, if the court allows the plaintiff reasonable attorney fees or expenses, such fees or expenses shall not be charged to the county if the county did not actively defend itself or the landowner in the proceeding. [1955 c.439 §7; 1963 c.619 §12; 1977 c.766 §6; 1981 c.998 §48; 1983 c.826 §5]

215.190 Violation of ordinances or regulations. No person shall locate, construct, maintain, repair, alter, or use a building or other structure or use or transfer land in violation of an ordinance or regulation authorized by ORS 215.010 to 215.190 and 215.402 to 215.438. [1955 c.439 §9; 1963 c.619 §13]

215.200 [1957 s.s. c.11 §1; renumbered 215.285]

AGRICULTURAL LAND USE (Exclusive Farm Use Zones)

215.203 Zoning ordinances establishing exclusive farm use zones; definitions. (1) Zoning ordinances may be adopted to zone designated areas of land within the county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established only when such zoning is consistent with the comprehensive plan.

(2)(a) As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species. It does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (1)(e) or 321.415 (5).

(b) "Current employment" of land for farm use includes:

(A) Farmland, the operation or use of which is subject to any farm-related government program;

(B) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;

(C) Land planted in orchards or other perennials, other than land specified in subparagraph (D) of this paragraph, prior to maturity;

(D) Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;

(E) Wasteland, in an exclusive farm use zone, dry or covered with water, neither

economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;

(F) Land under buildings supporting accepted farm practices;

(G) Water impoundments lying in or adjacent to and in common ownership with farm use land;

(H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;

(I) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such illness results in death;

(J) Any land described under ORS 321.267 (1)(e) or 321.415 (5); and

(K) Any land in an exclusive farm use zone used for the storage of agricultural products that would otherwise be disposed of through open field burning or propane flaming.

(c) As used in this subsection, "accepted farming practice" means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

(3) "Cultured Christmas trees" means trees:

(a) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

(b) Of a marketable species;

(c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and

(d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation. [1963 c.577 §2; 1963 c.619 §1(2), (3); 1967 c.386 §1; 1973 c.503 §3; 1975 c.210 §1; 1977 c.766 §7; 1977 c.893 §17a; 1979 c.480 §1; 1981 c.804 §73; 1983 c.826 §18; 1985 c.604 §2; 1987 c.305 §4; 1989 c.653 §1; 1989 c.887 §7; 1991 c.459 §344; 1991 c.714 §4; 1993 c.704 §1; 1995 c.79 §75; 1995 c.211 §1]

215.205 [1957 s.s. c.11 §2; renumbered 215.295]

215.207 Absence of farming activity due to illness; rules of Department of

Revenue. The Department of Revenue shall adopt rules to carry out the provisions of this section and ORS 215.203 (2)(b)(I). [1989 c.653 §2]

Note: 215.207 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.210 [Amended by 1955 c.652 §6; renumbered 215.305]

215.213 Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use:

(a) Public or private schools, including all buildings essential to the operation of a school.

(b) Churches and cemeteries in conjunction with churches.

(c) The propagation or harvesting of a forest product.

(d) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height.

(e) A dwelling on real property used for farm use if the dwelling is:

(A) Located on the same lot or parcel as the dwelling of the farm operator; and

(B) 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 use is or will be required by the farm operator.

(f) Nonresidential buildings customarily provided in conjunction with farm use.

(g) A dwelling customarily provided in conjunction with farm use if the dwelling is on a lot or parcel that is managed as part of a farm operation not smaller than the minimum lot size in a farm zone with a minimum lot size acknowledged under ORS 197.251.

(h) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).

(i) Operations for the exploration for minerals as defined by ORS 517.750. Any ac-

tivities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).

(j) 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.

(k) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.

(L) The breeding, kenneling and training of greyhounds for racing in any county over 200,000 in population in which there is located a greyhound racing track or in a county of over 200,000 in population contiguous to such a county.

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

(n) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

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

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

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

(r) Seasonal farmworker housing as defined in ORS 197.675.

(s) Creation of, restoration of or enhancement of wetlands.

(t) A winery, as described in ORS 215.452.

(u) Alteration, restoration or replacement of a lawfully established dwelling that:

(A) Has intact exterior walls and roof structure;

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

(C) Has interior wiring for interior lights;

(D) Has a heating system; and

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

(v) Farm stands, if:

(A) The structures are designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and

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

(w) An armed forces reserve center, if the center is within one-half mile of a community college. For purposes of this paragraph, "armed forces reserve center" includes an armory or National Guard support facility.

(2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use subject to ORS 215.296:

(a) A dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm operation or woodlot:

(A) Consists of 20 or more acres; and

(B) Is not smaller than the average farm or woodlot in the county producing at least \$2,500 in annual gross income from the crops, livestock or forest products to be raised on the farm operation or woodlot.

(b) A dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than required under paragraph (a) of this subsection, if the lot or parcel:

(A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar years out of the three calendar years before the year in which the application for the dwelling was made or is planted in perennials capable of producing upon harvest an average of at least \$20,000 in annual gross farm income; or

(B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross annual income.

(c) Commercial activities that are in conjunction with farm use.

(d) Operations conducted for:

(A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, not otherwise permitted under subsection (1)(h) of this section;

(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

(C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

(D) Processing of other mineral resources and other subsurface resources.

(e) Community centers owned and operated by a governmental agency or a nonprofit community organization, hunting and fishing preserves, parks, playgrounds and campgrounds.

(f) Golf courses.

(g) Commercial utility facilities for the purpose of generating power for public use by sale.

(h) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Department of Transportation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Department of Transportation.

(i) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial

treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

(j) A site for the disposal of solid waste approved by the governing body of a city or county or both and 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.

(k) Dog kennels not described in subsection (1)(L) of this section.

(L) Residential homes as defined in ORS 197.660, in existing dwellings.

(m) The propagation, cultivation, maintenance and harvesting of aquatic species.

(n) Home occupations as provided in ORS 215.448.

(o) Transmission towers over 200 feet in height.

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

(q) 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.

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

(s) A destination resort which is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort.

(t) Room and board arrangements for a maximum of five unrelated persons in existing residences.

(u)(A) A living history museum related to resource based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of the metropolitan urban growth boundary.

(B) As used in this paragraph:

(i) "Living history museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and

(ii) "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65.

(3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), a single-family residential dwelling not provided in conjunction with farm use may be established on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by the Agricultural Capability Classification System in use by the United States Department of Agriculture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval of the governing body or its designate in any area zoned for exclusive farm use upon written findings showing all of the following:

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

(b) 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, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land.

(c) Complies with such other conditions as the governing body or its designate considers necessary.

(4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), one single-family dwelling, not provided in conjunction with farm use, may be established in any area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that is not larger than three acres upon written findings showing:

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

(b) If the lot or parcel is located within the Willamette Greenway, a floodplain or a geological hazard area, the dwelling complies with conditions imposed by local ordinances relating specifically to the Willamette

Greenway, floodplains or geological hazard areas, whichever is applicable; and

(c) The dwelling complies with other conditions considered necessary by the governing body or its designate.

(5) Upon receipt of an application for a permit under subsection (4) of this section, the governing body shall notify:

(a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be established; and

(b) Persons who have requested notice of such applications and who have paid a reasonable fee imposed by the county to cover the cost of such notice.

(6) The notice required in subsection (5) of this section shall specify that persons have 15 days following the date of postmark of the notice to file a written objection on the grounds only that the dwelling or activities associated with it would force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is received, the governing body or its designate shall approve or disapprove the application. If an objection is received, the governing body shall set the matter for hearing in the manner prescribed in ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of this section.

(7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1, 1948, and July 1, 1983. For the purposes of this section:

(a) Only one lot or parcel exists if:

(A) A lot or parcel described in this section is contiguous to one or more lots or parcels described in this section; and

(B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels or lots and parcels by the same person, spouses or a single partnership or business entity, separately or in tenancy in common.

(b) "Contiguous" means lots, parcels or lots and parcels that have a common boundary, including but not limited to, lots, parcels or lots and parcels separated only by a public road.

(8) A person who sells or otherwise transfers real property in an exclusive farm use zone may retain a life estate in a dwelling on that property and in a tract of land under and around the dwelling.

(9) No final approval of a nonfarm use under this section shall be given unless any

additional taxes imposed upon the change in use have been paid.

(10) Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of the governing body or its designate, in areas zoned for exclusive farm use subject to:

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

(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993. [1963 c.577 §3; 1963 c.619 §1a; 1969 c.258 §1; 1973 c.503 §4; 1975 c. 551 §1; 1975 c.552 §32; 1977 c.766 §5; 1977 c.788 §2; 1979 c.480 §6; 1979 c.773 §10; 1981 c.748 §44; 1983 c.743 §3; 1983 c.826 §6; 1983 c.827 §27b; 1985 c.544 §2; 1985 c.583 §1; 1985 c.604 §3; 1985 c.717 §5; 1985 c.811 §12; 1987 c.227 §1; 1987 c.729 §5; 1987 c.866 §9; 1989 c.224 §25; 1989 c.525 §1; 1989 c.564 §7; 1989 c.648 §59; 1989 c.739 §1; 1989 c.837 §26; 1989 c.861 §1; 1989 c.964 §10; 1991 c.459 §345; 1991 c.866 §1; 1991 c.950 §2; 1993 c.466 §1; 1993 c.469 §5; 1993 c.704 §2; 1993 c.792 §29a; 1995 c.435 §1; 1995 c.528 §1]

215.214 [1979 c.773 §11; 1983 c.743 §4; 1983 c.826 §10; 1985 c.565 §29; 1987 c.729 §5c; repealed by 1993 c.792 §55]

215.215 Reestablishment of nonfarm use. (1) Notwithstanding ORS 215.130 (6), if a nonfarm use exists in an exclusive farm use zone and is unintentionally destroyed by fire, other casualty or natural disaster, the county may allow by its zoning regulations such use to be reestablished to its previous nature and extent, but the reestablishment shall meet all other building, plumbing, sanitation and other codes, ordinances and permit requirements.

(2) Consistent with ORS 215.243, the county governing body may zone for the appropriate nonfarm use one or more lots or parcels in the interior of an exclusive farm use zone if the lots or parcels were physically developed for the nonfarm use prior to the establishment of the exclusive farm use zone. [1977 c.664 §41; 1991 c.67 §49]

215.220 [Repealed by 1963 c.619 §16]

215.223 Procedure for adopting zoning ordinances; notice. (1) No zoning ordinance enacted by the county governing body may have legal effect unless prior to its enactment the governing body or the planning commission conducts one or more public hearings on the ordinance and unless 10 days' advance public notice of each hearing is published in a newspaper of general circulation in the county or, in case the ordinance applies to only a part of the county, is so published in that part of the county.

(2) The notice provisions of this section shall not restrict the giving of notice by

other means, including mail, radio and television.

(3) In effecting a zone change the proceedings for which are commenced at the request of a property owner, the governing body shall in addition to other notice give individual notice of the request by mail to the record owners of property within 250 feet of the property for which a zone change has been requested. The failure of the property owner to receive the notice described shall not invalidate any zone change.

(4) Notice of a public hearing on a zone change pursuant to the application of a property owner shall be provided to the owner of an airport, defined by the Department of Transportation as a "public use airport" if:

(a) The name and address of the airport owner has been provided by the Department of Transportation to the county planning authority; and

(b) The property subject to the zone change application is:

(A) Within 5,000 feet of the side or end of a 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 of the runway of an airport determined by the Department of Transportation to be an "instrument airport."

(5) Notwithstanding the provisions of subsection (4) of this section, notice of a zone change hearing need not be provided as set forth in subsection (4) of this section if the zone change would only allow a structure less than 35 feet in height and the property is located outside the runway "approach surface" as defined by the Department of Transportation.

(6) The failure of an airport owner to receive notice, which was mailed, shall not invalidate any zone change.

(7) Before enacting at the request of a property owner an ordinance which would change the zone of property which includes all or part of a mobile home or manufactured dwelling park as defined in ORS 446.003, the governing body shall give written notice by first class mail to each existing mailing address for tenants of the mobile home or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the ordinance. The governing body may require an applicant for such a zone change to pay the costs of such notice. The failure of a tenant to receive a notice which was mailed shall not invalidate any zone change. [1963 c.619 §8; 1967 c.589 §3; 1985 c.473 §14; 1987 c.106 §1; 1989 c.648 §60]

215.230 [Repealed by 1963 c.619 §16]

215.233 Validity of ordinances and development patterns adopted before September 2, 1963. Nothing in ORS 215.010, 215.030, 215.050, 215.060 and 215.110 to 215.213, 215.223 and this section shall impair the validity of ordinances enacted prior to September 2, 1963. All development patterns made and adopted prior to that time shall be deemed to meet the requirements of ORS 215.010, 215.030, 215.050, 215.060 and 215.110 to 215.213, 215.223 and this section concerning comprehensive plans. [1963 c.619 §14; 1971 c.13 §3; 1985 c.365 §30]

215.236 Establishing nonfarm dwelling in exclusive farm use zone; procedures; disqualification for farm use valuation; additional tax or penalty; requalification. (1) As used in this section, "dwelling" means a single-family residential dwelling not provided in conjunction with farm use.

(2) The governing body or its designate shall not grant final approval of an application made under ORS 215.213 (3) or 215.284 (1), (2), (3) or (4) for the establishment of a dwelling on a lot or parcel in an exclusive farm use zone that is, or has been, receiving special assessment without evidence that the lot or parcel upon which the dwelling is proposed has been disqualified for special assessment at value for farm use under ORS 308.370 or other special assessment under ORS 308.765, 321.257 to 321.381, 321.730 or 321.815 and any additional tax imposed as the result of disqualification has been paid.

(3) The governing body or its designate may grant tentative approval of an application made under ORS 215.213 (3) or 215.284 (1), (2), (3) or (4) for the establishment of a dwelling on a lot or parcel in an exclusive farm use zone that is specially assessed at value for farm use under ORS 308.370 upon making the findings required by ORS 215.213 (3) or 215.284 (1), (2), (3) or (4). An application for the establishment of a dwelling that has been tentatively approved shall be given final approval by the governing body or its designate upon receipt of evidence that the lot or parcel upon which establishment of the dwelling is proposed has been disqualified for special assessment at value for farm use under ORS 308.370 and any additional tax imposed as the result of disqualification has been paid.

(4) The owner of a lot or parcel upon which the establishment of a dwelling has been tentatively approved as provided by subsection (3) of this section shall, before final approval, simultaneously:

(a) Notify the county assessor that the lot or parcel is no longer being used as farmland;

(b) Request that the county assessor disqualify the lot or parcel for special assessment under ORS 308.370, 308.765, 321.257, 321.381, 321.730 or 321.815; and

(c) Pay any additional tax imposed upon disqualification from special assessment.

(5) A lot or parcel that has been disqualified pursuant to subsection (4) of this section shall not requalify for special assessment unless, when combined with another contiguous lot or parcel, it constitutes a qualifying parcel.

(6) When the owner of a lot or parcel upon which the establishment of a dwelling has been tentatively approved notifies the county assessor that the lot or parcel is no longer being used as farmland and requests disqualification of the lot or parcel for special assessment at value for farm use, the county assessor shall:

(a) Disqualify the lot or parcel for special assessment at value for farm use under ORS 308.370 or other special assessment by removing the special assessment;

(b) Provide the owner of the lot or parcel with written notice of the disqualification; and

(c) Impose the additional tax, if any, provided by statute upon disqualification.

(7) The Department of Consumer and Business Services, a building official, as defined in ORS 455.715 (1), or any other agency or official responsible for the administration and enforcement of the state building code, as defined in ORS 455.010, shall not issue a building permit for the construction of a dwelling on a lot or parcel in an exclusive farm use zone without evidence that the owner of the lot or parcel upon which the dwelling is proposed to be constructed has paid the additional tax, if any, imposed by the county assessor under subsection (6)(c) of this section. [1981 c.748 §46; 1983 c.462 §14; 1983 c.570 §6; 1983 c.826 §23; 1985 c.717 §6; 1985 c.811 §6; 1987 c.305 §5; 1987 c.414 §147; 1991 c.459 §346; 1993 c.792 §27; 1993 c.801 §36a]

215.240 [Repealed by 1963 c.619 §16]

215.243 Agricultural land use policy. The Legislative Assembly finds and declares that:

(1) Open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all of the people of this state, whether living in rural, urban or metropolitan areas of the state.

(2) The preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources and the preserva-

tion of such land in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation.

(3) Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in costs of community services, conflicts between farm and urban activities and the loss of open space and natural beauty around urban centers occurring as the result of such expansion.

(4) Exclusive farm use zoning as provided by law, substantially limits alternatives to the use of rural land and, with the importance of rural lands to the public, justifies incentives and privileges offered to encourage owners of rural lands to hold such lands in exclusive farm use zones. [1973 c.503 §1]

215.250 [Repealed by 1973 c.619 §16]

215.253 Restrictive local ordinances affecting farm use zones prohibited; exception. (1) No state agency, city, county or political subdivision of this state may exercise any of its powers to enact local laws or ordinances or impose restrictions or regulations affecting any farm use land situated within an exclusive farm use zone established under ORS 215.203 or within an area designated as marginal land under ORS 197.247 (1991 Edition) in a manner that would restrict or regulate farm structures or that would restrict or regulate farming practices if conditions from such practices do not extend into an adopted urban growth boundary in such manner as to interfere with the lands within the urban growth boundary. "Farming practice" as used in this subsection shall have the meaning set out in ORS 30.930.

(2) Nothing in this section is intended to limit or restrict the lawful exercise by any state agency, city, county or political subdivision of its power to protect the health, safety and welfare of the citizens of this state. [1973 c.503 §8; 1983 c.826 §12; 1985 c.565 §31; 1995 c.703 §10]

215.260 [Amended by 1955 c.652 §3; repealed by 1957 s.s. c.11 §4 (215.261 enacted in lieu of 215.260)]

215.261 [1957 s.s. c.11 §5 (enacted in lieu of 215.260); repealed by 1963 c.619 §16]

215.263 Review of land divisions in exclusive farm use zones; criteria for approval; exemptions. (1) Any proposed division of land included within an exclusive farm use zone resulting in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the governing body or its designate of the county in which the land is situated. The governing body of a county by ordinance shall require such prior review and approval for such di-

visions of land within exclusive farm use zones established within the county.

(2) The governing body of a county or its designate may approve a proposed division of land to create parcels for farm use as defined in ORS 215.203 if it finds:

(a) That the proposed division of land is appropriate for the continuation of the existing commercial agricultural enterprise within the area; or

(b) The parcels created by the proposed division are not smaller than the minimum lot size acknowledged under ORS 197.251.

(3) The governing body of a county or its designate may approve a proposed division of land in an exclusive farm use zone for nonfarm uses, except dwellings, set out in ORS 215.213 (2) or 215.283 (2) if it finds that the parcel for the nonfarm use is not larger than the minimum size necessary for the use. The governing body may establish other criteria as it considers necessary.

(4) The governing body of a county may approve a division of land in an exclusive farm use zone for a dwelling not provided in conjunction with farm use only if the dwelling has been approved under ORS 215.213 (3) or 215.284 (3) or (4).

(5) This section shall not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.

(6) This section shall not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.

(7) The governing body of a county shall not approve any proposed division of a lot or parcel described in ORS 215.213 (1)(e) or 215.283 (1)(e) or 215.284 (1) or (2).

(8) The governing body of a county may approve a proposed division of land in an exclusive farm use zone to create a parcel with an existing dwelling to be used:

(a) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under ORS 215.213 (3) or 215.284 (1), (2), (3) or (4); and

(b) For historic property that meets the requirements of ORS 215.213 (1)(q) and 215.283 (1)(o).

(9) The governing body of a county shall not approve a division of land for nonfarm use under subsection (3), (4) or (8) of this section unless any additional tax imposed for the change in use has been paid.

(10) Parcels used or to be used for training or stabling facilities shall not be consid-

ered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur. [1973 c.503 §9; 1977 c.766 §9; 1979 c.46 §2; 1981 c.748 §48; 1983 c.526 §7; 1985 c.544 §4; 1987 c.729 §5b; 1989 c.224 §26; 1989 c. 564 §8; 1989 c.861 §3; 1991 c.459 §347; 1993 c.704 §7; 1993 c.792 §12]

215.270 [Repealed by 1963 c.619 §16]

215.273 Applicability to thermal energy power plant siting determinations. Nothing in ORS 118.155, 215.130, 215.203, 215.213, 215.243 to 215.273, 215.283, 215.284, 308.370 to 308.407 and 316.844 is intended to affect the authority of the Energy Facility Siting Council in determining suitable sites for the issuance of site certificates for thermal power plants, as authorized under ORS 469.300 to 469.570, 469.590 to 469.619 and 469.930. [1973 c.503 §16; 1983 c.740 §56; 1983 c.826 §19; 1995 c.79 §76]

215.277 Seasonal farmworker housing; compliance with agricultural land use policy required. It is the intent of the Legislative Assembly that the provision of seasonal farm-worker housing, as defined in ORS 197.675, not allow other types of dwellings not otherwise permitted in exclusive farm use zones and that such seasonal farmworker housing be consistent with the intent and purposes set forth in ORS 215.243. To accomplish this objective in the interest of all people in this state, enforcement of the occupancy limits in ORS 197.675 (4) is necessary. [1989 c.964 §9]

215.280 [Repealed by 1963 c.619 §16]

215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties. (1) The following uses may be established in any area zoned for exclusive farm use:

✓(a) Public or private schools, including all buildings essential to the operation of a school.

✓(b) Churches and cemeteries in conjunction with churches.

✓(c) The propagation or harvesting of a forest product.

PRE ✓ (d) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height.

✓(e) A dwelling on real property used for farm use if the dwelling is:

(A) Located on the same lot or parcel as the dwelling of the farm operator; and

(B) 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 use is or will be required by the farm operator.

✓ (f) The dwellings and other buildings customarily provided in conjunction with farm use.

✓ (g) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).

✓ (h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).

○ (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.

✓ (j) The breeding, kenneling and training of greyhounds for racing in any county over 200,000 in population in which there is located a greyhound racing track or in a county of over 200,000 in population contiguous to such a county.

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

✓ (L) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

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

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

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

✓ (p) Seasonal farmworker housing as defined in ORS 197.675.

(q) Creation of, restoration of or enhancement of wetlands.

(r) A winery, as described in ORS 215.452.

(s) Farm stands, if:

(A) The structures are designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and

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

(t) Alteration, restoration or replacement of a lawfully established dwelling that:

(A) Has intact exterior walls and roof structure;

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

(C) Has interior wiring for interior lights;

(D) Has a heating system; and

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

(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designate in any area zoned for exclusive farm use subject to ORS 215.296:

(a) Commercial activities that are in conjunction with farm use.

(b) Operations conducted for:

(A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under subsection (1)(g) of this section;

(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

(C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

(D) Processing of other mineral resources and other subsurface resources.

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

(d) Parks, playgrounds or community centers owned and operated by a governmental agency or a nonprofit community organization.

(e) Golf courses.

(f) Commercial utility facilities for the purpose of generating power for public use by sale.

(g) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Department of Transportation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Department of Transportation.

(h) Home occupations as provided in ORS 215.448.

(i) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

(j) A site for the disposal of solid waste approved by the governing body of a city or county or both and 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.

(k) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.

(L) Transmission towers over 200 feet in height.

(m) Dog kennels not described in subsection (1)(j) of this section.

(n) Residential homes as defined in ORS 197.660, in existing dwellings.

(o) The propagation, cultivation, maintenance and harvesting of aquatic species.

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

(q) 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.

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

(s) A destination resort which is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort.

(t) Room and board arrangements for a maximum of five unrelated persons in existing residences.

(3) Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of the governing body or its designate, in areas zoned for exclusive farm use subject to:

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

(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993. (1983 c.826 §17; 1985 c.544 §3; 1985 c.583 §2; 1985 c.604 §4; 1985 c.717 §7; 1985 c.811 §7; 1987 c.227 §2; 1987 c.729 §5a; 1987 c.886 §10; 1989 c.224 §27; 1989 c.325 §2; 1989 c.564 §9; 1989 c.648 §61; 1989 c.739 §2; 1989 c.837 §27; 1989 c.861 §2; 1989 c.964 §11; 1991 c.459 §348; 1991 c.950 §1; 1993 c.466 §2; 1993 c.704 §3; 1993 c.792 §14; subsections (3) to (8) renumbered 215.284 in 1993; 1995 c.528 §2)

215.284 Dwelling not in conjunction with farm use; existing lots or parcels; new lots or parcels. (1) In the Willamette Valley, a single-family residential dwelling not provided in conjunction with farm use may be established, subject to approval of the governing body or its designate, in any area zoned for exclusive farm use upon a finding that:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost

of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(b) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through Class VIII soils that would not, when irrigated, be classified as prime, unique, Class I or Class II soils;

(c) The dwelling will be sited on a lot or parcel created before January 1, 1993;

(d) The dwelling will not materially alter the stability of the overall land use pattern of the area; and

(e) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(2) In counties not described in subsection (1) of this section, a single-family residential dwelling not provided in conjunction with farm use may be established, subject to approval of the governing body or its designate, in any area zoned for exclusive farm use upon a finding that:

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

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

(c) The dwelling will be sited on a lot or parcel created before January 1, 1993;

(d) The dwelling will not materially alter the stability of the overall land use pattern of the area; and

(e) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(3) In counties not described in subsection (4) of this section, a single-family residential dwelling not provided in conjunction with farm use may be established, subject to approval of the governing body or its designate, in any area zoned for exclusive farm use upon a finding that:

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

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

(c) The dwelling will be sited on a lot or parcel created after January 1, 1993, as allowed under ORS 215.263 (4);

(d) The dwelling will not materially alter the stability of the overall land use pattern of the area; and

(e) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(4)(a) In the Willamette Valley, a lot or parcel allowed under paragraph (b) of this subsection for a single-family residential dwelling not provided in conjunction with farm use may be established, subject to approval of the governing body or its designate, in any area zoned for exclusive farm use upon a finding that the originating lot or parcel is equal to or larger than the applicable minimum lot or parcel size and:

(A) Is not stocked to the requirements under ORS 527.610 to 527.770;

(B) Is composed of at least 95 percent Class VI through Class VIII soils; and

(C) Is composed of at least 95 percent soils not capable or producing 50 cubic feet per acre per year of wood fiber.

(b) Any parcel to be created for a dwelling from the originating lot or parcel described in paragraph (a) of this subsection will not be smaller than 20 acres.

(c) The dwelling or activities associated with the dwelling allowed under this subsection will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.

(d) The dwelling allowed under this subsection will not materially alter the stability of the overall land use pattern of the area.

(e) The dwelling allowed under this subsection complies with such other conditions as the governing body or its designate considers necessary.

(5) No final approval of a nonfarm use under this section shall be given unless any additional taxes imposed upon the change in use have been paid.

(6) If a single-family dwelling is established on a lot or parcel as set forth in ORS 215.705 to 215.750, no additional dwelling may later be sited under subsections (1), (2), (3) or (4) of this section. [Formerly subsections (3) to (8) of 215.283]

215.285 [Formerly 215.200; repealed by 1971 c.13 §1]

215.288 [1983 c.826 §16; 1985 c.565 §33; 1985 c.811 §8; repealed by 1993 c.792 §55]

215.290 [Repealed by 1963 c.619 §16]

215.293 Dwelling in exclusive farm use or forest zone; condition; declaration; recordation. The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.283 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. [1983 c.826 §11; 1995 c.703 §11]

Note: 215.293 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.294 Railroad facilities handling materials regulated under ORS chapter 466 allowed. (1) In addition to the nonfarm uses that may be established under ORS 215.283 (2), and subject to the approval of the governing body or its designate in any area zoned for exclusive farm use subject to ORS 215.296, the use of existing railroad loading and unloading facilities authorized to unload materials regulated under ORS chapter 459 and the expansion of such facilities by no greater than 30 percent, for the unloading of materials regulated under ORS chapter 466 for transfer to a facility permitted to dispose of materials regulated under ORS chapter 466, may be allowed.

(2) A permit for a use allowed under subsection (1) of this section must be applied for no later than December 31, 1993.

(3) A county shall allow an application for a permit authorizing the use allowed under this section prior to the adoption of amendments to the comprehensive plan or land use regulations. [1993 c.530 §1]

Note: 215.294 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.295 [Formerly 215.205; repealed by 1971 c.13 §1]

215.296 Standards for approval of certain uses in exclusive farm use zones; violation of standards; complaint; penal-

ties; exceptions to standards. (1) A use allowed under ORS 215.213 (2) or 215.283 (2) may be approved only where the local governing body or its designee finds that the use will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

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

(2) An applicant for a use allowed under ORS 215.213 (2) or 215.283 (2) may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

(3) A person engaged in farm or forest practices on lands devoted to farm or forest use may file a complaint with the local governing body alleging:

(a) That a condition imposed pursuant to subsection (2) of this section has been violated;

(b) That the violation has:

(A) Forced a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(B) Significantly increased the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(c) That the complainant is adversely affected by the violation.

(4) Upon receipt of a complaint, the local governing body or its designee shall:

(a) Forward the complaint to the operator of the use;

(b) Review the complaint in the manner set forth in ORS 215.402 to 215.438; and

(c) Determine whether the allegations made pursuant to subsection (3) of this section are true.

(5) Upon a determination that the allegations of the complaint are true, the local governing body or its designee at a minimum shall notify the violator that a violation has occurred, direct the violator to correct the conditions that led to the violation within a specified time period and warn the violator against the commission of further violations.

(6) If the conditions that led to a violation are not corrected within the time period specified pursuant to subsection (5) of this section, or if there is a determination pursuant to subsection (4) of this section following the receipt of a second complaint that

a further violation has occurred, the local governing body or its designee at a minimum shall assess a fine against the violator.

(7) If the conditions that led to a violation are not corrected within 30 days after the imposition of a fine pursuant to subsection (6) of this section, or if there is a determination pursuant to subsection (4) of this section following the receipt of a third or subsequent complaint that a further violation has occurred, the local governing body or its designee shall at a minimum order the suspension of the use until the violator corrects the conditions that led to the violation.

(8) If a use allowed under ORS 215.213 (2) or 215.283 (2) is initiated without prior approval pursuant to subsection (1) of this section, the local governing body or its designee at a minimum shall notify the user that prior approval is required, direct the user to apply for approval within 21 days and warn the user against the commission of further violations. If the user does not apply for approval within 21 days, the local governing body or its designee shall order the suspension of the use until the user applies for and receives approval. If there is a determination pursuant to subsection (4) of this section following the receipt of a complaint that a further violation occurred after approval was granted, the violation shall be deemed a second violation and the local governing body or its designee at a minimum shall assess a fine against the violator.

(9)(a) The standards set forth in subsection (1) of this section shall not apply to farm or forest uses conducted within:

(A) Lots or parcels with a single-family residential dwelling approved under ORS 215.213 (3), 215.284 (1), (2), (3) or (4) or 215.705;

(B) An exception area approved under ORS 197.732; or

(C) An acknowledged urban growth boundary.

(b) A person residing in a single-family residential dwelling which was approved under ORS 215.213 (3), 215.284 (1), (2), (3) or (4) or 215.705, which is within an exception area approved under ORS 197.732 or which is within an acknowledged urban growth boundary may not file a complaint under subsection (3) of this section.

(10) Nothing in this section shall prevent a local governing body approving a use allowed under ORS 215.213 (2) or 215.283 (2) from establishing standards in addition to those set forth in subsection (1) of this section or from imposing conditions to insure conformance with such additional standards. [1989 c.861 §6; 1993 c.792 §15]

215.298 Mining in exclusive farm use zone; land use permit. (1) For purposes of ORS 215.213 (2) and 215.283 (2), a land use permit is required for mining more than 1,000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre. A county may set standards for a lower volume or smaller surface area than that set forth in this subsection.

(2) A permit for mining of aggregate shall be issued only for a site included on an inventory in an acknowledged comprehensive plan.

(3) For purposes of ORS 215.213 (2) and 215.283 (2) and this section, "mining" includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. "Mining" does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or nonsurface impacts of underground mines. [1989 c.861 §7]

215.300 [Repealed by 1963 c.619 §16]

215.301 Blending materials for cement prohibited near vineyards; exception. (1) Notwithstanding the provisions of ORS 215.213, 215.283 and 215.284, no application shall be approved to allow batching and blending of mineral and aggregate into asphalt cement within two miles of a planted vineyard.

(2) Nothing in this chapter shall be construed to apply to operations for batching and blending of mineral and aggregate under a local land use approval on October 3, 1989, or a subsequent renewal of an existing approval.

(3) Nothing in ORS 215.213, 215.263, 215.283, 215.284, 215.296 or 215.298 shall be construed to apply to a use allowed under ORS 215.213 (2) or 215.283 (2) and approved by a local governing body on October 3, 1989, or a subsequent renewal of an existing approval. [1989 c.561 §§4,5]

215.303 [1989 c.861 §8; repealed by 1993 c.792 §55]

215.304 Rule adoption; limitations. (1) The Land Conservation and Development Commission shall not adopt or implement

any rule to identify or designate small-scale farmland or secondary land.

(2) Amendments required to conform rules to the provisions of subsection (1) of this section and ORS 215.705 to 215.780 shall be adopted by March 1, 1994.

(3) Any portion of a rule inconsistent with the provisions of ORS 197.247 (1991 Edition), 215.213, 215.214 (1991 Edition), 215.288 (1991 Edition), 215.317, 215.327 and 215.337 (1991 Edition) or 215.705 to 215.780 on March 1, 1994:

(a) Shall not be implemented or enforced; and

(b) Has no legal effect. [1993 c.792 §28]

Note: 215.304 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.305 [Formerly 215.210; repealed by 1971 c.13 §1]

215.306 Conducting filming activities in exclusive farm use zones. (1) The limitations on uses made of land in exclusive farm use zones described in ORS 215.213, 215.283, 215.284 and 215.705 to 215.780 and limitations imposed by or adopted pursuant to ORS 197.040 do not apply to activities described in this section.

(2) The provisions of this section do not affect the eligibility of a zone for special assessment as provided in ORS 308.370 and 308.404.

(3)(a) On-site filming and activities accessory to on-site filming may be conducted in any area zoned for exclusive farm use if the activity:

(A) Would involve no more than 45 days on any site within any one-year period; or

(B) Does not involve erection of sets that would remain in place for longer than any 45-day period.

(b) On-site filming and activities accessory to on-site filming may be conducted subject to the approval of the governing body or its designate in any area zoned for exclusive farm use subject to ORS 215.296. In addition to other activities described in subsection (4) of this section, these activities may include office administrative functions such as payroll and scheduling, and the use of campers, truck trailers or similar temporary facilities. Temporary facilities may be used as temporary housing for security personnel.

(4) For purposes of this section, "on-site filming and activities accessory to on-site filming":

(a) Includes:

(A) Filming and site preparation, construction of sets, staging, makeup and sup-

port services customarily provided for on-site filming.

(B) Production of advertisements, documentaries, feature film, television services and other film productions that rely on the rural qualities of an exclusive farm use zone in more than an incidental way.

(b) Does not include:

(A) Facilities for marketing, editing and other such activities that are allowed only as a home occupation; or

(B) Construction of new structures that requires a building permit. [1995 c.722 §1]

Note: 215.306 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.310 [Repealed by 1971 c.13 §1]

215.311 Parking log trucks in exclusive farm use zones. (1) The limitations on uses of land in exclusive farm use zones described in ORS 215.283, 215.284 and 215.705 to 215.780 and limitations imposed by or adopted pursuant to ORS 197.040 do not apply to log truck parking under this section.

(2) The provisions of this section do not affect the eligibility of a zone for special assessment as provided in ORS 308.370 and 308.404.

(3) Notwithstanding any other provision of law except for health and safety provisions, parking no more than seven log trucks shall be allowed in an exclusive farm use zone unless the local government determines that log truck parking on a lot or parcel will:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. [1995 c.799 §1]

Note: 215.311 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Marginal Lands)

215.316 Termination of adoption of marginal lands. (1) Unless a county applies the provisions of ORS 215.705 to 215.730 to land zoned for exclusive farm use, a county that adopted marginal lands provisions under ORS 197.247 (1991 Edition), 215.213, 215.214 (1991 Edition), 215.288 (1991 Edition), 215.317, 215.327 and 215.337 (1991 Edition) may continue to apply those provisions. After January 1, 1993, no county may adopt marginal lands provisions.

(2) If a county that had adopted marginal lands provisions before January 1, 1993, subsequently sites a dwelling under ORS 215.705 to 215.750 on land zoned for exclusive farm use, the county shall not later apply marginal lands provisions, including those set forth in ORS 215.213, to lots or parcels other than those to which the county applied the marginal lands provisions before the county sited a dwelling under ORS 215.705 to 215.750. [1993 c.792 §29]

215.317 Permitted uses on marginal land. (1) A county may allow the following uses to be established on land designated as marginal land under ORS 197.247 (1991 Edition):

(a) Intensive farm or forest operations, including but not limited to "farm use" as defined in ORS 215.203.

(b) Part-time farms.

(c) Woodlots.

(d) One single-family dwelling on a lot or parcel created under ORS 215.327 (1) or (2).

(e) One single-family dwelling on a lot or parcel of any size if the lot or parcel was created before July 1, 1983, subject to subsection (2) of this section.

(f) The nonresidential uses authorized in exclusive farm use zones under ORS 215.213 (1) and (2).

(g) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.

(2) If a lot or parcel described in subsection (1)(e) of this section is located within the Willamette Greenway, a floodplain or a geological hazard area, approval of a single-family dwelling shall be subject to local ordinances relating to the Willamette Greenway, floodplains or geological hazard areas, whichever is applicable. [1983 c.826 §3; 1989 c.648 §62; 1993 c.792 §24]

215.320 [Repealed by 1971 c.13 §1]

215.325 [1953 c.662 §6; 1963 c.9 §4; repealed by 1971 c.13 §1]

215.327 Divisions of marginal land. A county may allow the following divisions of marginal land:

(1) Divisions of land to create a parcel or lot containing 10 or more acres if the lot or parcel is not adjacent to land zoned for exclusive farm use or forest use or, if it is adjacent to such land, the land qualifies for designation as marginal land under ORS 197.247 (1991 Edition).

(2) Divisions of land to create a lot or parcel containing 20 or more acres if the lot or parcel is adjacent to land zoned for ex-

clusive farm use and that land does not qualify for designation as marginal land under ORS 197.247 (1991 Edition).

(3) Divisions of land to create a parcel or lot necessary for those uses authorized by ORS 215.317 (1)(f). [1983 c.326 §4; 1993 c.792 §25]

215.330 [Repealed by 1971 c.13 §1]

215.337 [1983 c.326 §4a; repealed by 1993 c.792 §55]

215.340 [Repealed by 1971 c.13 §1]

215.350 [Amended by 1953 c.662 §7; repealed by 1971 c.13 §1]

215.360 [Amended by 1953 c.662 §7; subsection (2) enacted as 1953 c.662 §1; repealed by 1971 c.13 §1]

215.370 [Repealed by 1971 c.13 §1]

215.380 [Amended by 1955 c.652 §4; repealed by 1971 c.13 §1]

215.390 [Repealed by 1971 c.13 §1]

215.395 [1953 c.662 §3; 1955 c.652 §5; repealed by 1971 c.13 §1]

215.398 [1955 c.652 §2; repealed by 1971 c.13 §1]

215.400 [Repealed by 1971 c.13 §1]

PLANNING AND ZONING HEARINGS AND REVIEW

215.402 Definitions for ORS 215.402 to 215.438 and 215.700 to 215.780. As used in ORS 215.402 to 215.438 and 215.700 to 215.780 unless the context requires otherwise:

(1) "Contested case" means a proceeding in which the legal rights, duties or privileges of specific parties under general rules or policies provided under ORS 215.010 to 215.213, 215.215 to 215.263, 215.283 to 215.293, 215.317, 215.327, 215.402 to 215.438, and 215.700 to 215.780, or any ordinance, rule or regulation adopted pursuant thereto, are required to be determined only after a hearing at which specific parties are entitled to appear and be heard.

(2) "Hearing" means a quasi-judicial hearing, authorized or required by the ordinances and regulations of a county adopted pursuant to ORS 215.010 to 215.213, 215.215 to 215.263, 215.283 to 215.293, 215.317, 215.327, 215.402 to 215.438 and 215.700 to 215.780:

(a) To determine in accordance with such ordinances and regulations if a permit shall be granted or denied; or

(b) To determine a contested case.

(3) "Hearings officer" means a planning and zoning hearings officer appointed or designated by the governing body of a county under ORS 215.406.

(4) "Permit" means discretionary approval of a proposed development of land under ORS 215.010 to 215.293, 215.317 to 215.438 and 215.700 to 215.780 or county legislation or regulation adopted pursuant thereto. "Permit" does not include:

(a) A limited land use decision as defined in ORS 197.015;

(b) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;

(c) A decision which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or

(d) An action under ORS 197.360 (1). [1973 c.552 §12; 1977 c.654 §1; 1981 c.748 §49; 1991 c.817 §8; 1995 c.79 §77; 1995 c.595 §12]

215.406 Planning and zoning hearings officers; duties and powers; authority of governing body or planning commission to conduct hearings. (1) A county governing body may authorize appointment of one or more planning and zoning hearings officers, to serve at the pleasure of the appointing authority. The hearings officer shall conduct hearings on applications for such classes of permits and contested cases as the county governing body designates.

(2) In the absence of a hearings officer a planning commission or the governing body may serve as hearings officer with all the powers and duties of a hearings officer. [1973 c.552 §13; 1977 c.766 §10]

215.410 [Repealed by 1971 c.13 §1]

215.412 Adoption of hearing procedure. The governing body of a county, by ordinance or order shall adopt one or more procedures for the conduct of hearings. [1973 c.552 §14; 1977 c.766 §11]

215.415 [1953 c.662 §5; repealed by 1971 c.13 §1]

215.416 Application for permits; consolidated procedures; hearings; notice; approval criteria; decision without hearing. (1) When required or authorized by the ordinances, rules and regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

(2) The governing body shall establish a consolidated procedure by which an applicant may apply at one time for all permits or zone changes needed for a development project. The consolidated procedure shall be subject to the time limitations set out in ORS 215.428. The consolidated procedure shall be available for use at the option of the applicant no later than the time of the first

periodic review of the comprehensive plan and land use regulations.

(3) Except as provided in subsection (11) of this section, the hearings officer shall hold at least one public hearing on the application.

(4) The application shall not be approved if the proposed use of land is found to be in conflict with the comprehensive plan of the county and other applicable land use regulation or ordinance provisions. The approval may include such conditions as are authorized by statute or county legislation. Notwithstanding the requirements of this subsection, a limited land use decision shall be subject to the requirements set forth in ORS 197.195 and 197.828.

(5) Hearings under this section shall be held only after notice to the applicant and also notice to other persons as otherwise provided by law and shall otherwise be conducted in conformance with the provisions of ORS 197.763.

(6) Notice of a public hearing on an application submitted under this section shall be provided to the owner of an airport defined by the Department of Transportation as a "public use airport" if:

(a) The name and address of the airport owner has been provided by the Department of Transportation to the county planning authority; and

(b) The property subject to the land use hearing is:

(A) Within 5,000 feet of the side or end of a 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 of the runway of an airport determined by the Department of Transportation to be an "instrument airport."

(7) Notwithstanding the provisions of subsection (6) of this section, notice of a land use hearing need not be provided as set forth in subsection (6) of this section if the zoning permit would only allow a structure less than 35 feet in height and the property is located outside the runway "approach surface" as defined by the Department of Transportation.

(8) Approval or denial of a permit application shall be based on standards and criteria which shall be set forth in the zoning ordinance or other appropriate ordinance or regulation of the county and which shall relate approval or denial of a permit application to the zoning ordinance and comprehensive plan for the area in which the proposed use of land would occur and to the

zoning ordinance and comprehensive plan for the county as a whole.

(9) Approval or denial of a permit, expedited land division or limited land use decision shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(10) Written notice of the approval or denial shall be given to all parties to the proceeding.

(11)(a) The hearings officer, or such other person as the governing body designates, may approve or deny an application for a permit without a hearing if the hearings officer or other designated person gives notice of the decision and provides an opportunity for appeal of the decision to those persons who would have had a right to notice if a hearing had been scheduled or who are adversely affected or aggrieved by the decision. Notice of the decision shall be given in the same manner as required by ORS 197.763 or 197.195, whichever is applicable. An appeal from a hearings officer's decision shall be to the planning commission or governing body of the county. An appeal from such other person as the governing body designates shall be to a hearings officer, the planning commission or the governing body. In either case, the appeal shall be a de novo hearing.

(b) If a local government provides only a notice of the opportunity to request a hearing, the local government may charge a fee for the initial hearing. The maximum fee for an initial hearing shall be the cost to the local government of preparing for and conducting the appeal, or \$250, whichever is less. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee allowed in this paragraph shall not apply to appeals made by neighborhood or community organizations recognized by the governing body and whose boundaries include the site.

(12) A decision described in ORS 215.402 (4)(b) shall:

(a) Be entered in a registry available to the public setting forth:

(A) The street address or other easily understood geographic reference to the subject property;

(B) The date of the decision; and

(C) A description of the decision made.

(b) Be subject to the jurisdiction of the Land Use Board of Appeals in the same manner as a limited land use decision.

(c) Be subject to the appeal period described in ORS 197.830 (4)(b).

(13) At the option of the applicant, the local government shall provide notice of the decision described in ORS 215.402 (4)(b) in the manner required by ORS 197.763 (2), in which case an appeal to the board shall be filed within 21 days of the decision. The notice shall include an explanation of appeal rights. [1973 c.552 §§15, 16; 1977 c.654 §2; 1977 c.766 §12; 1979 c.772 §10a; 1983 c.827 §20; 1987 c.106 §2; 1987 c.729 §17; 1991 c.612 §20; 1991 c.817 §5; 1995 c.595 §27; 1995 c.692 §1]

215.418 Approval of development on wetlands; notice. (1) After the Division of State Lands has provided the county with a copy of the applicable portions of the State-wide Wetlands Inventory, the county shall provide notice to the division, the applicant and the owner of record, within five working days of the acceptance of any complete application for the following that are wholly or partially within areas identified as wetlands on the State-wide Wetlands Inventory:

(a) Subdivisions;

(b) Building permits for new structures;

(c) Other development permits and approvals that allow physical alteration of the land involving excavation and grading, including permits for removal or fill, or both, or development in floodplains and floodways;

(d) Conditional use permits and variances that involve physical alterations to the land or construction of new structures; and

(e) Planned unit development approvals.

(2) The provisions of subsection (1) of this section do not apply if a permit from the division has been issued for the proposed activity.

(3) Approval of any activity described in subsection (1) of this section shall include one of the following notice statements:

(a) Issuance of a permit under ORS 196.665 and 196.800 to 196.900 by the division required for the project before any physical alteration takes place within the wetlands;

(b) Notice from the division that no permit is required; or

(c) Notice from the division that no permit is required until specific proposals to remove, fill or alter the wetlands are submitted.

(4) If the division fails to respond to any notice provided under subsection (1) of this section within 30 days of notice, the county approval may be issued with written notice to the applicant and the owner of record that the proposed action may require state or federal permits.

(5) The county may issue local approval for parcels identified as or including wetlands on the State-wide Wetlands Inventory upon providing to the applicant and the owner of record of the affected parcel a written notice of the possible presence of wetlands and the potential need for state and federal permits and providing the division with a copy of the notification of comprehensive plan map or zoning map amendments for specific properties.

(6) Notice of activities authorized within an approved wetland conservation plan shall be provided to the division within five days following local approval.

(7) Failure by the county to provide notice as required in this section will not invalidate county approval. [1989 c.837 §29; 1991 c.763 §24]

Note: 215.418 was added to and made a part of ORS chapter 215 but was not added to any smaller series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.420 [Amended by 1955 c.439 §10; repealed by 1971 c.13 §1]

215.422 Review of decision of hearings officer or other authority; notice of appeal; establishment of fees; appeal of final decision. (1)(a) A party aggrieved by the action of a hearings officer or other decision-making authority may appeal the action to the planning commission or county governing body, or both, however the governing body prescribes. The appellate authority on its own motion may review the action. The procedure and type of hearing for such an appeal or review shall be prescribed by the governing body, but shall not require the notice of appeal to be filed within less than seven days after the date the governing body mails or delivers the decision to the parties.

(b) Notwithstanding paragraph (a) of this subsection, the governing body may provide that the decision of a hearings officer or other decision-making authority is the final determination of the county.

(c) The governing body may prescribe, by ordinance or regulation, fees to defray the costs incurred in acting upon an appeal from a hearings officer, planning commission or other designated person. The amount of the fee shall be reasonable and shall be no more than the average cost of such appeals or the actual cost of the appeal, excluding the cost of preparation of a written transcript. The governing body may establish a fee for the preparation of a written transcript. The fee shall be reasonable and shall not exceed the actual cost of preparing the transcript up to \$500. In lieu of a transcript prepared by the governing body and the fee therefor, the governing body shall allow any party to an appeal proceeding held on the record to pre-

pare a transcript of relevant portions of the proceedings conducted at a lower level at the party's own expense. If an appellant prevails at a hearing or on appeal, the transcript fee shall be refunded.

(2) A party aggrieved by the final determination may have the determination reviewed in the manner provided in ORS 197.830 to 197.845.

(3) No decision or action of a planning commission or county governing body shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision-making body, if the member of the decision-making body receiving the contact:

(a) Places on the record the substance of any written or oral ex parte communications concerning the decision or action; and

(b) Has a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.

(4) A communication between county staff and the planning commission or governing body shall not be considered an ex parte contact for the purposes of subsection (3) of this section.

(5) Subsection (3) of this section does not apply to ex parte contact with a hearing officer approved under ORS 215.406 (1). [1973 c.522 §517; 18: 1977 c.766 §13; 1979 c.772 §11; 1981 c.748 §42; 1983 c.656 §1; 1983 c.527 §21; 1991 c.817 §9]

215.425 Review of decision relating to aggregate resources. (1) A decision relating to aggregate resource uses permitted in ORS 215.213 (2)(d) or 215.283 (2)(b) is subject to review solely under the provisions of ORS 197.195 and 197.828 if:

(a) The aggregate resource site is identified as a significant resource site in the acknowledged comprehensive plan;

(b) A program to achieve any statewide goal relating to open spaces, scenic and historic areas, and natural resources has been developed for the aggregate resource site and is included within applicable land use regulations; and

(c) The decision concerns how, but not whether, aggregate resource use occurs.

(2) The provisions of subsection (1) of this section do not apply to mineral and other uses not related to aggregate resources. [1991 c.817 §11]

215.428 Final action on permit or zone change application required within 120 days; exceptions; refund of application

fees; mandamus authorized. (1) Except as provided in subsections (3) and (4) of this section, the governing body of a county or its designate shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422, within 120 days after the application is deemed complete.

(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designate shall notify the applicant of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section upon receipt by the governing body or its designate of the missing information. If the applicant refuses to submit the missing information, the application shall be deemed complete for the purpose of subsection (1) of this section on the 31st day after the governing body first received the application.

(3) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted and the county has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

(4) The 120-day period set in subsection (1) of this section may be extended for a reasonable period of time at the request of the applicant.

(5) The 120-day period set in subsection (1) of this section applies:

(a) Only to decisions wholly within the authority and control of the governing body of the county; and

(b) Unless the parties have agreed to mediation as described in ORS 197.318 (2)(b).

(6) Notwithstanding subsection (5) of this section, the 120-day period set in subsection (1) of this section does not apply to an amendment to an acknowledged comprehensive plan or land use regulation or adoption of a new land use regulation that was forwarded to the Director of the Department of Land Conservation and Development under ORS 197.610 (1).

(7) Except when an applicant requests an extension under subsection (4) of this section, if the governing body of the county or its designate does not take final action on an application for a permit, limited land use decision or zone change within 120 days after the application is deemed complete:

(a) The county shall refund to the applicant either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(b) The applicant may apply in the circuit court of the county where the application was filed for a writ of mandamus to compel the governing body or its designate to issue the approval. The writ shall be issued unless the governing body shows that the approval would violate a substantive provision of the county comprehensive plan or land use regulations as defined in ORS 197.015. The writ may specify conditions of approval that would otherwise be allowed by the county comprehensive plan or land use regulations.

(8) A county may not compel an applicant to waive the 120-day period set in subsection (1) of this section or to waive the provisions of subsection (7) of this section as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment. [1983 c.827 §23; 1989 c.761 §15; 1991 c.817 §14; 1995 c.812 §2]

215.430 [1955 c.682 §2; repealed by 1971 c.13 §1]

215.431 Plan amendments; hearings by planning commission or hearings officer; exceptions. (1) A county governing body may authorize, by ordinance or order, the planning commission or hearings officer to conduct hearings on applications for plan amendments and to make decisions on such applications.

(2) A decision of the planning commission or hearings officer on a plan amendment may be appealed to the county governing body.

(3) This section shall apply notwithstanding the provisions of ORS 215.050, 215.060 and 215.110.

(4) A decision of a planning commission, hearings officer or county governing body under this section shall comply with the post-acknowledgment procedures set forth in ORS 197.610 to 197.625.

(5) The provisions of this section shall not apply to:

(a) Any plan amendment for which an exception is required under ORS 197.732; or

(b) Any lands designated under a state-wide planning goal addressing agricultural lands or forestlands. [1987 c.729 §20]

PERMITTED USES IN ZONES

215.438 Transmission towers; location; conditions. The governing body of a county or its designate may allow a transmission tower over 200 feet in height to be established in any zone subject to reasonable conditions imposed by the governing body or its designate. [1983 c.827 §23a]

215.440 [1955 c.682 §3; repealed by 1971 c.13 §1]

215.448 Home occupations; parking; where allowed; conditions. (1) The governing body of a county or its designate may allow, subject to the approval of the governing body or its designate, the establishment of a home occupation and the parking of vehicles in any zone. However, in an exclusive farm use zone, forest zone or a mixed farm and forest zone that allows residential uses, the following standards apply to the home occupation:

(a) It shall be operated by a resident or employee of a resident of the property on which the business is located;

(b) It shall employ on the site no more than five full-time or part-time persons;

(c) It shall be operated substantially in:

(A) The dwelling; or

(B) Other buildings normally associated with uses permitted in the zone in which the property is located; and

(d) It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

(2) The governing body of the county or its designate may establish additional reasonable conditions of approval for the establishment of a home occupation under subsection (1) of this section.

(3) Nothing in this section authorizes the governing body or its designate to permit construction of any structure that would not otherwise be allowed in the zone in which the home occupation is to be established.

(4) The existence of home occupations shall not be used as justification for a zone change. [1983 c.743 §2; 1995 c.465 §1]

215.450 [1955 c.682 §4; repealed by 1971 c.13 §1]

215.452 Winery; conditions; local government findings and criteria. (1) A winery, authorized under ORS 215.213 (1)(t) and 215.283 (1)(r), is a facility that produces wine with a maximum annual production of:

(a) Less than 50,000 gallons and that:

(A) Owns an on-site vineyard of at least 15 acres;

(B) Owns a contiguous vineyard of at least 15 acres;

(C) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or

(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or

(b) At least 50,000 gallons and no more than 100,000 gallons and that:

(A) Owns an on-site vineyard of at least 40 acres;

(B) Owns a contiguous vineyard of at least 40 acres;

(C) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery; or

(D) Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph.

(2) The winery described in subsection (1)(a) or (b) of this section shall allow only the sale of:

(a) Wines produced in conjunction with the winery; and

(b) Items directly related to wine, the sales of which are incidental to retail sale of wine on-site. Such items include those served by a limited service restaurant, as defined in ORS 624.010.

(3) Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards, described in subsection (1)(a) and (b) of this section, have been planted or that the contract has been executed, as applicable.

(4) A local government shall adopt findings for each of the standards described in paragraphs (a) and (b) of this subsection. Standards imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

(a) Establishment of a setback, not to exceed 100 feet, from all property lines for the winery and all public gathering places; and

(b) Provision of direct road access, internal circulation and parking.

(5) A local government shall also apply local criteria regarding flood plains, geologic hazards, the Willamette Greenway, solar access, airport safety or other regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources. [1989 c.525 §4; 1993 c.704 §6]

Note: 215.452 and 215.455 were enacted into law by the Legislative Assembly but were not added to or made

a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.455 Effect of approval of winery on land use laws. Any winery approved under ORS 215.213, 215.283, 215.284 and 215.452 shall not be a basis for an exception under ORS 197.732 (1)(a) or (b). [1989 c.525 §5]

Note: See note under 215.452.

215.460 [1963 c.619 §15; repealed by 1971 c.13 §1]

NOTICE TO PROPERTY OWNERS

215.503 Legislative act by ordinance; mailed notice to individual property owners required by county for land use actions. (1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) Except as otherwise provided by county charter:

(a) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by the governing body of a county shall be by ordinance.

(b) In addition to the notice required by ORS 215.060, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof or to adopt a new comprehensive plan, the governing body of a county shall cause a written individual notice of land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

(c) In addition to the notice required by ORS 215.223 (1), at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the governing body of a county shall cause a written individual notice of land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(3) An additional individual notice of land use change required by subsection (2)(b) or (c) of this section shall be approved by the governing body of the county and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall be mailed by first class mail to the affected owner at the address shown on the last available complete tax assessment roll. [1977 c.664 §37]

215.505 [1969 c.324 §1; repealed by 1977 c.664 §42]

215.508 Individual notice not required if funds not available. Except as otherwise provided by county charter, if funds are not

available from the Department of Land Conservation and Development to reimburse a county for expenses incurred in giving additional individual notices of land use change as provided in ORS 215.503, the governing body of the county is not required to give those additional notices. [1977 c.664 §38]

215.510 [1969 c.324 §2; 1973 c.80 §47; repealed by 1977 c.664 §42]

215.513 Notice form; forwarding of notice to property purchaser. (1) A mortgagee, lienholder, vendor or seller of real property who receives a mailed notice required by this chapter shall promptly forward the notice to the purchaser of the property. Each mailed notice required by this chapter shall contain the following statement: "NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER."

(2) Mailed notices to owners of real property required by this chapter shall be deemed given to those owners named in an affidavit of mailing executed by the person designated by the governing body of a county to mail the notices. The failure of a person named in the affidavit to receive the notice shall not invalidate an ordinance. The failure of the governing body of a county to cause a notice to be mailed to an owner of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance. [1977 c.664 §39]

215.515 [1969 c.324 §3; 1973 c.80 §48; repealed by 1977 c.766 §16]

215.520 [1969 c.324 §4; repealed by 1977 c.664 §42]

215.525 [1969 c.324 §6; repealed by 1977 c.664 §42]

215.530 [1969 c.324 §7; repealed by 1977 c.664 §42]

215.535 [1969 c.324 §5; 1973 c.80 §49; repealed by 1977 c.664 §42]

COUNTY HOUSING CODES

215.605 Counties authorized to adopt housing codes. For the protection of the public health, welfare and safety, the governing body of a county may adopt ordinances establishing housing codes for the county, or any portion thereof, except where housing code ordinances are in effect on August 22, 1969, or where such ordinances are enacted by an incorporated city subsequent to August 22, 1969. Such housing code ordinances may adopt by reference published codes, or any portion thereof, and a certified copy of such code or codes shall be filed with the county clerk of said county. [1969 c.418 §1]

215.610 [1969 c.418 §2; 1979 c.190 §407; repealed by 1983 c.327 §16]

215.615 Application and contents of housing ordinances. The provisions of housing code ordinances authorized by ORS 215.605 and this section shall apply to all buildings or portions thereof used, or designed or intended to be used for human habitation, and shall include, but not be limited to:

(1) Standards for space, occupancy, light, ventilation, sanitation, heating, exits and fire protection.

(2) Inspection of such buildings.

(3) Procedures whereby buildings or portions thereof which are determined to be substandard are declared to be public nuisances and are required to be abated by repair, rehabilitation, demolition or removal.

(4) An advisory and appeals board. [1969 c.418 §3]

FARMLAND AND FORESTLAND ZONES

(Lot or Parcel of Record Dwellings)

215.700 Resource land dwelling policy. The Legislative Assembly declares that land use regulations limit residential development on some less productive resource land acquired before the owners could reasonably be expected to know of the regulations. In order to assist these owners while protecting the state's more productive resource land from the detrimental effects of uses not related to agriculture and forestry, it is necessary to:

(1) Provide certain owners of less productive land an opportunity to build a dwelling on their land; and

(2) Limit the future division of and the siting of dwellings upon the state's more productive resource land. [1993 c.792 §10]

215.705 Dwellings in farm or forest zone; criteria; transferability of application. (1) A governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a farm or forest zone as set forth in this section and ORS 215.710, 215.720, 215.740 and 215.750 after notifying the county assessor that the governing body intends to allow the dwelling. A dwelling under this section may be allowed if:

(a) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:

(A) Prior to January 1, 1985; or

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

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

(c) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law.

(d) The lot or parcel on which the dwelling will be sited, if zoned for farm use, is not on that high-value farmland described in ORS 215.710 except as provided in subsections (2) and (3) of this section.

(e) The lot or parcel on which the dwelling will be sited, if zoned for forest use, is described in ORS 215.720, 215.740 or 215.750.

(f) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

(g) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed.

(2)(a) Notwithstanding the requirements of subsection (1)(d) of this section, a single-family dwelling not in conjunction with farm use may be sited on high-value farmland if:

(A) It meets the other requirements of ORS 215.705 to 215.750;

(B) The lot or parcel is protected as high-value farmland as described under ORS 215.710 (1); and

(C) A hearings officer of a county determines that:

(i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity.

(ii) The dwelling will comply with the provisions of ORS 215.296 (1).

(iii) The dwelling will not materially alter the stability of the overall land use pattern in the area.

(b) A local government shall provide notice of all applications for dwellings allowed under this subsection to the State Department of Agriculture. Notice shall be provided in accordance with the governing body's land use regulations but shall be mailed at least 20 calendar days prior to the public hearing before the hearings officer under paragraph (a) of this subsection.

(3) Notwithstanding the requirements of subsection (1)(d) of this section, a single-

family dwelling not in conjunction with farm use may be sited on high-value farmland if:

(a) It meets the other requirements of ORS 215.705 to 215.750.

(b) The tract on which the dwelling will be sited is:

(A) Identified in ORS 215.710 (3) or (4);

(B) Not protected under ORS 215.710 (1); and

(C) Twenty-one acres or less in size.

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

(B) The tract is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within the urban growth boundary, but only if the subject tract abuts an urban growth boundary.

(4) If land is in a zone that allows both farm and forest uses, is acknowledged to be in compliance with goals relating to both agriculture and forestry and may qualify as an exclusive farm use zone under this chapter, the county may apply the standards for siting a dwelling under either subsection (1)(d) of this section or ORS 215.720, 215.740 and 215.750 as appropriate for the predominant use of the tract on January 1, 1993.

(5) A county may, by application of criteria adopted by ordinance, deny approval of a dwelling allowed under this section in any area where the county determines that approval of the dwelling would:

(a) Exceed the facilities and service capabilities of the area;

(b) Materially alter the stability of the overall land use pattern in the area; or

(c) Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged comprehensive plan or land use regulations.

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

(7) When a local government approves an application for a single-family dwelling under

the provisions of this section, the application may be transferred by a person who has qualified under this section to any other person after the effective date of the land use decision. [1993 c.792 §2; 1995 c.812 §7]

215.710 High-value farmland description for ORS 215.705. (1) For purposes of ORS 215.705, high-value farmland is land in a tract composed predominantly of soils that, at the time the siting of a dwelling is approved for the tract, are:

(a) Irrigated and classified prime, unique, Class I or Class II; or

(b) Not irrigated and classified prime, unique, Class I or Class II.

(2) In addition to that land described in subsection (1) of this section, for purposes of ORS 215.705, high-value farmland, if outside the Willamette Valley, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1993. For purposes of this subsection, "specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards but not including seed crops, hay, pasture or alfalfa.

(3) In addition to that land described in subsection (1) of this section, for purposes of ORS 215.705, high-value farmland, if in the Willamette Valley, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of soils described in subsection (1) of this section and the following soils:

(a) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton, Cascade, Chehalem, Cornelius, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hullt, Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama, Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill;

(b) Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick surface) and Sifton (occasionally flooded);

(c) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory, Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and

(d) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti and Whiteson.

(4) In addition to that land described in subsection (1) of this section, for purposes of

ORS 215.705, high-value farmland, if west of the summit of the Coast Range and used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of soils described in subsection (1) of this section and the following soils:

(a) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and Winema;

(b) Subclassification IIIw, specifically, Brenner and Chitwood;

(c) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalan, Neskowin and Winema; and

(d) Subclassification IVw, specifically, Coquille.

(5) For purposes of approving a land use application under ORS 215.705, the soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner:

(a) Submits a statement of agreement from the Natural Resources Conservation Service of the United States Department of Agriculture that the soil class, soil rating or other soil designation should be adjusted based on new information; or

(b)(A) Submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and

(B) Submits a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in subparagraph (A) of this paragraph and finds the analysis in the report to be soundly and scientifically based.

(6) Soil classes, soil ratings or other soil designations used in or made pursuant to this section are those of the Soil Conservation Service in its most recent publication for that class, rating or designation before November 4, 1993. [1993 c.792 §3; 1995 c.79 §78; 1995 c.812 §8]

215.720 Criteria for forestland dwelling under ORS 215.705. (1) A dwelling authorized under ORS 215.705 may be allowed on land zoned for forest use under a goal protecting forestland only if:

(a) The tract on which the dwelling will be sited is in western Oregon, as defined in ORS 321.257, and is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001. The road shall not be a United States Forest Service road

or Bureau of Land Management road and shall be maintained and either paved or surfaced with rock.

(b) The tract on which the dwelling will be sited is in eastern Oregon, as defined in ORS 321.405, and is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001. The road shall not be a United States Forest Service road or Bureau of Land Management road and shall be maintained and either paved or surfaced with rock.

(2) For purposes of this section, "commercial tree species" means trees recognized under rules adopted under ORS 527.715 for commercial production.

(3) No dwelling other than those described in this section and ORS 215.740 and 215.750 may be sited on land zoned for forest use under a land use planning goal protecting forestland. [1993 c.792 §4 (1), (4), (9)]

215.730 Additional criteria for forestland dwellings under ORS 215.705. (1) A local government shall require as a condition of approval of a single-family dwelling allowed under ORS 215.705 on lands zoned forestland that:

(a)(A) If the lot or parcel is more than 30 acres in eastern Oregon as defined in ORS 321.405, the property owner submits a stocking survey report to the assessor and the assessor verifies that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met; or

(B) If the lot or parcel is more than 10 acres in western Oregon as defined in ORS 321.257, the property owner submits a stocking survey report to the assessor and the assessor verifies that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.

(b) The dwelling meets the following requirements:

(A) The dwelling has a fire retardant roof.

(B) The dwelling will not be sited on a slope of greater than 40 percent.

(C) Evidence is provided that the domestic water supply is from a source authorized by the Water Resources Department and not from a Class II stream as designated by the State Board of Forestry.

(D) The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract.

(E) If the dwelling is not within a fire protection district, the applicant provides ev-

idence that the applicant has asked to be included in the nearest such district.

(F) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.

(G) The owner provides and maintains primary fuel-free break and secondary break areas.

(2)(a) If a governing body determines that meeting the requirement of subsection (1)(b)(D) of this section would be impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions.

(b) If a water supply is required under this subsection, it shall be a swimming pool, pond, lake or similar body of water that at all times contains at least 4,000 gallons or a stream that has a minimum flow of at least one cubic foot per second. Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units, and the road access shall accommodate a turnaround for fire-fighting equipment. [1993 c.792 §5; 1995 c.812 §6]

(Other Forestland Dwellings)

215.740 Large tract forestland dwelling; criteria. (1) If a dwelling is not allowed under ORS 215.720 (1), a dwelling may be allowed on land zoned for forest use under a goal protecting forestland if it complies with other provisions of law and is sited on a tract:

(a) In eastern Oregon of at least 240 contiguous acres except as provided in subsection (3) of this section; or

(b) In western Oregon of at least 160 contiguous acres except as provided in subsection (3) of this section.

(2) For purposes of subsection (1) of this section, a tract shall not be considered to consist of less than 240 acres or 160 acres because it is crossed by a public road or a waterway.

(3)(a) An owner of tracts that are not contiguous but are in the same county or adjacent counties and zoned for forest use may add together the acreage of two or more tracts to total 320 acres or more in eastern Oregon or 200 acres or more in western Oregon to qualify for a dwelling under subsection (1) of this section.

(b) If an owner totals 320 or 200 acres, as appropriate, under paragraph (a) of this subsection, the owner shall submit proof of nonrevocable deed restrictions recorded in

the deed records for the tracts in the 320 or 200 acres, as appropriate. The deed restrictions shall preclude all future rights to construct a dwelling on the tracts or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural lands or forestlands.

(c) The Land Conservation and Development Commission shall adopt rules that prescribe the language of the deed restriction, the procedures for recording, the procedures under which counties shall keep records of lots or parcels used to create the total, the mechanisms for providing notice to subsequent purchasers of the limitations under paragraph (b) of this subsection and other rules to implement this section. [1993 c.792 §4(2),(3),(5)]

215.750 Alternative forestland dwellings; criteria. (1) In western Oregon, a governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

(a) Capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:

(A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993, on the other lots or parcels;

(b) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:

(A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993, on the other lots or parcels; or

(c) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

(A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993, on the other lots or parcels.

(2) In eastern Oregon, a governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

(a) Capable of producing 0 to 20 cubic feet per acre per year of wood fiber if:

(A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993, on the other lots or parcels;

(b) Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:

(A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993, on the other lots or parcels; or

(c) Capable of producing more than 50 cubic feet per acre per year of wood fiber if:

(A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993, on the other lots or parcels.

(3) Lots or parcels within urban growth boundaries shall not be used to satisfy the eligibility requirements under subsection (1) or (2) of this section.

(4) A proposed dwelling under this subsection is not allowed:

(a) If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan or acknowledged land use regulations or other provisions of law.

(b) Unless it complies with the requirements of ORS 215.730.

(c) Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under ORS 215.740 (3) for the other lots or parcels that make up the tract are met.

(d) If the tract on which the dwelling will be sited includes a dwelling.

(5) Except as described in subsection (6) of this section, if the tract under subsection (1) or (2) of this section abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

(6)(a) If a tract 60 acres or larger described under subsection (1) or (2) of this section abuts a road or perennial stream, the measurement shall be made in accordance with subsection (5) of this section. However, one of the three required dwellings shall be on the same side of the road or stream as the tract and:

(A) Be located within a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road or stream; or

(B) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.

(b) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling. [1993 c.792 §4 (6),(7),(8)]

(Lot or Parcel Sizes)

215.780 Minimum lot or parcel sizes; land division to establish a dwelling; recordation. (1) Except as provided in subsection (2) of this section, the following minimum lot or parcel sizes apply to all counties:

(a) For land zoned for exclusive farm use and not designated rangeland, at least 80 acres;

(b) For land zoned for exclusive farm use and designated rangeland, at least 160 acres; and

(c) For land designated forestland, at least 80 acres.

(2) A county may adopt a lower minimum lot or parcel size than that described in subsection (1) of this section in any of the following circumstances:

(a) By demonstrating to the Land Conservation and Development Commission that it can do so while continuing to meet the requirements of ORS 215.243 and 527.630 and the land use planning goals adopted under ORS 197.230.

(b) To allow the establishment of a parcel for a dwelling on land zoned for forest use or mixed farm and forest use, subject to the following requirements:

(A) The parcel established shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

(B) The dwelling existed prior to June 1, 1995;

(C)(i) The remaining parcel, not containing the dwelling, meets the minimum land division standards of the zone; or

(ii) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone; and

(D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal.

(c) In addition to the requirements of paragraph (b) of this subsection, if the land is zoned for mixed farm and forest use the following requirements apply:

(A) The minimum tract eligible under paragraph (b) of this subsection is 40 acres.

(B) The tract shall be predominantly in forest use and that portion in forest use qualified for special assessment under a program under ORS chapter 321.

(C) The remainder of the tract shall not qualify for any uses allowed under ORS 215.213 and 215.283 that are not allowed on forestland.

(d) To allow a division of forestland to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of subsection (1)(c) of this section or paragraph (a) of this subsection. Parcels created pursuant to this subsection:

(A) Shall not be eligible for siting of a new dwelling;

(B) Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;

(C) Shall not, as a result of the land division, be used to justify redesignation or rezoning of resource lands;

(D) Shall not result in a parcel of less than 35 acres, except:

(i) Where the purpose of the land division is to facilitate an exchange of lands involving a governmental agency; or

(ii) Where the purpose of the land division is to allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forestland; and

(E) If associated with the creation of a parcel where a dwelling is involved, shall not result in a parcel less than the minimum lot or parcel size of the zone.

(3) A county with a minimum lot or parcel size acknowledged by the commission pursuant to ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements under ORS 197.628 to 197.636 that is smaller than those prescribed in subsection (1) of this section need not comply with subsection (2) of this section.

(4)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this section shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with

the county clerk of the county where the property is located. An applicant for the creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that a restriction on the newly created parcel has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under subsection (2) of this section.

(b) A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forestland.

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

(5) A landowner allowed a land division under subsection (2) of this section shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use. [1993 c.792 §7; 1995 c.700 §1]

(Wildlife Habitat Pilot Programs)

Note: Sections 1 to 6, chapter 764, Oregon Laws 1993, provide:

Sec. 1. (1) The Legislative Assembly declares that the protection and preservation of the wildlife resources of this state ought to be encouraged by recognizing wildlife habitat conservation and enhancement as a permitted land use in areas zoned for farm and forestry use.

(2) The Legislative Assembly further declares that this Act is intended to allow Marion and Polk Counties to develop pilot programs for the conservation and enhancement of wildlife habitat. [1993 c.764 §1]

Sec. 2. (1) Notwithstanding ORS 215.283 and 215.284, but subject to section 3 of this Act, for the period commencing on the effective date of this Act [November 4, 1993] and ending on December 31, 1997, a single-family dwelling in conjunction with the conservation and management of wildlife habitat may be established in any area that is zoned for exclusive farm use within Marion and Polk Counties.

(2) As used in this Act:

(a) "Cooperating agency" means the State Department of Fish and Wildlife, the United States Fish and Wildlife Service, the United States Soil Conservation Service, the Oregon State University Extension Service or other persons with wildlife conservation and management training considered appropriate for the preparation of a conservation and management plan, as

established by rules of the State Department of Fish and Wildlife.

(b) "Department" means the State Department of Fish and Wildlife.

(c) "Lot" has the meaning given that term in ORS 92.010.

(d) "Parcel" has the meaning given that term in ORS 215.010 (1).

(e) "Wildlife habitat conservation and management plan" or "plan" means a plan developed by a cooperating agency and landowner that specifies the conservation and management practices, including farm and forest uses consistent with the overall intent of the plan, that will be conducted to preserve, enhance and improve wildlife habitat on an affected lot or parcel. [1993 c.764 §2]

Sec. 3. (1) One single-family residential dwelling in conjunction with the conservation and management of wildlife habitat authorized by section 2 (1) of this Act may be established upon findings that the proposed dwelling:

(a) Is situated on a lot or parcel existing on the effective date of this Act that qualifies for a farm or nonfarm dwelling under county ordinances that carry out ORS 215.213 (1) to (3), 215.283 (1) or (2) or 215.284 (1);

(b) Is not situated on a lot or parcel that is predominantly composed of soils rated Class I or II, when not irrigated, or rated Prime or Unique by the United States Soil and Water Conservation Service or any combination of such soils;

(c) Complies with ORS 215.296 (1) and (2);

(d) Is situated on a lot or parcel developed and maintained in accordance with the provisions of a wildlife habitat conservation and management plan approved by the department; and

(e) Is the only dwelling situated on the affected lot or parcel.

(2) A wildlife habitat conservation and management plan for the affected lot or parcel must be approved by the department before final approval is granted by the county for the location of a dwelling on the lot or parcel. A building permit for the dwelling shall not be issued until after a significant portion of the plan, as determined by the county, is implemented. [1993 c.764 §3]

Sec. 4. (1) The department shall adopt rules specifying the form and content of a wildlife habitat conservation and management plan. The rules shall specify the conservation and management practices that are appropriate to preserve, enhance and improve wildlife common to the diverse regions of this state. Accepted farm and forest practices may be allowed as an integral part of the wildlife conservation and management practices specified in an approved plan.

(2) The rules required to be adopted by subsection (1) of this section shall be adopted no later than 180 days after the effective date of this Act. The rules shall be reviewed annually by the department and revised when considered necessary or appropriate by the department. [1993 c.764 §4]

Sec. 5. (1) The State Department of Fish and Wildlife shall review and approve plans submitted by applicants for dwellings authorized under section 2 (1) of this Act for compliance with the standards set forth in the rules adopted under section 4 of this Act.

(2) When a plan is approved by the department and is implemented, the owner of the land subject to the plan may make application to the county assessor for open space use assessment under ORS 308.740 to 308.790 for that land. Application shall be made as provided in ORS 308.740 to 308.790 except that:

(a) The granting authority shall be the State Department of Fish and Wildlife. The department shall approve the plan relating to the land of the applicant and determine compliance with the plan in accordance with rules adopted under section 4 of this Act. The department shall not conduct the hearing required under ORS 308.755.

(b) The owner, in lieu of designating the paragraph of ORS 308.740 (1) under which the open space use falls, shall designate the open space use as wildlife habitat conservation and management under this Act.

(c) Applications for open space use assessment under this section shall be made to the county assessor not later than April 1 in the calendar year preceding the first tax year for which such assessment is requested.

(d) The application shall include a certified copy of the department's declaration that the land described in the application is subject to a wildlife habitat conservation and management plan approved by the department and that the plan is being implemented.

(e) When the application for open space use assessment includes a certified copy of the declaration described in paragraph (d) of this subsection, the county assessor shall not refer the application to the planning commission or to the county governing body under ORS 308.755 (1), but shall assess the land described in the application on the basis provided in ORS 308.765. In each year in which the land is assessed for open space use, the county assessor shall also enter on the assessment roll, as a notation, the assessed value of the land were it not so assessed.

(3) An approved wildlife habitat conservation and management plan shall be reviewed by the department at least once in each two-year period to determine continued compliance with the plan. If the plan is not being implemented as approved, the department shall notify the owner and require compliance measures to be taken within six months. If the plan is still not being implemented as required by the department at the end

of the six-month period, the department shall notify the county assessor of the county in which the affected land is situated. The county assessor shall withdraw the land from open space use classification as provided in ORS 308.775 (1), except that notice of the withdrawal shall be given to the governing body of the county in which the land is situated.

(4) Notwithstanding ORS 308.395, 308.399 and 215.236, land that is assessed under ORS 308.370 shall not be subject to any additional taxes when the land is changed to open space use assessment based on wildlife habitat conservation and management as provided in this Act and shall be allowed to return to assessment under ORS 308.370, if otherwise qualified, without payment of any additional taxes. However, the land shall be subject to additional taxes when such land becomes disqualified or declassified from special assessment under ORS 308.370 or open space use assessment based on wildlife habitat conservation and management as provided in this Act and does not become qualified in the next assessment year for assessment under ORS 308.370 or open space use under ORS 308.740 to 308.790. The additional taxes shall be determined and collected as provided in ORS 321.960 (3), (4)(b) to (d), (5), (6) and (7). No other additional tax shall be imposed on such land at the time of disqualification or declassification. [1993 c.764 §5]

Sec. 6. This Act is repealed on December 31, 1997. [1993 c.764 §6]

215.990 [Subsections (1) and (2) enacted as 1955 c.439 §11; subsection (5) enacted as 1969 c.324 §8; 1971 c.13 §4; repealed by 1977 c.766 §16]

CHAPTERS 216 TO 220

[Reserved for expansion]

OREGON ADMINISTRATIVE RULES
CHAPTER 660, DIVISION 33 — LAND CONSERVATION AND DEVELOPMENT COMMISSION

DIVISION 33

AGRICULTURAL LAND

Purpose

660-33-010 The purpose of this division is to implement the requirements for agricultural land as defined by Goal 3.

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245
Stats. Implemented: ORS 197.015, 197.040, 197.230,
197.245, 215.203, 215.243 & 215.700
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-
1994, f. & cert. ef. 3-1-94

Definitions

660-33-020 For purposes of this division, the definitions in ORS 197.015, the Statewide Planning Goals and OAR Chapter 660 shall apply. In addition, the following definitions shall apply:

(1)(a) "Agricultural Land" as defined in Goal 3 includes:

(A) Lands classified by the U.S. Soil Conservation Service (SCS) as predominantly Class I - IV soils in Western Oregon and I - VI soils in Eastern Oregon;

(B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and

(C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

(b) Land in capability classes other than I - IV/I - VI that is adjacent to or intermingled with lands in capability classes I - IV/I - VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;

(c) "Agricultural Land" does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.

(2)(a) "Commercial Agricultural Enterprise" consists of farm operations that will:

(A) Contribute in a substantial way to the area's existing agricultural economy; and

(B) Help maintain agricultural processors and established farm markets.

(b) When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered. These are important factors because of the intent of Goal 3 to maintain the agricultural economy of the state.

(3) "Contiguous" means connected in such a manner as to form a single block of land.

(4) "Date of Creation and Existence". When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

(5) "Eastern Oregon" means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the Counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(6) "Exception Area" means an area no longer subject to the requirements of Goal 3 or 4 because the area is the subject of a site specific exception acknowledged pursuant to ORS 197.732 and OAR Chapter 660, Division 4.

(7) "Farm Use" as that term is used in ORS Chapter 215 and this division means "farm use" as defined in ORS 215.203.

(8)(a) "High-Value Farmland" means land in a tract composed predominantly of soils that are:

(A) Irrigated and classified prime, unique, Class I or II; or

(B) Not irrigated and classified prime, unique, Class I or II.

(b) In addition to that land described in subsection (a) of this section, high-value farmland, if outside the Willamette Valley, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa;

(c) In addition to that land described in subsection (a) of this section, high-value farmland, if in the Willamette Valley, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in subsection (a) of this section and the following soils:

(A) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton, Cascade, Chehalem, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hultt, Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama, Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill;

(B) Subclassification IIIw, specifically, Concord, Conser, Cornelius, Variant, Dayton (thick surface) and Sifton (occasionally flooded);

(C) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory, Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and

(D) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti and Whiteson.

(d) In addition to that land described in subsection (a) of this section, high-value farmland, if west of the summit of the Coast Range and used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in subsection (a) of this section and the following soils:

(A) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and Winema;

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(B) Subclassification IIIw, specifically, Brennar and Chitwood;

(C) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalem, Neskowin and Winema; and

(D) Subclassification IVe, specifically, Coquille.

(e) In addition to that land described in subsection (a) of this section, high-value farmland includes tracts located west of U.S. Highway 101 composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in subsection (a) of this section and the following soils:

(A) Subclassification IIIw, specifically, Ettersburg Silt Loam and Croftland Silty Clay Loam;

(B) Subclassification IIIe, specifically, Klooqueth Silty Clay Loam and Winchuck Silt Loam; and

(C) Subclassification IVw, specifically, Huffling Silty Clay Loam.

(f) The soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner submits a statement of agreement from the SCS that the soil class, soil rating or other soil designation should be adjusted based on new information;

(g) Soil classes, soil ratings or other soil designations used in or made pursuant to this definition are those of the SCS in its most recent publication for that class, rating or designation before November 4, 1993.

(h) Lands designated as "marginal lands" according to the marginal lands provisions adopted before January 1, 1993, and according to the criteria in ORS 215.247 (1991), are excepted from this definition of "high-value farmlands";

(i) Any county that adopted marginal lands provisions before January 1, 1993, may continue to designate lands as "marginal lands" according to those provisions and criteria in ORS 215.247 (1991), as long as the county has not applied the provisions of ORS 215.705 to 215.750 to lands zoned for exclusive farm use.

(9) "Irrigated" means watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider.

(10) "Tract" means one or more contiguous lots or parcels in the same ownership.

(11) "Western Oregon" means that portion of the state lying west of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the Counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(12) "Willamette Valley" is Benton, Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and that portion of Lane County lying east of the summit of the Coast Range.

Stat. Auth.: ORS Ch. 183, 197.040, 197.245 & Ch. 215
Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243 & 215.700-710
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-1994, f. & cert. ef. 6-3-94

Identifying Agricultural Land

660-33-030 (1) All land defined as "agricultural land" in OAR 660-33-020(1) shall be inventoried as agricultural land.

(2) When a jurisdiction determines the predominant soil capability classification of a lot or parcel it need only look to the land within the lot or parcel being inventoried. However, whether land is "suitable for farm use" requires an inquiry into factors beyond the mere identification of scientific soil classifications. The factors are listed in the definition of agricultural land set forth at OAR 660-33-020(1)(a)(B). This inquiry requires the consideration of conditions existing outside the lot or parcel being inventoried. Even if a lot or parcel is not predominantly Class I-IV soils or suitable for farm use, Goal 3 nonetheless defines as agricultural "lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands". A determination that a lot or parcel is not agricultural land requires findings supported by substantial evidence that addresses each of the factors set forth in OAR 660-33-020(1).

(3) Goal 3 attaches no significance to the ownership of a lot or parcel when determining whether it is agricultural land. Nearby or adjacent land, regardless of ownership, shall be examined to the extent that a lot or parcel is either "suitable for farm use" or "necessary to permit farm practices to be undertaken on adjacent or nearby lands" outside the lot or parcel.

(4) When inventoried land satisfies the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.

(5) Notwithstanding the definition of "farm use" in ORS 215.203(2)(a), profitability or gross farm income shall not be considered in determining whether land is agricultural land or whether Goal 3, "Agricultural Land", is applicable.

(6) More detailed data on soil capability than is contained in the U.S. Soil Conservation Service soil maps and soil surveys may be used to define agricultural land. However, the more detailed soils data shall be related to the U.S. Soil Conservation Service land capability classification system.

Stat. Auth.: ORS Ch. 183, 197 & 215

Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243 & 215.700-710

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

Identification of Small-Scale Resource Land

660-33-040 [LCDC 6-1992,
f. 12-10-92, cert. ef. 8-7-93;
Repealed by LCDC 3-1994,
f. & cert. ef. 3-1-94]

Designation of Small-Scale Resource Land

660-33-050 [LCDC 6-1992,
f. 12-10-92, cert. ef. 8-7-93;
Repealed by LCDC 3-1994,
f. & cert. ef. 3-1-94]

Uses on Small-Scale Resource Land

660-33-060 [LCDC 6-1992,

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f. 12-10-92, cert. ef. 8-7-93;
Repealed by LCDC 3-1994,
f. & cert. ef. 3-1-94]

Minimum Lot Size Requirements in Small-Scale Resource Land

660-33-070 [LCDC 6-1992,
f. 12-10-92, cert. ef. 8-7-93;
Repealed by LCDC 3-1994,
f. & cert. ef. 3-1-94]

Designation of High-Value Farmland

660-33-080 (1) The Commission may review comprehensive plan and land use regulations related to the identification and designation of high-value farmland under procedures set forth in ORS 197.251 or 197.628 through 197.644.

(2) Counties shall submit maps of high-value farmland described in OAR 660-33-020(8) and such amendments of their plans and land use regulations as are necessary to implement the requirements of this division to the Commission for review. Counties shall submit high-value farmland maps no later than the time of the first periodic review after December 31, 1994. The submittal shall include the notice required by OAR Chapter 660, Division 18 or 25, whichever applies.

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245
Stats. Implemented: ORS 197.015, 197.040, 197.230,
197.245, 215.203, 215.243 & 215.700-710
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94

Uses on High-Value Farmland

660-33-090 Uses on high-value farmland shall be limited to those specified in OAR 660-33-120. Counties shall apply zones that qualify as exclusive farm use zones under ORS Chapter 215 to high-value farmland.

Stat. Auth.: ORS Ch. 183, 197 & 215
Stats. Implemented: ORS 197.015, 197.040, 197.230,
197.245, 215.203, 215.243, 215.283 & 215.700-710
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

Minimum Parcel Size Requirements

660-33-100 (1) Counties shall establish minimum sizes for new parcels for land zoned for exclusive farm use. For land not designated rangeland, the minimum parcel size shall be at least 80 acres. For land designated rangeland, the minimum parcel size shall be at least 160 acres.

(2) A county may adopt a minimum parcel size lower than that described in section (1) of this rule by demonstrating to the Commission that it can do so while continuing to meet the requirements of ORS 215.243 and that parcel sizes below the 80 or 160 acre minimum sizes are appropriate to maintain the existing commercial agricultural enterprise within an area. This standard is intended to prevent division of farmland into parcels that are too small to contribute to commercial agriculture in an area. This standard does not require that every new parcel created be as large as existing farms or ranches in an area. The minimum parcel size may allow creation of parcels smaller than the size of existing farms or ranches. However, the minimum parcel size shall be large enough to keep commercial farms and ranches in the area successful

and not contribute to their decline. Lots or parcels used, or to be used, for training or stabling facilities shall not be considered appropriate to maintain the existing commercial agricultural enterprise in any area where other types of agriculture occur.

(3) To determine a minimum parcel size under this rule, the county shall complete the following steps:

(a) Identify different agricultural areas within the county, if any:

(b) Determine the nature of the commercial agricultural enterprise in the county, or within areas of the county;

(c) Identify the type(s) and size(s) of farms or ranches that comprise this commercial agricultural enterprise; and

(d) Determine the minimum size for new parcels that will maintain this commercial agricultural enterprise.

(4) To determine whether there are distinct agricultural areas in a county, the county should consider soils, topography and landforms, land use patterns, farm sizes, ranch sizes and field sizes, acreage devoted to principal crops, and grazing areas and accepted farming practices for the principal crops and types of livestock.

(5) To determine the nature of the existing commercial agricultural enterprise within an area, a county shall identify the following characteristics of farms and ranches in the area: Type and size of farms and ranches, size of fields or other parts, acreage devoted to principal crops, the relative contribution of the different types and sizes of farms and ranches to the county's gross farm sales, and their contribution to local processors and established farm markets. The following sources may assist in a county's analysis: The most recent Census of Agriculture and special tabulations from the census developed by Oregon State University, the Oregon Department of Agriculture, the United States Department of Agriculture's Agricultural Stabilization and Conservation Service (ASCS), Soil and Water Conservation Districts, the Oregon State University Extension Service and the county assessor's office.

(6) To determine the minimum parcel size, a county shall evaluate available data and choose a size that maintains the existing commercial agricultural enterprise within the county or within each area of the county. In areas where the size of commercial farms and ranches is mixed, and the size of parcels needed to maintain those commercial farms and ranches varies, the county shall not choose a minimum parcel size that allows larger farms, lots or parcels to be divided to the size of the smallest farms, lots or parcels in the area. The activities of the larger as well as smaller holdings must be maintained.

(7) A minimum size for new parcels for farm use does not mean that dwellings may be approved automatically on parcels that satisfy the minimum parcel size for the area. New dwellings in conjunction with farm use shall satisfy the criteria for such dwellings set forth in OAR 660-33-130(1).

(8) A minimum size for new parcels may be appropriate to maintain the existing agricultural enterprise in the area, but it may not be adequate to protect wildlife habitat pursuant to Goal 5. When farmland is located in areas of wildlife habitat, the provisions of Goal 5 continue to apply.

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(9) A county may choose to establish a different minimum parcel size for distinct commercial agricultural areas of the county. The appropriate minimum lot or parcel size for each area shall reflect the type of commercial agriculture in the area, consistent with sections (3) - (6) of this rule.

(10) Counties may allow the creation of new parcels for nonfarm uses authorized by this division. Such new parcels shall be the minimum size needed to accommodate the use in a manner consistent with other provisions of law except as required under paragraph (11)(a)(D) of this rule.

(11)(a) Counties may allow the creation of new lots or parcels for dwellings not in conjunction with farm use. In the Willamette Valley, a new lot or parcel may be allowed if the originating lot or parcel is equal to or larger than the applicable minimum lot or parcel size, and:

(A) Is not stocked to the requirements under ORS 527.610 to 527.770;

(B) Is composed of at least 95 percent Class VI through VIII soils; and

(C) Is composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber; and

(D) The new lot or parcel will not be smaller than 20 acres.

(b) No new lot or parcel may be created for this purpose until the county finds that the dwelling to be sited on the new lot or parcel has been approved under the requirements for dwellings not in conjunction with farm use in ORS 215.283(5) and (6), 215.236 and OAR 660-33-130(4).

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245
Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283, 215.700-710 & 215.780
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94

Important Farmland

660-33-110 [LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; Repealed by LCDC 3-1994, f. & cert. ef. 3-1-94]

Uses Authorized on Agricultural Lands

660-33-120 The specific development and uses listed in Table 1 are permitted in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

(1) **A** — Use may be allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS Chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-33-130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

(2) **R** — Use may be approved, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-33-130. Counties may

prescribe additional limitations and requirements to meet local concerns as authorized by law.

(3) * — Use not permitted.

(4) # — Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-33-130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

[ED. NOTE: The Table(s) referenced in this rule is not printed in the OAR Compilation. Copies are available from the Land Conservation and Development Commission.]

Stat. Auth.: ORS Ch. 183, 197, 215 & 197.175 - 197.185
Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283, 215.700-710 & 215.780
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-1994, f. & cert. ef. 6-3-94; LCDC 2-1995(Temp), f. & cert. ef. 3-14-95; LCDC 7-1995, f. & cert. ef. 6-16-95

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

660-33-130 The following standards apply to uses listed in OAR 660-33-120 where the corresponding section number is shown on the chart for a specific use under consideration. Where no numerical reference is indicated on the chart, this division does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the chart as authorized by law:

(1) A dwelling on farmland may be considered customarily provided in conjunction with farm use if it meets the requirements of OAR 660-33-135.

(2) The use shall not be approved within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4.

(3)(a) A dwelling may be approved if:

(A) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:

(i) Prior to January 1, 1985; or

(ii) By devise or by interstate succession from a person who acquired the lot or parcel prior to January 1, 1985.

(B) The tract on which the dwelling will be sited does not include a dwelling;

(C) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;

(D) The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in subsections (3)(c) and (d) of this rule;

(E) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

(b) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining

**OREGON ADMINISTRATIVE RULES
CHAPTER 660, DIVISION 33, RULE 120
TABLE 1**

Uses Authorized on Agricultural Lands

OAR 660-33-120 The specific development and uses listed in the following table are permitted in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

A Use may be allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS Chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-33-130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

R Use may be approved, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-33-130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

* Use not permitted.

Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-33-130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

HV Farm	All Other	USES
Farm/Forest Resource		
A	A	Farm use as defined in ORS 215.203.
A	A	Other buildings customarily provided in conjunction with farm use.
A	A	Propagation or harvesting of a forest product.
R6	R6	A facility for the primary processing of forest products.
Natural Resource		
A	A	Creation of, restoration of, or enhancement of wetlands.
R5	R5	The propagation, cultivation, maintenance and harvesting of aquatic species.
Residential		
A1	A1	Dwelling customarily provided in conjunction with farm use.
R9	R9	A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a 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 use is or will be required by the farm operator.

A24	A24	Accessory Farm Dwellings.
A3	A3	One single-family dwelling on a lawfully created lot or parcel.
R5,10	R5,10	One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.
R4	R4	Single-family residential dwelling, not provided in conjunction with farm use.
A11	A11	Seasonal farmworker housing as defined in ORS 197.675.
R5	R5	Residential home or facility as defined in ORS 197.660, in existing dwellings.
R5	R5	Room and board arrangements for a maximum of five unrelated persons in existing residences.
R12	R12	Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.
A8	A8	Alteration, restoration, or replacement of a lawfully established dwelling.
Commercial		
R5	R5	Commercial activities in conjunction with farm use.
*18	A	The breeding, kenneling and training of greyhounds for racing in any county over 200,000 in population in which there is located a greyhound racing track or in a county of over 200,000 in population contiguous to such a county.
R5,14	R5	Home occupations as provided in ORS 215.448.
*18	R5	Dog kennels.
*18	R5	Destination resort which is approved consistent with the requirements of Goal 8.
A	A	A winery as described in ORS 215.452.
A23	A23	Farm stands.
Mineral, Aggregate, Oil, and Gas Uses		
A	A	Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.

A	A	Operations for the exploration for minerals as defined by ORS 517.750.	R13	R13	Roads, highways and other transportation facilities, and improvements not otherwise allowed under this rule.
R5	R5	Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under this rule.			Utility/Solid Waste Disposal Facilities
R5	R5	Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.	R16	R16	Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height.
R5,15	R5,15	Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement.	R5	R5	Transmission towers over 200 feet in height.
R5	R5	Processing of other mineral resources and other subsurface resources.	*18	R	A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation.
		Transportation	R5,17	R5,22	Commercial utility facilities for the purpose of generating power for public use by sale.
R5,7	R5,7	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities.	*18	R5	A site for the disposal of solid waste approved by the governing body of a city or county or both and 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.
A	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.			Parks/Public/Quasi-Public
R5	R5	Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.	*18	R2	Public or private schools, including all buildings essential to the operation of a school.
A	A	Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	*18	R2	Churches and cemeteries in conjunction with churches.
R5	R5	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.	*18	R5,19	Private parks, playgrounds, hunting and fishing preserves and campgrounds.
A	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	R5	R5,	Parks, playgrounds or community centers owned and operated by a governmental agency or a nonprofit community organization.
A	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	*18	R5,20	Golf courses.
R5	R5	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.	R5,21	R5,21	Living history museum

(The numbers in the table above refer to the section numbers in OAR 660-33-130)

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portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

(c) Notwithstanding the requirements of paragraph (3)(a)(D) of this rule, a single-family dwelling may be sited on high-value farmland if:

(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;

(B) The lot or parcel is protected as high-value farmland as defined in OAR 660-33-020(8)(a); and

(C) A hearings officer of the State Department of Agriculture, under the provisions of ORS 183.413 to 183.497, determines that:

(i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity;

(ii) The dwelling will comply with the provisions of ORS 215.296(1);

(iii) The dwelling will not materially alter the stability of the overall land use pattern in the area.

(d) Notwithstanding the requirements of paragraph (3)(a)(D) of this rule, a single-family dwelling may be sited on high-value farmland if:

(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;

(B) The tract on which the dwelling will be sited is:

(i) Identified in OAR 660-33-020(8)(c) or (d); and

(ii) Not high-value farmland defined in OAR 660-33-020(8)(a); and

(iii) Twenty-one acres or less in size.

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

(ii) The tract is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within 1/4 mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary.

(e) If land is in a zone that allows both farm and forest uses and is acknowledged to be in compliance with both Goals 3 and 4, a county may apply the standards for siting a dwelling under either section (3) of this rule or OAR 660-06-027, as appropriate for the predominant use of the tract on January 1, 1993;

(f) A county may, by application of criteria adopted by ordinance, deny approval of a dwelling allowed under section (3) of this rule in any area where the county determines that approval of the dwelling would:

(A) Exceed the facilities and service capabilities of the area;

(B) Materially alter the stability of the overall land use pattern of the area; or

(C) Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged comprehensive plan or land use regulations.

(g) For purposes of subsection (3)(a) of this rule, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew,

stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;

(h) The county assessor shall be notified that the governing body intends to allow the dwelling.

(4) Requires approval of the governing body or its designate in any farmland area zoned for exclusive farm use:

(a) In the Willamette Valley, the use may be approved if:

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

(B) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II soils;

(C) The dwelling will be sited on a lot or parcel created before January 1, 1993;

(D) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated; and

(E) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(b) In the Willamette Valley, on a lot or parcel allowed under OAR 660-33-100(11)(a) of this rule, the use may be approved if:

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

(B) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area; and

(C) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(c) In counties located outside the Willamette Valley require findings that:

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

(B) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land. If the parcel is under forest assessment, the dwelling

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shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. A lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not "generally unsuitable". A lot or parcel is presumed to be suitable if, in Western Oregon it is composed predominantly of Class I - IV soils or, in Eastern Oregon, it is composed predominantly of Class I - VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if, in Western Oregon, it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year, or in Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;

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

(D) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(d) If a single-family dwelling is established on a lot or parcel as set forth in section (3) of this rule or OAR 660-06-027, no additional dwelling may later be sited under the provisions of section (4) of this rule;

(e) Counties that have adopted marginal lands provisions before January 1, 1993, shall apply the standards in ORS 215.213(3) - (8) for nonfarm dwellings on lands zoned exclusive farm use that are not designated marginal or high-value farmland.

(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

(6) Such facility shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in ORS 215.203(2). Such facility may be approved for a one-year period which is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.

(7) A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Aeronautics Division.

(8)(a) A lawfully established dwelling is a single-family dwelling which:

(A) Has intact exterior walls and roof structure;

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

(C) Has interior wiring for interior lights; and

(D) Has a heating system.

(b) In the case of replacement, the dwelling to be replaced shall be removed, demolished, or converted to an allowable use within three months of the completion of the replacement dwelling;

(c) An accessory farm dwelling authorized pursuant to OAR 660-33-130(24)(a)(B)(iii), may only be replaced by a manufactured dwelling.

(9) To qualify, a dwelling shall be occupied by persons whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

(10) A manufactured dwelling allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. Governing bodies shall review the permit authorizing such manufactured homes every two years. When the hardships end, the governing bodies or their designate shall require the removal of such manufactured homes. Oregon Department of Environmental Quality review and removal requirements also apply. As used in this section

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"hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

(11) The housing shall also meet the requirements of ORS 197.685. For purposes of this rule, nine months means 273 days within any calendar year.

(12) In order to meet the requirements specified in the statute, a historic dwelling shall be listed on the **National Register of Historic Places**.

(13) Such uses may be established, subject to the adoption of the governing body or its designate of an exception to Goal 3, Agricultural Lands, and to any other applicable goal with which the facility or improvement does not comply. In addition, transportation uses and improvements may be authorized under conditions and standards as set forth in OAR 660-12-035 and 660-12-065.

(14) Home occupations may be authorized in existing dwelling and structures accessory to an existing dwelling. Home occupations may not be authorized in structures accessory to resource use. A home occupation located on high-value farmland may employ only residents of the home.

(15) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totalling 40 acres or more that are planted as of the date the application for batching and blending is filed.

(16) A facility is necessary if it must be situated in an agricultural zone in order for the service to be provided.

(17) A power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR Chapter 660, Division 4.

(18) Existing facilities may be maintained, enhanced or expanded, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of sections (5) and (20) of this rule, but shall not be expanded to contain more than 36 total holes.

(19) A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(20) "Golf Course" means an area of land with highly maintained natural turf laid out for the game of golf with a series of 9 or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of ORS 215.213(2)(f), 215.283(2)(e) and this division means a 9 or 18 hole regulation golf course or a combination 9 and 18 hole regulation golf course consistent with the following:

(a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;

(b) A regulation 9 hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;

(c) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this rule, including but not limited to executive golf courses, Par 3 golf courses, pitch and putt golf courses, miniature golf courses and driving ranges;

(d) Counties shall limit accessory uses provided as part of a golf course consistent with the following standards:

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

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

(21) "Living History Museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to stimulate past activities and events. As used in this rule, a living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than exclusive farm use zone cannot accommodate the museum and related activities or if the museum, administration buildings and parking lot are located within one quarter mile of the metropolitan urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65. A Living History Museum is permitted only in counties that are subject to ORS 215.213 (Marginal Lands).

(22) A power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR Chapter 660, Division 4.

(23) A farm stand may be approved if:

(a) The structures are designed and used for sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental

OREGON ADMINISTRATIVE RULES
CHAPTER 660, DIVISION 33 — LAND CONSERVATION AND DEVELOPMENT COMMISSION

items make up no more than 25 percent of the total sales of the farm stand; and

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

(24) An accessory farm dwelling may be considered customarily provided in conjunction with farm use if:

(a) It meets all the following requirements:

(A) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and

(B) The accessory dwelling will be located:

(i) On the same lot or parcel as the dwelling of the principal farm dwelling; or

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

(iii) On a lot or parcel on which the principal farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to this rule may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured dwelling may remain if it is reapproved under these rules; and

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

(b) In addition to the requirements in subsection (a) of this section, the principal farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(A) On land not identified as high-value farmland, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years or three of the last five years the lower of the following:

(i) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

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

(B) On land identified as high-value farmland, the principal farm dwelling is located on a farm or

ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 (1992 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years; or

(C) On land not identified as high-value farmland in counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition) before January 1, 1993, the principal farm dwelling meets the standards and requirements of ORS 215.213(2)(a) or (b).

(c) The governing body of a county shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of OAR 660-33-135, a parcel may be created consistent with the minimum parcel size requirements in OAR 660-33-100;

(d) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to section (4) of this rule.

(Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Land Conservation and Development Commission.]

Stat. Auth.: ORS Ch. 183, 197.040, 197.245 & Ch. 215
Stats. Implemented: ORS 197.015, 197.040, 197.230,
197.245, 215.203, 215.243, 215.283, 215.700-710 & 215.780
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-
1994, f. & cert. ef. 3-1-94; LCDC 6-1994, f. & cert. ef. 6-3-94;
LCDC 8-1995, f. & cert. ef. 6-29-95

Dwellings in Conjunction with Farm Use

660-33-135 (1) On land not identified as high-value farmland pursuant to OAR 660-33-020(8), a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The parcel on which the dwelling will be located is at least:

(A) 160 acres and not designated rangeland; or

(B) 320 acres and designated rangeland; or

(C) As large as the minimum parcel size if located in a zoning district with an acknowledged minimum parcel size larger than indicated in paragraph (A) or (B) of this subsection.

(b) The subject tract is currently employed for farm use, as defined in ORS 215.203;

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

(d) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p), there is no other dwelling on the subject tract.

(2) On land not identified as high-value farmland pursuant to OAR 660-33-020(8), a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract; and

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(b) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subsection (a) of this section; and

(c) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subsection (b) of this section; and

(d) The subject lot or parcel on which the dwelling is proposed is not less than ten acres in western Oregon or 20 acres in eastern Oregon; and

(e) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p), there is no other dwelling on the subject tract; and

(f) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection (c) of this section.

(3) In order to identify the commercial farm or ranch tracts to be used in section (2) of this rule, the gross sales capability of each tract in the study area including the subject tract must be determined, using the gross sales figures provided by the Commission pursuant to section (4) of this rule as follows:

(a) Identify the study area. This includes all the land in the tracts wholly or partially within one mile of the perimeter of the subject tract;

(b) Determine for each tract in the study area the number of acres in every land classification from the county assessor's data;

(c) Determine the potential earning capability for each tract by multiplying the number of acres in each land class by the gross sales per acre for each land class provided by the Commission pursuant to section (4) of this rule. Add these to obtain the potential earning capability for each tract;

(d) Identify those tracts capable of grossing at least \$10,000 based on the data generated in subsection (3)(c) of this rule;

(e) Determine the median size and median gross sales capability for those tracts capable of generating at least \$10,000 in annual gross sales to use in subsections (2)(a) and (b) of this rule.

(4) The Commission shall annually provide each Oregon county with a table of the estimated potential gross sales per acre for each assessor land class (irrigated and nonirrigated) required in section (3) of this rule. The table shall be prepared as follows:

(a) Determine up to three indicator crop types with the highest harvested acreage for irrigated and for nonirrigated lands in the county using the most recent OSU Extension Service Commodity Data Sheets, Report No. 790, "Oregon County and State Agricultural Estimates", or other USDA/Extension Service documentation;

(b) Determine the combined weighted average of the gross sales per acre for the three indicator crop types for irrigated and for nonirrigated lands, as follows:

(A) Determine the gross sales per acre for each indicator crop type for the previous five years (i.e., divide each crop type's gross annual sales by the harvested acres for each crop type);

(B) Determine the average gross sales per acre for each crop type for three years, discarding the highest and lowest sales per acre amounts during

the five year period;

(C) Determine the percentage each indicator crop's harvested acreage is of the total combined harvested acres for the three indicator crop types;

(D) Multiply the combined sales per acre for each crop type identified under paragraph (B) of this subsection by its percentage of harvested acres to determine a weighted sales per acre amount for each indicator crop;

(E) Add the weighted sales per acre amounts for each indicator crop type identified in paragraph (D) of this subsection. The result provides the combined weighted gross sales per acre.

(c) Determine the average land rent value for irrigated and nonirrigated land classes in the county's exclusive farm use zones according to the annual "income approach" report prepared by the county assessor pursuant to ORS 308.345;

(d) Determine the percentage of the average land rent value for each specific land rent for each land classification determined in subsection (c) of this section. Adjust the combined weighted sales per acre amount identified in paragraph (b)(E) of this section using the percentage of average land rent (i.e., multiply the weighted average determined in paragraph (4)(b)(E) of this rule by the percent of average land rent value from subsection (4)(c) of this rule). The result provides the estimated potential gross sales per acre for each assessor land class that will be provided to each county to be used as explained under subsection (3)(c) of this rule.

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

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the lower of the following:

(A) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products; or

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

(b) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p), there is no other dwelling on the subject tract; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this section;

(d) In determining the gross income required by subsection (a) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

(6) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition) before January 1, 1993, a dwelling may be considered customarily provided in conjunction with farm use if it is not on a lot or parcel identified as high-value farmland and it meets the standards and requirements of ORS 215.213(2)(a) or (b).

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

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in the

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last two years or three of the last five years; and

(b) Except as permitted in ORS 215.213(1)(r) and 215.283(1)(p), there is no other dwelling on the subject tract; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this section;

(d) In determining the gross income required by subsection (a) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283, 215.700-710 & 215.780

Hist.: LCDC 3-1994, f. & cert. ef. 3-1-94

Permit Expiration Dates

660-33-140 (1) A discretionary decision, except for a land division, made after the effective date of this division approving a proposed development on agricultural or forest land outside an urban growth boundary under ORS 215.010 to 215.293 and 215.317 to 215.438 or under county legislation or regulation adopted pursuant thereto is void two years from the date of the final decision if the development action is not initiated in that period.

(2) A county may grant one extension period of up to 12 months if:

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

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

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

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

(3) Approval of an extension granted under this rule is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

(4) Additional one year extensions may be authorized where applicable criteria for the decision have not changed.

Stat. Auth.: ORS Ch. 183, 197 & 215

Stats. Implemented: ORS 197.015, 197.040, 197.230 & 197.245

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93

Notice of Decisions in Agriculture Zones

660-33-150 (1) Counties shall notify the department of all applications for dwellings and land divisions in exclusive farm use zones. Such notice shall be in accordance with the county's acknowledged comprehensive plan and land use regulations, and shall be mailed to the department's Salem office at least ten calendar days before any hearing or decision on such application.

(2) Notice of proposed actions described in section (1) of this rule shall be provided as required by procedures for notice contained in ORS 197.763 and 215.402 to 215.438.

(3) The provisions of sections (1) and (2) of this rule are repealed on September 6, 1995.

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.015, 197.040, 197.230 & 197.245

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94

Notice of Applications in Agriculture Zones

660-33-155 [LCDC 9-1995(Temp),
f. & cert. ef. 9-15-95]

Effective Date

660-33-160 The provisions of this division shall become effective upon filing.

Stat. Auth.: ORS Ch. 183, 197.040, 197.230 & 197.245

Stats. Implemented: ORS 197.015, 197.040, 197.230 & 197.245

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94

ORDINANCE FACT SHEET

Ordinance Title:

An Ordinance amending the Exclusive Farm Use provisions of the Multnomah County Zoning Code.

Give a brief statement of the purpose of the ordinance including rationale for adoption, description of persons benefited, alternatives explored:

The proposed ordinance amendments will incorporate the current state laws and rules into the County's Exclusive Farm Use (EFU) Zoning Code provisions. The current EFU provisions are not consistent with state laws and rules and cannot be used to implement the State's EFU requirements. EFU property owners requesting land use permits are now given a copy each of the State Statutes, Oregon Administrative Rules plus the County's EFU Zoning Code provisions. The proposed amendments incorporate all of the State's requirements into the County's EFU Zoning Code provisions.

All EFU property owners will be benefited because the task of sorting out applicable provisions from non-applicable provisions of the County's EFU Zoning Code will be eliminated. Moreover, the state rules and laws provide local options. The proposed amendments delineate the County's decisions concerning optional provisions (e.g., Lot of Record Dwellings).

No new alternatives beyond the State Statute and Administrative Rule provisions were considered.

What other local jurisdictions have enacted similar legislation?

All local governments statewide are required to enact Exclusive Farm Use Zoning Code provisions consistent with the State Statutes and Oregon Administrative Rules.

What is the fiscal impact, if any?

None

SIGNATURES

Person filling out form:

R. Scott Pemble

Planning and Budget (if fiscal impact): _____

Department Manager/Elected Official:

Laura Nicholas

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS
2 FOR MULTNOMAH COUNTY, OREGON
3 ORDINANCE NO. _____
4
5

6 An ordinance amending the Exclusive Farm Use zoning district and related
7 subsections of MCC 11.15 to bring Multnomah County's land use regulations into
8 compliance with Oregon Revised Statute Chapter 215 and Oregon Administrative Rule
9 660, Division 33 requirements for Agricultural Land

10 (Underlined sections are new, strikethrough sections are deleted.)

11 Multnomah County Ordains as follows:

12 SECTION 1. Findings.

- 13 (A) On December 3, 1992 the State of Oregon Land Conservation and
14 Development Commission (LCDC) adopted Oregon Administrative Rules on
15 planning and regulating land uses on Agricultural Land (OAR Chapter 660,
16 Division 33). In Multnomah County, Agricultural Lands are those areas
17 designated and zoned Exclusive Farm Use (EFU).
- 18 (B) On July 19, 1993 the Planning Commission held a public hearing to explain
19 the State requirements and recommend changes to the zoning code. Hearing
20 before the Board of County Commissioners followed on August 31, 1993 and
21 September 14, 1993. At each of the hearings all interested persons were given
22 an opportunity to appear and be heard.
- 23 (C) In 1994 the Oregon State Legislature adopted House Bill 3661 that was
24 codified in ORS 215 that established new regulations for Agricultural Land
25 Uses (Exclusive Farm Use Zones and Farmlands. In 1995, the Oregon State
26 Legislature further amended Oregon Revised Statutes pertaining to
27 Agricultural Land Uses and Farmlands and Farmlands.
- 28 (D) This Ordinance amends the EFU zoning district and other related zoning
29 code subsections to include all the State mandated land use regulations for
30 Agricultural Land and Farmland.
- 31 (E) On November 4, 1996 the Planning Commission held a public hearing to take
32 public comments on proposed changes to the EFU and related sections of the

1 Multnomah County Zoning Code. Hearing before the Board of County
2 Commissioners followed on February 27, 1997 and March 11, 1997. At each
3 of the hearings all interested persons were given an opportunity to appear and
4 be heard.

5 (F) The Department of Land Conservation and Development was given notice
6 pursuant to ORS 197.615.

7 SECTION 2. Amendments.

8 Multnomah County Code Chapter 11.15 is amended to read as follows:

9 (A) Repeal and replace MCC 11.15.2002 through MCC 11.15.2030 with the
10 Following:

11
12 **11.15.2002 Purposes**

13
14
15 The purposes of the Exclusive Farm Use District are to preserve and maintain
16 agricultural lands for farm use consistent with existing and future needs for agricultural
17 products, forests and open spaces; to conserve and protect scenic and wildlife resources,
18 to maintain and improve the quality of the air, water and land resources of the County
19 and to establish criteria and standards for farm uses and related and compatible uses
20 which are deemed appropriate. Land within this district shall be used exclusively for
21 farm uses as provided in the Oregon Revised Statutes Chapter 215 (1995 edition) and
22 the Oregon Administrative Rules Chapter 660, Division 33 (December 1995 edition) as
23 interpreted by this Exclusive Farm Use code section.

24
25 **11.15.2004 Area Affected**

26
27 MCC .2002 through .2030 shall apply to those areas designated EFU on the Multnomah
28 County Zoning Map.

29
30 **11.15.2005 Definitions**

31
32 As used in MCC .2002 through MCC .2032, unless otherwise noted, the following
33 words and their derivations shall have the following meanings:

34
35 (A) "Campground" is an area devoted to overnight temporary use for vacation,
36 recreational or emergency purposes, but not for residential purposes. A camping
37 site may be occupied by a tent, travel trailer or recreational vehicle.
38 Campgrounds shall not include intensively developed recreational uses such as
39 swimming pools, tennis courts, retail stores or gas stations.

40
41 (B) "Commercial agricultural enterprise" consists of farm operations that will:

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- (1) Contribute in a substantial way to the area's existing agricultural economy;
and
 - (2) Help maintain agricultural processors and established farm markets.
 - (3) When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered.
- (C) "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;
- (D) "Farm Operator" means a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.
- (E) "High-value farmland" means land in a tract composed predominately of soils that are:
- (1) Irrigated and classified prime, unique, Class I or Class II; or
 - (2) Not irrigated and classified prime, unique, Class I or Class II; or
 - (3) Willamette Valley Soils in Class III or IV including:
 - (a) Sub classification IIIe specifically, Burlington, Cascade, Cornelius, Latourell, Multnomah, Powell, Quatama;
 - (b) Sub classification IIIw specifically, Cornelius;
 - (c) Sub classification IVe, specifically, Cornelius, Latourel, Powell, and Quatama.
 - (4) Location and the extent of these soils area as identified and mapped in "Soil Survey of Multnomah County, published by the Soil Conservation Service, US Department of Agriculture, 1983."
 - (5) The soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner submits a statement or report pursuant to ORS 215.710(5).
- (F) "Private School" means privately owned primary, elementary or high school not including nursery school, kindergarten or day nursery except those operated in conjunction with a school.

1 (G) "Public School" means publicly owned primary, elementary or high school not
2 including nursery school, kindergarten or day nursery except those operated in
3 conjunction with a school.

4
5 (H) "Suitable for farm use" means land in Class I-IV or "lands in other classes which
6 are necessary to permit farm practices to be undertaken on adjacent or nearby
7 lands".

8
9 (I) "Tract" means one or more contiguous lots or parcels in the same ownership.

10
11
12 11.15.2006 Uses

13
14 No building, structure or land shall be used and no building or structure shall be erected,
15 altered or enlarged in this district except for the uses listed in MCC .2008 through .2014.

16
17 11.15.2008 Uses Permitted Outright

18
19 (A) Farm use, as defined in ORS 215.203.

20
21 (B) Buildings other than dwellings customarily provided in conjunction with farm use.

22
23 (C) The propagation or harvesting of forest products.

24
25 (D) Operations for the exploration for and production of geothermal resources as defined
26 by ORS 522.005 and oil and gas as defined by ORS 520.005, including the
27 placement and operation of compressors, separators and other customary production
28 equipment for an individual well adjacent to the wellhead. Any activities or
29 construction relating to such operations shall not be a basis for an exception under
30 ORS 197.732 (1)(a) or (b).

31
32 (E) Operations for the exploration for minerals as defined by ORS 517.750. Any
33 activities or construction relating to such operations shall not be the basis for an
34 exception under ORS 197.732 (1)(a) or (b).

35
36 (F) Climbing and passing lanes within the right of way existing as of July 1, 1987.

37
38 (G) Reconstruction or modification of public roads and highways, including the
39 placement of utility facilities overhead and subsurface of public roads and highways
40 along the public right-of-way, but not including the addition of travel lanes, where
41 no removal or displacement of buildings will occur, or no new land parcels result.

42
43 (H) Temporary public road and highway detours that will be abandoned and restored to
44 original condition or use at such time as no longer needed.

45
46 (I) Minor betterment of existing public roads and highway related facilities such as
47 maintenance yards, weigh stations and rest areas within right of way existing as of
48 July 1, 1987, and contiguous public-owned property utilized to support the operation
49 and maintenance of public roads and highways.

50

1 (J) A replacement dwelling to be used in conjunction with farm use if the existing
2 dwelling has been listed in a historic property inventory as defined in ORS 358.480
3 and listed on the National Register of Historic Places.

4
5 (K) Creation of, restoration of or enhancement of wetlands.

6
7 (L) Alteration, restoration or replacement of a lawfully established dwelling that has:

8
9 (1) intact exterior walls and roof structure;

10
11 (2) indoor plumbing consisting of a kitchen sink, toilet and bathing facilities
12 connected to a sanitary waste disposal system;

13
14 (3) interior wiring for interior lights; and

15
16 (4) a heating system; and

17
18 (5) in the case of a replacement dwelling, the existing dwelling is removed,
19 demolished or converted to an allowable nonresidential use within three
20 months of the completion of the replacement dwelling.

21
22 (M) Replacement of an existing lawfully established single family dwelling on the
23 same lot not more than 200 feet from the original building site when the dwelling
24 was unintentionally destroyed by fire, other casualty or natural disaster. The
25 dwelling may be reestablished only to its previous nature and extent, and the
26 reestablishment shall meet all other building, plumbing, sanitation and other codes,
27 ordinances and permit requirements. A building permit must be obtained within
28 one year from the date of the event that destroyed the dwelling.

29
30 (N) Public or private schools, including all buildings essential to the operation of a
31 school wholly within an EFU district may be maintained, enhanced or expanded:

32
33 (1) except that no new use may be authorized within three miles of an urban
34 growth boundary, unless an exception is approved pursuant to ORS 197.732
35 and OAR 660, Division 4; and

36
37 (2) no new use may be authorized on high value farmland; and

38
39 (3) must satisfy the requirements of MCC .6100 through MCC .6148, MCC
40 .7025(A), MCC .7805 through MCC .7870 and MCC .7942.

41
42 (4) the maintenance, enhancement or expansion shall not adversely impact the
43 right to farm on surrounding EFU land.

44
45 (O) Churches and cemeteries in conjunction with churches wholly within an EFU district
46 may be maintained, enhanced or expanded:

47
48 (1) except that no new use may be authorized within three miles of an urban
49 growth boundary, unless an exception is approved pursuant to ORS 197.732
50 and OAR 660, Division 4; and

51
52 (2) no new use may be authorized on high value farmland;

53

1 (3) must satisfy the requirements of MCC .6100 through MCC .6148, MCC
2 .7025(A), MCC .7805 through MCC .7870 and MCC .7942; and
3

4 (4) the maintenance, enhancement or expansion shall not adversely impact the
5 right to farm on surrounding EFU land.
6

7
8
9 11.15.2010 Uses Permitted Under Prescribed Conditions

10
11 The following uses may be permitted when approved by the Planning Director. These
12 decisions of the Planning Director may be appealed pursuant to MCC 11.15.8290
13 through 11.15.8295. The procedures and forms for obtaining approval of a Use
14 Permitted Under Prescribed Conditions shall be as provided by the Planning Director.
15

16
17 (A) Utility facilities necessary for public service, except commercial facilities for the
18 purpose of generating power for public use by sale and transmission towers over
19 200 feet in height provided:
20

21 (1) A facility is necessary if it must be situated in an agricultural zone in order for
22 the service to be provided; and
23

24 (2) satisfy the requirements of MCC .6100 through MCC .6148, MCC .7025(A),
25 MCC .7805 through MCC .7870 and MCC .7942; and
26

27 (3) Radio Towers 200 feet and under must also satisfy the requirements of MCC
28 .7035 through MCC .7040.
29

30 (B) A farm help dwelling for a relative on real property used for farm use if the
31 dwelling is located on the same lot or parcel as the dwelling of the farm operator
32 and is occupied by a grandparent, grandchild, parent, child, brother or sister of the
33 farm operator or the farm operator's spouse, and whose assistance in the
34 management of the farm use is or will be required by the farm operator.
35

36 (C) A dwelling, including a mobile or modular home, customarily provided in
37 conjunction with a farm use subject of the following four ways:
38

39 (1) On land identified as high-value farmland, a dwelling may be considered
40 customarily provided in conjunction with farm use if:
41

42 (a) The subject tract is currently employed for the farm use, as defined in ORS
43 215.203, that produced at least \$80,000 (1994 dollars) in gross annual
44 income from the sale of farm products in the last two years or three of the
45 last five years; and
46

47 (b) Except as permitted in ORS 215.283(1)(p) (i.e. seasonal farmworker
48 housing), there is no other dwelling on the subject tract; and

1
2 (c) The dwelling will be occupied by a person or persons who produced the
3 commodities which grossed the income in subsection (a) of this subsection;

4
5 (d) In determining the gross income required by subsection (a) of this
6 subsection, the cost of purchased livestock shall be deducted from the total
7 gross income attributed to the tract.

8
9 (2) On land not identified as high-value farmland a dwelling may be considered
10 customarily provided in conjunction with farm use if:

11
12 (a) The parcel on which the dwelling will be located is at least 160 acres; and

13
14 (b) The subject tract is currently employed for farm use, as defined in ORS
15 215.203; and

16
17 (c) The dwelling will be occupied by a person or persons who will be
18 principally engaged in the farm use of the land, such as planting, harvesting,
19 marketing or caring for livestock, at a commercial scale; and

20
21 (d) Except as permitted in ORS 215.283(1)(p) (i.e. seasonal farmworker
22 housing), there is no other dwelling on the subject tract; or

23
24 (3) On land not identified as high-value farmland a dwelling may be considered
25 customarily provided in conjunction with farm use if:

26
27 (a) The subject tract is at least as large as the median size of those commercial
28 farm or ranch tracts capable of generating at least \$10,000 in annual gross
29 sales that are located within a study area which includes all tracts wholly or
30 partially within one mile from the perimeter of the subject tract [the median
31 size of commercial farm and ranch tracts shall be determined pursuant to
32 OAR 660-33-135(3)]; and

33
34 (b) The subject tract is capable of producing at least the median level of annual
35 gross sales of county indicator crops as the same commercial farm or ranch
36 tracts used to calculate the tract size in subsection (a) of this section; and

37
38 (c) The subject tract is currently employed for a farm use, as defined in ORS
39 215.203, at a level capable of producing the annual gross sales required in
40 subsection (b) of this section; and

41
42 (d) The subject lot or parcel on which the dwelling is proposed is not less than
43 ten acres; and

44
45 (e) Except as permitted in ORS 215.283(1)(p) (i.e. seasonal farmworker
46 housing), there is no other dwelling on the subject tract; and

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(f) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection (c) of this section; or

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

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the lower of the following:

(1) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products; or

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

(b) Except as permitted in ORS 215.283(1)(p) (i.e. seasonal farmworker housing), there is no other dwelling on the subject tract; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection;

(d) In determining the gross income required by subsection (a) of this subsection, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

(D) An accessory farm help dwelling, including a mobile or modular home is customarily provided in conjunction with farm use if:

(1) The accessory farm help dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and

(2) The accessory help dwelling will be located:

(a) On the same lot or parcel as the dwelling of the principal farm dwelling; or

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

- 1 (c) On a lot or parcel on which the principal farm dwelling is not located, when
2 the accessory farm dwelling is a manufactured dwelling and a deed
3 restriction is filed with the county clerk. The deed restriction shall require
4 the manufactured dwelling to be removed when the lot or parcel is conveyed
5 to another party. An accessory farm dwelling approved pursuant to this rule
6 may not be occupied by a person or persons who will not be principally
7 engaged in the farm use of the land and whose assistance in the management
8 of the farm use is not or will not be required by the farm operator. The
9 manufactured dwelling may remain if it is reapproved; and
- 10
- 11 (3) There is no other dwelling on the lands designated for exclusive farm use
12 owned by the farm operator that is vacant or currently occupied by persons not
13 working on the subject farm or ranch and that could reasonably be used as an
14 accessory farm dwelling; and
- 15
- 16 (4) The principal farm dwelling to which the proposed dwelling would be
17 accessory, meets one of the following:
- 18
- 19 (a) On land not identified as high-value farmland, the principal farm dwelling is
20 located on a farm or ranch operation that is currently employed for farm use,
21 as defined in ORS 215.203, and produced in the last two years or three of
22 the last five years the lower of the following:
- 23
- 24 (1) At least \$40,000 (1994 dollars) in gross annual income from the sale of
25 farm products. In determining the gross income, the cost of purchased
26 livestock shall be deducted from the total gross income attributed to the
27 tract; or
- 28
- 29 (2) Gross annual income of at least the midpoint of the median income
30 range of gross annual sales for farms in the county with the gross annual
31 sales of \$10,000 or more according to the 1992 Census of Agriculture,
32 Oregon. In determining the gross income, the cost of purchased livestock
33 shall be deducted from the total gross income attributed to the tract; or
- 34
- 35 (b) On land identified as high-value farmland, the principal farm dwelling is
36 located on a farm or ranch operation that is currently employed for farm use,
37 as defined in ORS 215.203, and produced at least \$80,000 (1994 dollars) in
38 gross annual income from the sale of farm products in the last two years or
39 three of the last five years. In determining the gross income, the cost of
40 purchased livestock shall be deducted from the total gross income attributed
41 to the tract; and
- 42
- 43 (5) The governing body of a county shall not approve any proposed division of a lot
44 or parcel for an accessory farm dwelling approved pursuant to this section. If it
45 is determined that an accessory farm dwelling satisfies the requirements of

1 MCC 11.15.2010(C), a parcel may be created consistent with the minimum
2 parcel size requirements in MCC 11.15.2016;
3

4 (E) A single family lot or parcel of record dwelling may be allowed under this section on
5 land not identified as high-value farmland when the requirements below are met.
6

7 (1) The lot or parcel meets the following requirements:
8

9 (a) A deed or other instrument creating the lot or parcel was recorded with the
10 Department of General Services, or was in recordable form prior to January
11 1, 1985; and
12

13 (b) Satisfied all applicable laws when the lot or parcel was created; and
14

15 (c) Which is held under the same ownership and which was acquired by the
16 present owner prior to January 1, 1985; and
17

18 (2) The tract on which the dwelling will be sited does not include a dwelling; and
19

20 (3) The proposed dwelling is not prohibited by, and will comply with, the
21 requirements of the acknowledged comprehensive plan and land use
22 regulations and other provisions of law; and
23

24 (4) The lot or parcel on which the dwelling will be sited does not lie within an area
25 designated in an acknowledged comprehensive plan Big Game habitat area; and
26

27 (5) When the lot or parcel on which the dwelling will be sited is part of a tract, the
28 remaining portions of the tract are consolidated into a single parcel when the
29 dwelling is allowed; and
30

31 (6) The County Assessor shall be notified when the permit is approved.
32

33 (7) Approval of the dwelling would not:
34

35 (a) exceed the facilities and service capabilities of the area; and
36

37 (b) materially alter the stability of the overall land use pattern of the area; and
38

39 (c) create conditions or circumstances that the county determines would be
40 contrary to the purpose or intent of its acknowledged comprehensive plan
41 and land use regulation.
42

43 (8) For purposes of this subsection, and of dwellings considered under MCC
44 11.15.2012 (O) and (P), the following definitions apply;
45

46 (a) "Owner" includes a person who acquired the lot or parcel by devise or
47 intestate succession from a person who acquired the lot or parcel prior to
48 January 1, 1985.
49

50 (b) "Date of Creation and Existence". When a lot, parcel or tract is
51 reconfigured pursuant to applicable law after November 4, 1993, the effect
52 of which is to qualify a lot, parcel or tract for the siting of a dwelling, the
53 date of the reconfiguration is the date of creation or existence.
54 Reconfigured means any change in the boundary of the lot, parcel or tract.
55

1 (F) Seasonal farmworker housing as defined in ORS 197.675 must meet the following
2 requirements:

- 3
- 4 (1) The housing will be occupied by a person or persons who will be principally
5 engaged in the farm use of the land and whose assistance in the management
6 of the farm use is or will be required by the farm operator; and
7
- 8 (2) The seasonal farmworker housing is located on the same parcel, lot or tract as
9 the principal farm dwelling which houses the farm operator; and
10
- 11 (3) the principal farm dwelling is located on a farm or ranch operation that is
12 currently employed for farm use, as defined in ORS 215.203, and produced at
13 least \$80,000 (1994 dollars) in gross annual income from the sale of farm
14 products in the last two years or three of the last five years; and
15
- 16 (4) the seasonal farmworker housing can only be occupied for 273 days per
17 calendar year.
18

19 (G) Facilities wholly within an EFU district used for the breeding, kenneling and
20 training of greyhounds for racing may be maintained, enhanced or expanded except
21 no new facilities may be authorized on high value farmland and provided that the
22 following requirements are satisfied:

- 23
- 24 (1) MCC .7230 (A) and (B); and
25
- 26 (2) MCC .7942; and
27
- 28 (3) MCC .7805 through MCC .7870; and
29
- 30 (4) Dimensional standards:
31
- 32 (a) Area: Two acres.
33
- 34 (b) Width: Two hundred fifty feet.
35
- 36 (c) Depth: Two hundred fifty feet.
37
- 38 (d) Setback from all lot lines: One hundred feet.
39

40

41 (H) Farm Stands:

- 42
- 43 (1) The structures are designed and used for the sale of farm crops and livestock
44 grown on farms in the local agricultural area, including the sale of retail
45 incidental items, if the sales of the incidental items make up no more than 25
46 percent of the total sales of the farm stand; and

1
2 **(2)** The farm stand does not include structures designed for occupancy as a
3 residence or for activities other than the sale of farm crops and livestock and
4 does not include structures for banquets, public gatherings or public
5 entertainment.
6

7 **(I)** On-site filming and activities accessory to on-site filming may be conducted in any
8 area zoned for exclusive farm use if the activity would involve no more than 45 days
9 on any site within any one-year period or does not involve erection of sets that would
10 remain in place for longer than any 45-day period. On-site filming and activities
11 accessory to on-site filming may be conducted to include office administrative
12 functions such as payroll and scheduling, and the use of campers, truck trailers or
13 similar temporary facilities. Temporary facilities may be used as temporary housing
14 for security personnel. "On-site filming and activities accessory to on-site filming"
15 includes: filming and site preparation, construction of sets, staging, makeup and
16 support services customarily provided for on-site filming and production of
17 advertisements, documentaries, feature film, television services and other film
18 productions that rely on the rural qualities of an exclusive farm use zone in more
19 than an incidental way. On-site filming and activities accessory to on-site filming"
20 does not include: facilities for marketing, editing and other such activities that are
21 allowed only as a home occupation or construction of new structures that requires a
22 building permit.
23

24 **(J)** A winery, as described in ORS 215.452.
25

26 11.15.2012 Conditional Uses
27

28 The following uses may be permitted when approved by the Hearings Officer pursuant
29 to the provisions of MCC 11.15.7105 through .7135.
30

31 **(A)** Commercial activities that are in conjunction with a farm use.
32

33 **(B)** Operations conducted for:
34

35 **(1)** Mining and processing of geothermal resources as defined by ORS 522.005
36 and oil and gas as defined by ORS 520.005 not otherwise permitted under this
37 section; and
38

39 **(2)** Mining, crushing or stockpiling of aggregate and other mineral and other
40 subsurface resources subject to ORS 215.298.
41

42 **(C)** Residential home as defined in ORS 197.660, in existing dwellings.
43

44 **(D)** Private parks, playgrounds, hunting and fishing preserves, campgrounds and, parks,
45 playgrounds or community centers owned and operated by a nonprofit community
46 organization. Existing facilities wholly within an EFU district may be maintained,
47 enhanced or expanded. New facilities may be allowed but not on high value lands.

1 Campgrounds authorized by this provision shall not include intensively developed
2 recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

3
4 **(E)** Parks, playgrounds or community centers owned and operated by a governmental
5 agency.

6
7 **(F)** Home occupation as provided for in ORS 215.448 and provided: that there is no
8 outside advertising or display of merchandise, that no sale of merchandise is made
9 from the premise, and that noise, odor, smoke, gases, fallout, vibration, heat or glare
10 resulting from the activity is dectable at any property line. A home occupation
11 located on high-value farmland may employ only residents of the home.

12
13 **(G)** A facility for the primary processing of forest products, provided that such facility
14 and is compatible with farm uses described in ORS 215.203 (2). Such a facility may
15 be approved for a one-year period which is renewable. These facilities are intended
16 to be only portable or temporary in nature. The primary processing of a forest
17 product, as used in this section, means the use of a portable chipper or stud mill or
18 other similar methods of initial treatment of a forest product in order to enable its
19 shipment to market. Forest products, as used in this section, means timber grown
20 upon a parcel of land or contiguous land where the primary processing facility is
21 located.

22
23 **(H)** One manufactured dwelling in conjunction with an existing dwelling as a temporary
24 use for the term of a hardship suffered by the existing resident or a relative of the
25 resident. A manufactured dwelling allowed under this provision is a temporary use
26 for the term of the hardship suffered by the existing resident or relative as defined in
27 ORS Chapter 215. The manufactured dwelling shall use the same subsurface sewage
28 disposal system used by the existing dwelling, if that disposal system is adequate to
29 accommodate the additional dwelling. If the manufactured home will use a public
30 sanitary sewer system, such condition will not be required. Governing bodies shall
31 review the permit authorizing such manufactured homes every two years. When the
32 hardships end, the governing bodies or their designate shall require the removal of
33 such manufactured homes. Oregon Department of Environmental Quality review and
34 removal requirements also apply. As used in this subsection "hardship" means a
35 medical hardship or hardship for the care of an aged or infirm person or persons.

36
37 **(I)** Transmission towers over 200 feet in height subject to the requirements of MCC
38 .7035 through MCC 7040.

39
40 **(J)** Dog kennels not described section MCC 11.15.2010(G) of this District. Existing
41 facilities wholly within an EFU district may be maintained, enhanced or expanded,
42 subject to other requirements of law. New facilities may be allowed on non-high-
43 value lands but not on high-value lands.

44
45 **(K)** The propagation, cultivation, maintenance and harvesting of aquatic species.

46
47 **(L)** Reconstruction or modification of public roads and highways involving the removal
48 or displacement of buildings but not resulting in the creation of new land parcels.

49

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

4
5 (N) Parking log trucks in exclusive farm use zones. No more than seven log trucks shall
6 be allowed.

7
8 (O) A single family lot or parcel of record dwelling may be allowed under this section
9 on land identified as high-value farmland when the requirements below are met.
10 MCC 11.15.7120 Conditional Use Approval Criteria does not apply.

11
12 (1) The lot or parcel meets the requirements of 11.15.2010(E)(1) through
13 2010(E)(8); and

14
15 (2) The lot or parcel cannot practicably be managed for farm use by itself or in
16 conjunction with other land due to extraordinary circumstances inherent in the
17 land or its physical setting that do not apply generally to other land in the
18 vicinity; and

19
20 (3) The dwelling will not:

21
22 (a) force a significant change in accepted farm or forest practices on
23 surrounding lands devoted to farm or forest; or

24
25 (b) significantly increase the cost of accepted farm or forest practices on
26 surrounding lands devoted to farm or forest use; and

27
28 (4) The dwelling will not materially alter the stability of the overall land use
29 pattern of the area.
30

31 (P) A single family lot or parcel of record dwelling may be allowed under this section
32 on land identified as high-value farmland when the requirements below are met.
33 MCC 11.15.7120 Conditional Use Approval Criteria does not apply.

34
35 (1) The lot or parcel meets the requirements of 11.15.2010(E)(1) through
36 2010(E)(8); and

37
38 (2) The tract on which the dwelling will be sited is:

39
40 (a) Not composed predominately of irrigated or non-irrigated soils classified
41 prime, unique, Class I or Class II; and

42
43 (b) Is less than twenty-one acres in size; and

44
45 (c) The tract is bordered on at least 67% of its perimeter by tracts that are
46 smaller than 21 acres, and at least two such tracts had dwellings on January
47 1, 1993; or

1
2 (d) The tract is bordered on at least 25% of its perimeter by tracts that are
3 smaller than 21 acres, and at least four dwellings existed on January 1, 1993,
4 within one-quarter mile of the center of the subject tract. Up to two of the
5 four dwellings may lie within an urban growth boundary, but only if the
6 subject tract abuts an urban growth boundary.
7

8
9 11.15.2014 Accessory Uses

10
11 The uses or structures incidental and accessory to the uses permitted under MCC .2008
12 through .2012 are:

- 13
14 (A) Structures such as garages, carports, studios, pergolas, private workshops, barns,
15 loafing sheds, storage buildings, greenhouses or similar structures, whether attached
16 or detached, when in accordance with the yard requirements of this district;
17
18 (B) Structures or fenced runs for the shelter or confinement of poultry or livestock;
19
20 (C) Signs, pursuant to the provisions of MCC 11.15.7902 through .7982;
21
22 (D) Off-street parking and loading pursuant to MCC 11.15.6100 through .6148.
23

24
25 11.15.2016 Dimensional Requirements

- 26
27 (A) Except as provided in MCC 11.15.2018, the minimum size for new parcels shall be
28 80 acres in the EFU district.
29
30 (B) That portion of a street which would accrue to an adjacent lot if the street were
31 vacated shall be included in calculating the size of such lot.
32
33 (C) Minimum Yard Dimensions - Feet
34
35 Front Side Street Side Rear
36 30 10 30 30
37
38 Maximum Structure Height – 35 feet
39
40 Minimum Front Lot Line Length – 50 feet.
41
42
43
44 (D) The minimum yard requirement shall be increased where the yard abuts a street
45 having insufficient right-of-way width to serve the area. The Planning Commission
46 shall determine the necessary right-of-way widths and additional yard requirements
47 not otherwise established by Ordinance.
48
49 (E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures
50 may exceed the height requirement if located at least 30 feet from any property line.
51

52 11.15.2017 Property Line Adjustment
53

1 (A) The Planning Director may approve an adjustment of the common lot line between
2 contiguous legal lots based on a finding that:

- 3
- 4 (1) All dwellings that were situated on the same lot prior to the adjustments must
5 remain together on the reconfigured lot; and
- 6
- 7 (2) Dimensional requirements of MCC .2016(A) and (C) are met; or
- 8
- 9 (3) The reconfigured lot areas will each retain the same lot area that existed prior
10 to the exchange.
- 11
- 12 (4) The decision of the Planning Director may be appealed to the approval
13 authority pursuant to MCC .8290 and .8295.
- 14

15

16 11.15.2018 Lot, Parcel and Tract Requirement.

17

18

19 (A) The lot, Parcel and Tract requirement shall be applied to all uses in this district
20 except for Single Family Lot or Parcel of Record Dwellings approved under the
21 following sections: MCC 11.15.2010(E), MCC 11.15.2012(O) and 11.15.2012(P).
22 For the purposes of this district, a lot, parcel or tract is defined as:

23

24 (1) A lot or parcel of land:

- 25
- 26 (a) For which a deed or other instrument creating the parcel was recorded with
27 the Department of Environmental Services or its predecessors; and
- 28
- 29 (b) Which satisfied all applicable laws, including but not limited to land
30 divisions and zoning ordinance, when the parcel was created; and
- 31
- 32 (c) Which satisfies the minimum lot size requirements of MCC .2016, or
- 33

34 (2) A lot or parcel of land:

- 35
- 36 (a) For which a deed or other instrument creating the parcel was recorded with
37 the Department of General Services, or was in recordable form prior to
38 February 20, 1990; and
- 39
- 40 (b) Which satisfied all applicable laws, including but not limited to land
41 divisions and zoning ordinance, when the parcel was created; and
- 42
- 43 (c) Does not meet the minimum lot size requirements of MCC .2016; and
- 44
- 45 (d) Which was not contiguous to another substandard parcel or parcels under
46 the same ownership on or after February 20, 1990, or
- 47

48 (3) A Tract land:

- 49
- 50 (a) For which deeds or other instruments creating the parcels were recorded
51 with the Department of General Services, or were in recordable form prior
52 to February 20, 1990; and
- 53

- 1 (b) Which satisfied all applicable laws, including but not limited to land
2 divisions and zoning ordinance, when the lots or parcels were created; and
3
4 (c) Which were held under the same ownership on or after February 20, 1990;
5 and
6
7 (d) Which individually do not meet the minimum lot or Parcel size
8 requirements of MCC .2016, but, when considered in combination:
9
10 (1) One legal lot or Parcel shall comply nearly as nearly as possible with a
11 minimum area of nineteen acres, without creating any new lot line; or
12
13 (2) More than one legal lot or parcel, each property must comply with the
14 minimum area of nineteen acres, without creating any new lot property
15 line.
16

17 (B) For the purposes of this subsection:
18
19

- 20 (1) "Substandard Lot or Parcel" refers to a parcel which does not satisfy the
21 minimum lot size requirements of MCC .2016; and
22
23 (2) "Same Ownership" refers to greater than possessory interests held by the same
24 person or persons, spouse, minor age child, same partnership, corporation,
25 trust or other entity, separately, in tenancy in common or by other form of
26 title. Ownership shall be deemed to exist when a person or entity owns or
27 controls ten percent or more of a lot or parcel, whether directly or through
28 ownership or control of an entity having such ownership or control.
29

30 (C) A lot, parcel or tract which satisfies the applicable requirements of MCC 2018 and
31 front lot line minimums required may be occupied by any permitted or approved use
32 when in compliance with the other requirements of this district.
33
34

35 11.15.2020 Exceptions to Lot Size for Specific Uses
36

37 (A) Lots less than the minimum lot size specified in MCC .2016(A) may be created for
38 uses listed in MCC .2010(A) and MCC 2012(E) based upon:
39

- 40 (1) The site size needs of the proposed use;
41
42 (2) The nature of the proposed use in relation to its impact on nearby properties;
43 and
44
45 (3) Consideration of the purposes of this district.
46

47 (B) Except as otherwise provided by MCC .2018, no sale or conveyance of any portion
48 of a lot, for other than a public purpose, shall leave a structure on the remainder of
49 the lot with less than the minimum lot or yard requirements or result in a lot with less
50 than the area or width requirements of this district.
51
52
53
54

55 11.15.2026 Access
56

1 Any lot in this district shall abut a street, or shall have other access determined by
2 the Hearings Officer to be safe and convenient for pedestrians and for passenger and
3 emergency vehicles.
4

5
6 **11.15.2032 Permit Expiration**
7

8 All administrative and action proceedings involving discretionary decisions for which
9 applications and fees have been collected after (effective date) , except land divisions
10 and uses listed in MCC .2012 shall expire two years from the date of the Planning
11 Director's or Hearing's Officer's decision in the matter or two years from the date of
12 final resolution of subsequent appeals, unless:

13 (A) The project is completed as approved; or

14 (B) A building permit has been obtained and is continuing to be kept valid under the
15 permit regulations of the applicable government issuer until completion of the
16 construction, or

17 (C) The Planning Director determines that substantial construction or development has
18 taken place. That determination shall be processed as follows:

19 (1) Application shall be made on appropriate forms and filed with the Director at
20 least 30 days prior to the expiration date.

21 (2) The Director shall issue a written decision on the application within 20 days of
22 filing. That decision shall be based on findings that:

23 (a) Final Design Review approval has been granted under MCC .7845 on the
24 total project, if applicable; and

25 (b) At least ten percent of the dollar cost of the total project value has been
26 expended for construction or development authorized under a sanitation,
27 building or other development permit. Project value shall be as
28 determined by MCC .9025(A) or .9027(A).

29 (3) Notice of the Planning Director shall be mailed to all parties as defined in
30 MCC .8225.

31 (4) The decision of the Planner Director shall become final at the close of
32 business on the tenth day following mailed notice unless a party files a written
33 notice of appeal. Such notice of appeal and the decision shall be subject to the
34 provisions of MCC .8290 and 8295.
35

36
37
38 (B) Amend MCC 11.15.7020(A), MCC 11.15.7120 and delete MCC11.15.7122

39 as follows:

40 **11.15.7020 Uses**
41

42 (A) Except as otherwise provided in MCC 11.15.2008 through .2012 and MCC
43 11.15.2048 through .2050, the following Community Service Uses and those of a

1 similar nature, may be permitted in any district when approved at a public hearing
2 by the approval authority.
3

4 **11.15.7120 Conditional Use Approval Criteria**
5

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

- 10
11 (1) Is consistent with the character of the area;
12
13 (2) Will not adversely affect natural resources;
14
15 (3) Will not conflict with farm or forest uses in the area:
16
17 (a) Will not force a significant change in accepted farm or forest practices on
18 surrounding lands devoted to farm or forest use; and
19
20 (b) Will not significantly increase the cost of accepted farm or forest practices
21 on surrounding lands devoted to farm or forest use.
22
23 (4) Will not require public services other than those existing or programmed for
24 the area;
25
26 (5) Will be located outside a big game winter habitat area as defined by the
27 Oregon Department of Fish and Wildlife or that agency has certified that the
28 impacts will be acceptable;
29
30 (6) Will not create hazardous conditions; and
31
32 (7) Will satisfy the applicable policies of the Comprehensive Plan.
33

34 (B) Except for off-site stockpiling, subpart (A) of this subsection shall not apply to
35 applications for mineral extraction and processing activities. Proposals for mineral
36 extraction and processing shall satisfy the criteria of MCC .7325.
37

38
39 ~~**11.15.7122 Exclusive Farm Use Conditional Use Approval Criteria**~~

40 ~~(A) In addition to the criteria of MCC .7120, an applicant for a Conditional Use listed~~
41 ~~in MCC .2012(B) must demonstrate that the use:~~
42

- 43 ~~(1) Will not force a significant change in accepted farm or forest practices on~~
44 ~~surrounding lands devoted to farm or forest use; and~~
45
46 ~~(2) Will not significantly increase the cost of accepted farm or forest practices on~~
47 ~~surrounding lands devoted to farm or forest use.~~
48

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~~(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.~~

ADOPTED this 6th day of March, 1997, being the date of its second reading before the Board of County Commissioners of Multnomah County, Oregon.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Beverly Stein, Chair

REVIEWED:

SANDRA N. DUFFY, ACTING COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By *Sandra N. Duffy*
Sandra N. Duffy, Acting County Counsel

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February 27, 1997

R-6

MICHAEL C. ROBINSON
Direct Dial
(503) 294-9194
email mrobinson@stoel.com

Ms. Beverly Stein, Chair
Multnomah County Board of Commissioners
1120 SW Fifth Avenue, Room 1515
Portland, Oregon 97204

Re: Proposed Amendments to the Exclusive Farm Use Zoning District

Dear Ms. Stein:

This law firm represents Henry and Eulia Mishima. Mr. and Mrs. Mishima's mailing address is 840 NW Sixth Avenue, Gresham, Oregon 97030. Their telephone number is 666-1932. Mr. and Mrs. Mishima appeared in writing before the Planning Commission concerning these amendments by submitting a letter dated October 16, 1996 to the Chairman of the Multnomah County Planning Commission (see exhibit).

The Mishimas support the proposed amendments to the Multnomah County exclusive farm use ("EFU") zoning district with several comments.

The Mishimas own tax lot 133, map 19 1 S4E, a 14.39 acre parcel in east Multnomah County (see exhibit). The EFU district in which the property is located is surrounded by MUA-20 and RC designations. The Mishimas have owned tax lot 133 for more than 31 years and bought it in order to construct a dwelling. As the Mishimas letter to Mr. Yoon states, they currently farm the parcel although their present home is six miles away. This requires much additional time to reach the farm.

Under the current EFU zoning district requirements and administrative rules, the Mishimas could construct a dwelling on this lot only after they showed \$80,000 in gross annual income from sales of farm products in two or three of the last five years. (OAR 660-33-135(7)). This is because the Mishimas property contains high-value soils as defined in OAR 660-33-020(8)(a).

STOEL RIVES LLP

Ms. Beverly Stein, Chair
February 27, 1997
Page 2

The Mishimas support the proposed amendments to the EFU zoning district because the amendments would allow the Mishimas to apply for a lot of record dwelling. (MCC 11.15.2012(P)). The proposed amendment makes a lot of record dwelling on high-value farm land a conditional use subject to the requirements in MCC 11.15.7120. While the Mishimas support the proposed amendment in general, they believe that the proposed language should be amended as follows.

First, MCC 11.15.2010(P)(1) requires that the lot meet the requirements of MCC 11.15.2010(E)(1)-(8). MCC 11.15.2010(E)(7)(a)-(c) should apply only to lot of record dwellings to be located on tracts that are composed predominantly of soils that are classified prime, unique, Class I or Class II. ORS 215.705(2)(a) applies these criteria only to lot of record dwellings on this type of high-value farm land. Lot of record dwellings on tracts composed predominantly of non high-value farmland or high-value farmland defined in ORS 215.710(3) and (4) should not be subject to these requirements.

The applicable approval criteria proposed in MCC 11.15.2012(P) are more than adequate for a tract composed of other than Class I or Class II high-value farmland. The Oregon Legislature did not deem additional criteria necessary for these types of tracts and the other criteria are more than adequate.

Secondly, MCC 11.15.2012(P) makes this type of lot of record dwelling a conditional use. This requires an additional application and fee and an initial public hearing. There is no reason that the application should not be reviewed initially by the planning director with an opportunity for a public hearing.

The Mishimas ask that you adopt the amendments to the EFU zoning district with the following changes:

1. Move MCC 11.15.2012(P) to MCC 11.15.2010. Leaving this lot of record dwelling as a conditional use requires an additional application and an additional fee that are unnecessary since the conditional use criteria do not apply.
2. The requirements in MCC 11.15.2010(E)(7)(a)-(c) should be deleted for tracts not composed predominantly of Class I or Class II soils.

STOEL RIVES LLP

Ms. Beverly Stein, Chair
February 27, 1997
Page 3

Please include this letter in the record of this proceeding. Thank you very much for your consideration of these comments.

Very truly yours,

A handwritten signature in cursive script that reads "Michael C. Robinson".

Michael C. Robinson

MCR:ipc
Enclosures
cc (w/encls.): Mr. and Mrs. Henry Mishima

Eulia J. Mishima...840 N. W. Sixth, Gresham, Oregon 97030...Ph & Fax 503-666-1932

October 16, 1996

Leonard Yoon, Chair
Multnomah County Planning Commission
C/O Stuart Farmer
2115 S. E. Morrison
Portland, Oregon 97214

Dear Mr Yoon:

Subject: Exceptions to meeting the \$80,000 requirements to build a dwelling
as stated in Land Conservation and Development Commission
OAR 660, Division 33, Agricultural Land.

Recently my husband and I learned we can not build a dwelling on our farm at 28765 S. E. Stone Road with description: Section 19 1 S 4 E Lot Block, TL# 133, 14.39 Acres because the \$80,000 minimum requirements as described within OAR 660, Division 33 are not met.

As the Multnomah Planning Commission deliberates and sets codes and ordinances for Oar 660, Division 33, we ask that properties classed for exclusive farm use be given exception for meaningful rationale.

We offer reasons we believe our farm should be allowed exception to meeting the \$80,000 requirements:

We have owned the land for more than thirty-one years. When the twenty acre minimum restriction for a home came into being our property of 14.39 acres was grandfathered in so that we could still build a home on the site.

This site has been approved by the Sanitarian for an on-site sewage disposal system.

Much of the lower land along Stone Road that fronts the property is not suitable for farm use because it is wet many months of the year. Also most of the higher land is on a slope. In addition Johnson Creek runs through the property and we believe it is best to leave the watershed undisturbed and promote restoration for a better local ecology.

\$80,000 is not a realistic figure to expect this property to produce. Explanations supporting this position in detail can be provided by agriculture experts.

Slowly over the years we have made improvements to the property in order to build a future home. We have paid to have culverts put in the creek, paid for a well and barn.

We have paid property taxes for over 30 years on the property classed as residential and then as green belt.

We have planted nursery stock on some of the upper acreage for several years but have generated small income.

Leonard Yoon, Chair
Multnomah Planning Commission
C/O Stuart Farmer
October 16, 1996
Page 2

Our present home is six miles from our farm. Farming requires attention much more time than from eight to five o'clock each day. During the growing and harvesting months we have often made three round trips between the two points in a day even though the land was farmed only part time. In retirement from my husband's present occupation we plan to farm full time. If no dwelling is on the farm, each of us will go to and from the farm usually independently two to three or more times a day. Since traffic continues to increase along with congestion in Gresham where our home is located and on Highway 26 two or more valuable work hours per person each day will be lost in commuting to farm, get meals, cleanup and rest. And the cost of fuel for cars will also be a great expense. Pollution would, of course, be increased.

Our farm is adjacent to a large area of land zoned MUA20 on the west. On the south just across Stone Road in Clackamas County are many small land parcels. To the east less than 1/2 mile are more MUA20 parcels. Enclosed is a plot map of these areas.

It will be very risky for us to invest in more equipment and land improvements when there is remote chance of producing \$80,000 in two consecutive years or three out of five years in agriculture on this small property. Also at the same time this property will not sell for enough so we might regain our monetary investment since it is unlikely that anyone will desire unbuildable land or land with mostly slope, creek, and wet ground because these characteristics do not contribute to good farming.

My husband and I actively support means to promote a sustainable future. We know of no reason that a dwelling on our farm site would hinder progress ecologically.

Please give full consideration to our appeal. Thank you to you and the Commission members for your time and efforts.

Sincerely,



Eufia J. Mishima

Staff recommended changes to Planning Commission proposed amendments to the EFU provisions of the Multnomah County Zoning Code:

- Delete sections: MCC 11.15.2008(N)(4) and MCC 11.15.2008(O)(4) (page 5 lines 42 and 43 and page 6 lines 4 and 5).
- Correct typos: MCC 2010(E)(7)(c) eor (page 10, line 39) and any others.
- Insert in section MCC 11.15.2012(F) the word “no” before the word “noise” (page 13, line 9).
- Insert new section MCC 11.15.2032(D) with the following statement: “Uses listed in MCC 2012 shall expire two years from the date of issuance of the Board Order in the matter, or two years from the date of final resolution of subsequent appeals, unless one of the conditions of .7110(c) are met (page 18 , line 36).

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS
2 FOR MULTNOMAH COUNTY, OREGON
3 ORDINANCE NO. 876

4
5
6 An ordinance amending the Exclusive Farm Use zoning district and related
7 subsections of MCC 11.15 to bring Multnomah County's land use regulations into
8 compliance with Oregon Revised Statute Chapter 215 and Oregon Administrative Rule
9 660, Division 33 requirements for Agricultural Land

10 (Underlined sections are new, strikethrough sections are deleted.)

11 Multnomah County Ordains as follows:

12 SECTION 1. Findings.

- 13 (A) On December 3, 1992 the State of Oregon Land Conservation and
14 Development Commission (LCDC) adopted Oregon Administrative Rules on
15 planning and regulating land uses on Agricultural Land (OAR Chapter 660,
16 Division 33). In Multnomah County, Agricultural Lands are those areas
17 designated and zoned Exclusive Farm Use (EFU).
- 18 (B) On July 19, 1993 the Planning Commission held a public hearing to explain
19 the State requirements and recommend changes to the zoning code. Hearing
20 before the Board of County Commissioners followed on August 31, 1993 and
21 September 14, 1993. At each of the hearings all interested persons were given
22 an opportunity to appear and be heard.
- 23 (C) In 1994 the Oregon State Legislature adopted House Bill 3661 that was
24 codified in ORS 215 that established new regulations for Agricultural Land
25 Uses (Exclusive Farm Use Zones and Farmlands. In 1995, the Oregon State
26 Legislature further amended Oregon Revised Statutes pertaining to
27 Agricultural Land Uses and Farmlands and Farmlands.
- 28 (D) This Ordinance amends the EFU zoning district and other related zoning
29 code subsections to include all the State mandated land use regulations for
30 Agricultural Land and Farmland.
- 31 (E) On November 4, 1996 the Planning Commission held a public hearing to take
32 public comments on proposed changes to the EFU and related sections of the

1 Multnomah County Zoning Code. Hearing before the Board of County
2 Commissioners followed on February 27, 1997 and March 11, 1997. At each
3 of the hearings all interested persons were given an opportunity to appear and
4 be heard.

5 (F) The Department of Land Conservation and Development was given notice
6 pursuant to ORS 197.615.

7 SECTION 2. Amendments.

8 Multnomah County Code Chapter 11.15 is amended to read as follows:

9 (A) Repeal and replace MCC 11.15.2002 through MCC 11.15.2030 with the
10 Following:

11
12 11.15.2002 Purposes

13
14
15 The purposes of the Exclusive Farm Use District are to preserve and maintain
16 agricultural lands for farm use consistent with existing and future needs for agricultural
17 products, forests and open spaces; to conserve and protect scenic and wildlife resources,
18 to maintain and improve the quality of the air, water and land resources of the County
19 and to establish criteria and standards for farm uses and related and compatible uses
20 which are deemed appropriate. Land within this district shall be used exclusively for
21 farm uses as provided in the Oregon Revised Statutes Chapter 215 (1995 edition) and
22 the Oregon Administrative Rules Chapter 660, Division 33 (December 1995 edition) as
23 interpreted by this Exclusive Farm Use code section.

24
25 11.15.2004 Area Affected

26
27 MCC .2002 through .2030 shall apply to those areas designated EFU on the Multnomah
28 County Zoning Map.

29
30 **11.15.2005 Definitions**

31
32 As used in MCC .2002 through MCC .2032, unless otherwise noted, the following
33 words and their derivations shall have the following meanings:

34
35 (A) "Campground" is an area devoted to overnight temporary use for vacation,
36 recreational or emergency purposes, but not for residential purposes. A camping
37 site may be occupied by a tent, travel trailer or recreational vehicle.
38 Campgrounds shall not include intensively developed recreational uses such as
39 swimming pools, tennis courts, retail stores or gas stations.

40
41 (B) "Commercial agricultural enterprise" consists of farm operations that will:

- 1
2 (1) Contribute in a substantial way to the area's existing agricultural economy;
3 and
4
5 (2) Help maintain agricultural processors and established farm markets.
6
7 (3) When determining whether a farm is part of the commercial agricultural
8 enterprise, not only what is produced, but how much and how it is marketed
9 shall be considered.
10
11 (C) "Contiguous" refers to parcels of land which have any common boundary,
12 excepting a single point, and shall include, but not be limited to, parcels separated
13 only by an alley, street or other right-of-way;
14
15 (D) "Farm Operator" means a person who operates a farm, doing the work and
16 making the day-to-day decisions about such things as planting, harvesting,
17 feeding and marketing.
18
19 (E) "High-value farmland" means land in a tract composed predominately of soils
20 that are:
21
22 (1) Irrigated and classified prime, unique, Class I or Class II; or
23
24 (2) Not irrigated and classified prime, unique, Class I or Class II; or
25
26 (3) Willamette Valley Soils in Class III or IV including:
27 (a) Sub classification IIIe specifically, Burlington, Cascade, Cornelius,
28 Latourell, Multnomah, Powell, Quatama;
29 (b) Sub classification IIIw specifically, Cornelius;
30 (c) Sub classification IVe, specifically, Cornelius, Latourel, Powell, and
31 Quatama.
32
33 (4) Location and the extent of these soils area as identified and mapped in "Soil
34 Survey of Multnomah County, published by the Soil Conservation Service,
35 US Department of Agriculture, 1983."
36
37 (5) The soil class, soil rating or other soil designation of a specific lot or parcel
38 may be changed if the property owner submits a statement or report pursuant
39 to ORS 215.710(5).
40
41 (F) "Private School" means privately owned primary, elementary or high school not
42 including nursery school, kindergarten or day nursery except those operated in
43 conjunction with a school.
44
45

1 (G) "Public School" means publicly owned primary, elementary or high school not
2 including nursery school, kindergarten or day nursery except those operated in
3 conjunction with a school.

4
5 (H) "Suitable for farm use" means land in Class I-IV or "lands in other classes which
6 are necessary to permit farm practices to be undertaken on adjacent or nearby
7 lands".

8
9 (I) "Tract" means one or more contiguous lots or parcels in the same ownership.

10
11
12 11.15.2006 Uses

13
14 No building, structure or land shall be used and no building or structure shall be erected,
15 altered or enlarged in this district except for the uses listed in MCC .2008 through .2014.

16
17 11.15.2008 Uses Permitted Outright

18
19 (A) Farm use, as defined in ORS 215.203.

20
21 (B) Buildings other than dwellings customarily provided in conjunction with farm use.

22
23 (C) The propagation or harvesting of forest products.

24
25 (D) Operations for the exploration for and production of geothermal resources as defined
26 by ORS 522.005 and oil and gas as defined by ORS 520.005, including the
27 placement and operation of compressors, separators and other customary production
28 equipment for an individual well adjacent to the wellhead. Any activities or
29 construction relating to such operations shall not be a basis for an exception under
30 ORS 197.732 (1)(a) or (b).

31
32 (E) Operations for the exploration for minerals as defined by ORS 517.750. Any
33 activities or construction relating to such operations shall not be the basis for an
34 exception under ORS 197.732 (1)(a) or (b).

35
36 (F) Climbing and passing lanes within the right of way existing as of July 1, 1987.

37
38 (G) Reconstruction or modification of public roads and highways, including the
39 placement of utility facilities overhead and subsurface of public roads and highways
40 along the public right-of-way, but not including the addition of travel lanes, where
41 no removal or displacement of buildings will occur, or no new land parcels result.

42
43 (H) Temporary public road and highway detours that will be abandoned and restored to
44 original condition or use at such time as no longer needed.

45
46 (I) Minor betterment of existing public roads and highway related facilities such as
47 maintenance yards, weigh stations and rest areas within right of way existing as of
48 July 1, 1987, and contiguous public-owned property utilized to support the operation
49 and maintenance of public roads and highways.

1 (J) A replacement dwelling to be used in conjunction with farm use if the existing
2 dwelling has been listed in a historic property inventory as defined in ORS 358.480
3 and listed on the National Register of Historic Places.

4
5 (K) Creation of, restoration of or enhancement of wetlands.

6
7 (L) Alteration, restoration or replacement of a lawfully established dwelling that has:

8
9 (1) intact exterior walls and roof structure;

10
11 (2) indoor plumbing consisting of a kitchen sink, toilet and bathing facilities
12 connected to a sanitary waste disposal system;

13
14 (3) interior wiring for interior lights; and

15
16 (4) a heating system; and

17
18 (5) in the case of a replacement dwelling, the existing dwelling is removed,
19 demolished or converted to an allowable nonresidential use within three
20 months of the completion of the replacement dwelling.

21
22 (M) Replacement of an existing lawfully established single family dwelling on the
23 same lot not more than 200 feet from the original building site when the dwelling
24 was unintentionally destroyed by fire, other casualty or natural disaster. The
25 dwelling may be reestablished only to its previous nature and extent, and the
26 reestablishment shall meet all other building, plumbing, sanitation and other codes,
27 ordinances and permit requirements. A building permit must be obtained within
28 one year from the date of the event that destroyed the dwelling.

29
30 (N) Public or private schools, including all buildings essential to the operation of a
31 school wholly within an EFU district may be maintained, enhanced or expanded:

32
33 (1) except that no new use may be authorized within three miles of an urban
34 growth boundary, unless an exception is approved pursuant to ORS 197.732
35 and OAR 660, Division 4; and

36
37 (2) no new use may be authorized on high value farmland; and

38
39 (3) must satisfy the requirements of MCC .6100 through MCC .6148, MCC
40 .7025(A), MCC .7805 through MCC .7870 and MCC .7942.

41
42 (O) Churches and cemeteries in conjunction with churches wholly within an EFU district
43 may be maintained, enhanced or expanded:

44
45 (1) except that no new use may be authorized within three miles of an urban
46 growth boundary, unless an exception is approved pursuant to ORS 197.732
47 and OAR 660, Division 4; and

48
49 (2) no new use may be authorized on high value farmland;

50
51 (3) must satisfy the requirements of MCC .6100 through MCC .6148, MCC
52 .7025(A), MCC .7805 through MCC .7870 and MCC .7942; and

1 11.15.2010 Uses Permitted Under Prescribed Conditions

2
3 The following uses may be permitted when approved by the Planning Director. These
4 decisions of the Planning Director may be appealed pursuant to MCC 11.15.8290
5 through 11.15.8295. The procedures and forms for obtaining approval of a Use
6 Permitted Under Prescribed Conditions shall be as provided by the Planning Director.
7

8
9 (A) Utility facilities necessary for public service, except commercial facilities for the
10 purpose of generating power for public use by sale and transmission towers over
11 200 feet in height provided:

- 12
13 (1) A facility is necessary if it must be situated in an agricultural zone in order for
14 the service to be provided; and
15
16 (2) satisfy the requirements of MCC .6100 through MCC .6148, MCC .7025(A),
17 MCC .7805 through MCC .7870 and MCC .7942; and
18
19 (3) Radio Towers 200 feet and under must also satisfy the requirements of MCC.
20 .7035 through MCC .7040.

21
22 (B) A farm help dwelling for a relative on real property used for farm use if the
23 dwelling is located on the same lot or parcel as the dwelling of the farm operator
24 and is occupied by a grandparent, grandchild, parent, child, brother or sister of the
25 farm operator or the farm operator's spouse, and whose assistance in the
26 management of the farm use is or will be required by the farm operator.

27
28 (C) A dwelling, including a mobile or modular home, customarily provided in
29 conjunction with a farm use subject of the following four ways:

- 30
31 (1) On land identified as high-value farmland, a dwelling may be considered
32 customarily provided in conjunction with farm use if:
33
34 (a) The subject tract is currently employed for the farm use, as defined in ORS
35 215.203, that produced at least \$80,000 (1994 dollars) in gross annual
36 income from the sale of farm products in the last two years or three of the
37 last five years; and
38
39 (b) Except as permitted in ORS 215.283(1)(p) (i.e. seasonal farmworker
40 housing), there is no other dwelling on the subject tract; and
41
42 (c) The dwelling will be occupied by a person or persons who produced the
43 commodities which grossed the income in subsection (a) of this subsection;
44
45 (d) In determining the gross income required by subsection (a) of this
46 subsection, the cost of purchased livestock shall be deducted from the total
47 gross income attributed to the tract.

- 1
2 (2) On land not identified as high-value farmland a dwelling may be considered
3 customarily provided in conjunction with farm use if:
4
5 (a) The parcel on which the dwelling will be located is at least 160 acres; and
6
7 (b) The subject tract is currently employed for farm use, as defined in ORS
8 215.203; and
9
10 (c) The dwelling will be occupied by a person or persons who will be
11 principally engaged in the farm use of the land, such as planting, harvesting,
12 marketing or caring for livestock, at a commercial scale; and
13
14 (d) Except as permitted in ORS 215.283(1)(p) (i.e. seasonal farmworker
15 housing), there is no other dwelling on the subject tract; or
16
17 (3) On land not identified as high-value farmland a dwelling may be considered
18 customarily provided in conjunction with farm use if:
19
20 (a) The subject tract is at least as large as the median size of those commercial
21 farm or ranch tracts capable of generating at least \$10,000 in annual gross
22 sales that are located within a study area which includes all tracts wholly or
23 partially within one mile from the perimeter of the subject tract [the median
24 size of commercial farm and ranch tracts shall be determined pursuant to
25 OAR 660-33-135(3)]; and
26
27 (b) The subject tract is capable of producing at least the median level of annual
28 gross sales of county indicator crops as the same commercial farm or ranch
29 tracts used to calculate the tract size in subsection (a) of this section; and
30
31 (c) The subject tract is currently employed for a farm use, as defined in ORS
32 215.203, at a level capable of producing the annual gross sales required in
33 subsection (b) of this section; and
34
35 (d) The subject lot or parcel on which the dwelling is proposed is not less than
36 ten acres; and
37
38 (e) Except as permitted in ORS 215.283(1)(p) (i.e. seasonal farmworker
39 housing), there is no other dwelling on the subject tract; and
40
41 (f) If no farm use has been established at the time of application, land use
42 approval shall be subject to a condition that no building permit may be
43 issued prior to the establishment of the farm use required by subsection (c)
44 of this section; or
45

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

3
4 (a) The subject tract is currently employed for the farm use, as defined in ORS
5 215.203, that produced in the last two years or three of the last five years the
6 lower of the following:

7
8 (1) At least \$40,000 (1994 dollars) in gross annual income from the sale of
9 farm products; or

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

15
16 (b) Except as permitted in ORS 215.283(1)(p) (i.e. seasonal farmworker
17 housing), there is no other dwelling on the subject tract; and

18
19 (c) The dwelling will be occupied by a person or persons who produced the
20 commodities which grossed the income in subsection (a) of this subsection;

21
22 (d) In determining the gross income required by subsection (a) of this
23 subsection, the cost of purchased livestock shall be deducted from the total
24 gross income attributed to the tract.

25
26 (D) An accessory farm help dwelling, including a mobile or modular home is
27 customarily provided in conjunction with farm use if:

28
29 (1) The accessory farm help dwelling will be occupied by a person or persons who
30 will be principally engaged in the farm use of the land and whose assistance in
31 the management of the farm use is or will be required by the farm operator; and

32
33 (2) The accessory help dwelling will be located:

34
35 (a) On the same lot or parcel as the dwelling of the principal farm dwelling; or

36
37 (b) On the same tract as the principal farm dwelling when the lot or parcel on
38 which the accessory dwelling will be sited is consolidated into a single
39 parcel with all other contiguous lots and parcels in the tract; or

40
41 (c) On a lot or parcel on which the principal farm dwelling is not located, when
42 the accessory farm dwelling is a manufactured dwelling and a deed
43 restriction is filed with the county clerk. The deed restriction shall require
44 the manufactured dwelling to be removed when the lot or parcel is conveyed
45 to another party. An accessory farm dwelling approved pursuant to this rule
46 may not be occupied by a person or persons who will not be principally

1 engaged in the farm use of the land and whose assistance in the management
2 of the farm use is not or will not be required by the farm operator. The
3 manufactured dwelling may remain if it is reapproved; and
4

5 (3) There is no other dwelling on the lands designated for exclusive farm use
6 owned by the farm operator that is vacant or currently occupied by persons not
7 working on the subject farm or ranch and that could reasonably be used as an
8 accessory farm dwelling; and
9

10 (4) The principal farm dwelling to which the proposed dwelling would be
11 accessory, meets one of the following:
12

13 (a) On land not identified as high-value farmland, the principal farm dwelling is
14 located on a farm or ranch operation that is currently employed for farm use,
15 as defined in ORS 215.203, and produced in the last two years or three of
16 the last five years the lower of the following:
17

18 (1) At least \$40,000 (1994 dollars) in gross annual income from the sale of
19 farm products. In determining the gross income, the cost of purchased
20 livestock shall be deducted from the total gross income attributed to the
21 tract; or
22

23 (2) Gross annual income of at least the midpoint of the median income
24 range of gross annual sales for farms in the county with the gross annual
25 sales of \$10,000 or more according to the 1992 Census of Agriculture,
26 Oregon. In determining the gross income, the cost of purchased livestock
27 shall be deducted from the total gross income attributed to the tract; or
28

29 (b) On land identified as high-value farmland, the principal farm dwelling is
30 located on a farm or ranch operation that is currently employed for farm use,
31 as defined in ORS 215.203, and produced at least \$80,000 (1994-dollars) in
32 gross annual income from the sale of farm products in the last two years or
33 three of the last five years. In determining the gross income, the cost of
34 purchased livestock shall be deducted from the total gross income attributed
35 to the tract; and
36

37 (5) The governing body of a county shall not approve any proposed division of a lot
38 or parcel for an accessory farm dwelling approved pursuant to this section. If it
39 is determined that an accessory farm dwelling satisfies the requirements of
40 MCC 11.15.2010(C), a parcel may be created consistent with the minimum
41 parcel size requirements in MCC 11.15.2016;
42

43 (E) A single family lot or parcel of record dwelling may be allowed under this section on
44 land not identified as high-value farmland when the requirements below are met.
45

46 (1) The lot or parcel meets the following requirements:

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48
- (a) A deed or other instrument creating the lot or parcel was recorded with the Department of General Services, or was in recordable form prior to January 1, 1985; and
 - (b) Satisfied all applicable laws when the lot or parcel was created; and
 - (c) Which is held under the same ownership and which was acquired by the present owner prior to January 1, 1985; and
- (2) The tract on which the dwelling will be sited does not include a dwelling; and
 - (3) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law; and
 - (4) The lot or parcel on which the dwelling will be sited does not lie within an area designated in an acknowledged comprehensive plan Big Game habitat area; and
 - (5) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single parcel when the dwelling is allowed; and
 - (6) The County Assessor shall be notified when the permit is approved.
 - (7) Approval of the dwelling would not:
 - (a) exceed the facilities and service capabilities of the area; and
 - (b) materially alter the stability of the overall land use pattern of the area; and
 - (c) create conditions or circumstances that the county determines would be contrary to the purpose or intent of its acknowledged comprehensive plan and land use regulation.
 - (8) For purposes of this subsection, and of dwellings considered under MCC 11.15.2012 (O) and (P), the following definitions apply;
 - (a) "Owner" includes a person who acquired the lot or parcel by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
 - (b) "Date of Creation and Existence". When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

49 (F) Seasonal farmworker housing as defined in ORS 197.675 must meet the following
50 requirements:

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55
- (1) The housing will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and

1 (2) The seasonal farmworker housing is located on the same parcel, lot or tract as
2 the principal farm dwelling which houses the farm operator; and
3

4 (3) the principal farm dwelling is located on a farm or ranch operation that is
5 currently employed for farm use, as defined in ORS 215.203, and produced at
6 least \$80,000 (1994 dollars) in gross annual income from the sale of farm
7 products in the last two years or three of the last five years; and
8

9 (4) the seasonal farmworker housing can only be occupied for 273 days per
10 calendar year.
11

12 (G) Facilities wholly within an EFU district used for the breeding, kenneling and
13 training of greyhounds for racing may be maintained, enhanced or expanded except
14 no new facilities may be authorized on high value farmland and provided that the
15 following requirements are satisfied:
16

17 (1) MCC .7230 (A) and (B); and
18

19 (2) MCC .7942; and
20

21 (3) MCC .7805 through MCC .7870; and
22

23 (4) Dimensional standards:
24

25 (a) Area: Two acres.
26

27 (b) Width: Two hundred fifty feet.
28

29 (c) Depth: Two hundred fifty feet.
30

31 (d) Setback from all lot lines: One hundred feet.
32
33

34 (H) Farm Stands:
35

36 (1) The structures are designed and used for the sale of farm crops and livestock
37 grown on farms in the local agricultural area, including the sale of retail
38 incidental items, if the sales of the incidental items make up no more than 25
39 percent of the total sales of the farm stand; and
40

41 (2) The farm stand does not include structures designed for occupancy as a
42 residence or for activities other than the sale of farm crops and livestock and
43 does not include structures for banquets, public gatherings or public
44 entertainment.
45

1 (I) On-site filming and activities accessory to on-site filming may be conducted in any
2 area zoned for exclusive farm use if the activity would involve no more than 45 days
3 on any site within any one-year period or does not involve erection of sets that would
4 remain in place for longer than any 45-day period. On-site filming and activities
5 accessory to on-site filming may be conducted to include office administrative
6 functions such as payroll and scheduling, and the use of campers, truck trailers or
7 similar temporary facilities. Temporary facilities may be used as temporary housing
8 for security personnel. "On-site filming and activities accessory to on-site filming"
9 includes: filming and site preparation, construction of sets, staging, makeup and
10 support services customarily provided for on-site filming and production of
11 advertisements, documentaries, feature film, television services and other film
12 productions that rely on the rural qualities of an exclusive farm use zone in more
13 than an incidental way. On-site filming and activities accessory to on-site filming"
14 does not include: facilities for marketing, editing and other such activities that are
15 allowed only as a home occupation or construction of new structures that requires a
16 building permit.

17
18 (J) A winery, as described in ORS 215.452.

19
20 11.15.2012 Conditional Uses

21
22 The following uses may be permitted when approved by the Hearings Officer pursuant
23 to the provisions of MCC 11.15.7105 through .7135.

24
25 (A) Commercial activities that are in conjunction with a farm use.

26
27 (B) Operations conducted for:

28
29 (1) Mining and processing of geothermal resources as defined by ORS 522.005
30 and oil and gas as defined by ORS 520.005 not otherwise permitted under this
31 section; and

32
33 (2) Mining, crushing or stockpiling of aggregate and other mineral and other
34 subsurface resources subject to ORS 215.298.

35
36 (C) Residential home as defined in ORS 197.660, in existing dwellings.

37
38 (D) Private parks, playgrounds, hunting and fishing preserves, campgrounds and, parks,
39 playgrounds or community centers owned and operated by a nonprofit community
40 organization. Existing facilities wholly within an EFU district may be maintained,
41 enhanced or expanded. New facilities may be allowed but not on high value lands.
42 Campgrounds authorized by this provision shall not include intensively developed
43 recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

44
45 (E) Parks, playgrounds or community centers owned and operated by a governmental
46 agency.

47

1 (F) Home occupation as provided for in ORS 215.448 and provided: that there is no
2 outside advertising or display of merchandise, that no sale of merchandise is made
3 from the premise, and that no noise, odor, smoke, gases, fallout, vibration, heat or
4 glare resulting from the activity is dectable at any property line. A home occupation
5 located on high-value farmland may employ only residents of the home.
6

7 (G) A facility for the primary processing of forest products, provided that such facility
8 and is compatible with farm uses described in ORS 215.203 (2). Such a facility may
9 be approved for a one-year period which is renewable. These facilities are intended
10 to be only portable or temporary in nature. The primary processing of a forest
11 product, as used in this section, means the use of a portable chipper or stud mill or
12 other similar methods of initial treatment of a forest product in order to enable its
13 shipment to market. Forest products, as used in this section, means timber grown
14 upon a parcel of land or contiguous land where the primary processing facility is
15 located.
16

17 (H) One manufactured dwelling in conjunction with an existing dwelling as a temporary
18 use for the term of a hardship suffered by the existing resident or a relative of the
19 resident. A manufactured dwelling allowed under this provision is a temporary use
20 for the term of the hardship suffered by the existing resident or relative as defined in
21 ORS Chapter 215. The manufactured dwelling shall use the same subsurface sewage
22 disposal system used by the existing dwelling, if that disposal system is adequate to
23 accommodate the additional dwelling. If the manufactured home will use a public
24 sanitary sewer system, such condition will not be required. Governing bodies shall
25 review the permit authorizing such manufactured homes every two years. When the
26 hardships end, the governing bodies or their designate shall require the removal of
27 such manufactured homes. Oregon Department of Environmental Quality review and
28 removal requirements also apply. As used in this subsection "hardship" means a
29 medical hardship or hardship for the care of an aged or infirm person or persons.
30

31 (I) Transmission towers over 200 feet in height subject to the requirements of MCC
32 .7035 through MCC 7040.
33

34 (J) Dog kennels not described section MCC 11.15.2010(G) of this District. Existing
35 facilities wholly within an EFU district may be maintained, enhanced or expanded,
36 subject to other requirements of law. New facilities may be allowed on non-high-
37 value lands but not on high-value lands.
38

39 (K) The propagation, cultivation, maintenance and harvesting of aquatic species.
40

41 (L) Reconstruction or modification of public roads and highways involving the removal
42 or displacement of buildings but not resulting in the creation of new land parcels.
43

44 (M) Improvement of public road and highway related facilities, such as maintenance
45 yards, weigh stations and rest areas, where additional property or right of way is
46 required but not resulting in the creation of new land parcels.
47

48 (N) Parking log trucks in exclusive farm use zones. No more than seven log trucks shall
49 be allowed.

1
2 **(O)** A single family lot or parcel of record dwelling may be allowed under this section
3 on land identified as high-value farmland when the requirements below are met.
4 MCC 11.15.7120 Conditional Use Approval Criteria does not apply.

- 5
6 **(1)** The lot or parcel meets the requirements of 11.15.2010(E)(1) through
7 2010(E)(8); and
8
9 **(2)** The lot or parcel cannot practicably be managed for farm use by itself or in
10 conjunction with other land due to extraordinary circumstances inherent in the
11 land or its physical setting that do not apply generally to other land in the
12 vicinity; and
13
14 **(3)** The dwelling will not:
15
16 (a) force a significant change in accepted farm or forest practices on
17 surrounding lands devoted to farm or forest; or
18
19 (b) significantly increase the cost of accepted farm or forest practices on
20 surrounding lands devoted to farm or forest use; and
21
22 **(4)** The dwelling will not materially alter the stability of the overall land use
23 pattern of the area.
24

25 **(P)** A single family lot or parcel of record dwelling may be allowed under this section
26 on land identified as high-value farmland when the requirements below are met.
27 MCC 11.15.7120 Conditional Use Approval Criteria does not apply.

- 28
29 **(1)** The lot or parcel meets the requirements of 11.15.2010(E)(1) through
30 2010(E)(8); and
31
32 **(2)** The tract on which the dwelling will be sited is:
33
34 (a) Not composed predominately of irrigated or non-irrigated soils classified
35 prime, unique, Class I or Class II; and
36
37 (b) Is less than twenty-one acres in size; and
38
39 (c) The tract is bordered on at least 67% of its perimeter by tracts that are
40 smaller than 21 acres, and at least two such tracts had dwellings on January
41 1, 1993; or
42
43 **(d)** The tract is bordered on at least 25% of its perimeter by tracts that are
44 smaller than 21 acres, and at least four dwellings existed on January 1, 1993,
45 within one-quarter mile of the center of the subject tract. Up to two of the
46 four dwellings may lie within an urban growth boundary, but only if the
47 subject tract abuts an urban growth boundary.

1
2
3 11.15.2014 Accessory Uses
4

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

- 7
8 (A) Structures such as garages, carports, studios, pergolas, private workshops, barns,
9 loafing sheds, storage buildings, greenhouses or similar structures, whether attached
10 or detached, when in accordance with the yard requirements of this district;
11
12 (B) Structures or fenced runs for the shelter or confinement of poultry or livestock;
13
14 (C) Signs, pursuant to the provisions of MCC 11.15.7902 through .7982;
15
16 (D) Off-street parking and loading pursuant to MCC 11.15.6100 through .6148.
17

18
19 11.15.2016 Dimensional Requirements
20

21 (A) Except as provided in MCC 11.15.2018, the minimum size for new parcels shall be
22 80 acres in the EFU district.

23
24 (B) That portion of a street which would accrue to an adjacent lot if the street were
25 vacated shall be included in calculating the size of such lot.
26

27 (C) Minimum Yard Dimensions - Feet

28
29
30
31

Front	Side	Street Side	Rear
30	10	30	30

32
33 Maximum Structure Height – 35 feet

34
35 Minimum Front Lot Line Length – 50 feet.
36

37
38 (D) The minimum yard requirement shall be increased where the yard abuts a street
39 having insufficient right-of-way width to serve the area. The Planning Commission
40 shall determine the necessary right-of-way widths and additional yard requirements
41 not otherwise established by Ordinance.
42

43 (E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures
44 may exceed the height requirement if located at least 30 feet from any property line.
45

46 11.15.2017 Property Line Adjustment
47

48 (A) The Planning Director may approve an adjustment of the common lot line between
49 contiguous legal lots based on a finding that:

- 50
51 (1) All dwellings that were situated on the same lot prior to the adjustments must
52 remain together on the reconfigured lot; and
53

- 1 (2) Dimensional requirements of MCC .2016(A) and (C) are met; or
2
3 (3) The reconfigured lot areas will each retain the same lot area that existed prior
4 to the exchange.
5
6 (4) The decision of the Planning Director may be appealed to the approval
7 authority pursuant to MCC .8290 and .8295.
8
9

10 11.15.2018 Lot, Parcel and Tract Requirement.
11

12
13 (A) The lot, Parcel and Tract requirement shall be applied to all uses in this district
14 except for Single Family Lot or Parcel of Record Dwellings approved under the
15 following sections: MCC 11.15.2010(E), MCC 11.15.2012(O) and 11.15.2012(P).
16 For the purposes of this district, a lot, parcel or tract is defined as:
17

18 (1) A lot or parcel of land:

- 19
20 (a) For which a deed or other instrument creating the parcel was recorded with
21 the Department of Environmental Services or its predecessors; and
22
23 (b) Which satisfied all applicable laws, including but not limited to land
24 divisions and zoning ordinance, when the parcel was created; and
25
26 (c) Which satisfies the minimum lot size requirements of MCC .2016, or
27

28 (2) A lot or parcel of land:

- 29
30 (a) For which a deed or other instrument creating the parcel was recorded with
31 the Department of General Services, or was in recordable form prior to
32 February 20, 1990; and
33
34 (b) Which satisfied all applicable laws, including but not limited to land
35 divisions and zoning ordinance, when the parcel was created; and
36
37 (c) Does not meet the minimum lot size requirements of MCC .2016; and
38
39 (d) Which was not contiguous to another substandard parcel or parcels under
40 the same ownership on or after February 20, 1990, or
41

42 (3) A Tract land:

- 43
44 (a) For which deeds or other instruments creating the parcels were recorded
45 with the Department of General Services, or were in recordable form prior
46 to February 20, 1990; and
47
48 (b) Which satisfied all applicable laws, including but not limited to land
49 divisions and zoning ordinance, when the lots or parcels were created; and
50
51 (c) Which were held under the same ownership on or after February 20, 1990;
52 and
53
54 (d) Which individually do not meet the minimum lot or Parcel size
55 requirements of MCC .2016, but, when considered in combination:

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- (1) One legal lot or Parcel shall comply nearly as nearly as possible with a minimum area of nineteen acres, without creating any new lot line; or
- (2) More than one legal lot or parcel, each property must comply with the minimum area of nineteen acres, without creating any new property line.

(B) For the purposes of this subsection:

- (1) "Substandard Lot or Parcel" refers to a parcel which does not satisfy the minimum lot size requirements of MCC .2016; and
- (2) "Same Ownership" refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control of an entity having such ownership or control.

(C) A lot, parcel or tract which satisfies the applicable requirements of MCC 2018 and front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.

11.15.2020 Exceptions to Lot Size for Specific Uses

(A) Lots less than the minimum lot size specified in MCC .2016(A) may be created for uses listed in MCC .2010(A) and MCC 2012(E) based upon:

- (1) The site size needs of the proposed use;
- (2) The nature of the proposed use in relation to its impact on nearby properties; and
- (3) Consideration of the purposes of this district.

(B) Except as otherwise provided by MCC .2018, no sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

11.15.2026 Access

Any lot in this district shall abut a street, or shall have other access determined by the Hearings Officer to be safe and convenient for pedestrians and for passenger and emergency vehicles.

11.15.2032 Permit Expiration

1 All administrative and action proceedings involving discretionary decisions for which
2 applications and fees have been collected, except land divisions and uses listed in
3 MCC .2012, shall expire two years from the date of the Planning Director's or
4 Hearing's Officer's decision in the matter or two years from the date of final
5 resolution of subsequent appeals, unless:

6 (A) The project is completed as approved; or

7 (B) A building permit has been obtained and is continuing to be kept valid under the
8 permit regulations of the applicable government issuer until completion of the
9 construction, or

10 (C) The Planning Director determines that substantial construction or development has
11 taken place. That determination shall be processed as follows:

12 (1) Application shall be made on appropriate forms and filed with the Director at
13 least 30 days prior to the expiration date.

14 (2) The Director shall issue a written decision on the application within 20 days of
15 filing. That decision shall be based on findings that:

16 (a) Final Design Review approval has been granted under MCC .7845 on the
17 total project, if applicable; and

18 (b) At least ten percent of the dollar cost of the total project value has been
19 expended for construction or development authorized under a sanitation,
20 building or other development permit. Project value shall be as
21 determined by MCC .9025(A) or .9027(A).

22 (3) Notice of the Planning Director shall be mailed to all parties as defined in
23 MCC .8225.

24 (4) The decision of the Planner Director shall become final at the close of
25 business on the tenth day following mailed notice unless a party files a written
26 notice of appeal. Such notice of appeal and the decision shall be subject to the
27 provisions of MCC .8290 and 8295.

28 (D) Uses listed in MCC 2012 shall expire two years from the date of issuance of the
29 Board Order in the matter, or two years from the date of final resolution of
30 subsequent appeals, unless one of the conditions of .7110(c) are met.

31
32
33
34 (B) Amend MCC 11.15.7020(A), MCC 11.15.7120 and delete MCC11.15.7122

35 as follows:

36 **11.15.7020 Uses**

37
38 (A) Except as otherwise provided in MCC 11.15.2008 through .2012 and MCC
39 11.15.2048 through .2050, the following Community Service Uses and those of a
40 similar nature, may be permitted in any district when approved at a public hearing
41 by the approval authority.
42

1 **11.15.7120 Conditional Use Approval Criteria**

2
3 (A) A Conditional Use shall be governed by the approval criteria listed in the district
4 under which the conditional use is allowed. If no such criteria are provided, the
5 approval criteria listed in this section shall apply. In approving a Conditional Use
6 listed in this section, the approval authority shall find that the proposal:

- 7
8 (1) Is consistent with the character of the area;
9
10 (2) Will not adversely affect natural resources;
11
12 (3) Will not conflict with farm or forest uses in the area:
13
14 (a) Will not force a significant change in accepted farm or forest practices on
15 surrounding lands devoted to farm or forest use; and
16
17 (b) Will not significantly increase the cost of accepted farm or forest practices
18 on surrounding lands devoted to farm or forest use.
19
20 (4) Will not require public services other than those existing or programmed for
21 the area;
22
23 (5) Will be located outside a big game winter habitat area as defined by the
24 Oregon Department of Fish and Wildlife or that agency has certified that the
25 impacts will be acceptable;
26
27 (6) Will not create hazardous conditions; and
28
29 (7) Will satisfy the applicable policies of the Comprehensive Plan.

30
31 (B) Except for off-site stockpiling, subpart (A) of this subsection shall not apply to
32 applications for mineral extraction and processing activities. Proposals for mineral
33 extraction and processing shall satisfy the criteria of MCC .7325.
34
35

36 ~~11.15.7122 Exclusive Farm Use Conditional Use Approval Criteria~~

37 ~~(A) In addition to the criteria of MCC .7120, an applicant for a Conditional Use listed~~
38 ~~in MCC .2012(B) must demonstrate that the use:~~

- 39
40 ~~(1) Will not force a significant change in accepted farm or forest practices on~~
41 ~~surrounding lands devoted to farm or forest use; and~~
42
43 ~~(2) Will not significantly increase the cost of accepted farm or forest practices on~~
44 ~~surrounding lands devoted to farm or forest use.~~

45
46 ~~(B) For the purposes of this subsection surrounding lands devoted to farm or~~
47 ~~forest use shall not include:~~
48

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

2
3 ~~(2) Exception areas; or~~

4
5 ~~(3) Lands within the Urban Growth Boundary.~~

6
7 ~~(C) Any conditions placed on a conditional use approved under this subsection shall be~~
8 ~~clear and objective.~~

9
10
11
12 ADOPTED this 6th day of March, 1997, being the date of its second reading
13 before the Board of County Commissioners of Multnomah County, Oregon.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Beverly Stein, Chair

REVIEWED:

22
23 SANDRA N. DUFFY, ACTING COUNTY COUNSEL
24 FOR MULTNOMAH COUNTY, OREGON

25
26
27 By 
28 Sandra N. Duffy, Acting County Counsel

Meeting Date: MAR 06 1997

Agenda No: R-4

ESTIMATED STARTING TIME 9:45 am

(Above space for Board Clerk's Office Use ONLY)

AGENDA PLACEMENT FORM

Subject: Transfer of services for people with disabilities from State to Aging Services Department

BOARD BRIEFING Date Requested:
Requested by:
Amount of time:

REGULAR MEETING Date Requested: March 6, 1997
Amount of time: 60 minutes

DEPARTMENT: Aging Services

DIVISION: Aging Services

CONTACT: Caroline Sullivan/Kathy Gillette

TELEPHONE: 248-3620

BLDG/RM #: 161/3rd floor

PERSON(S) MAKING PRESENTATION: Jim McConnell
Chris Reisner, Chair, Multnomah County Disability Services Advisory Council
Laurie Sitton, Chair, City/County Advisory Committee on the Disabled

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUGGESTED AGENDA TITLE

Resolution accepting Implementation Plan: Transfer of Services for People with Disabilities.

360/97 copies to CAROLINE SULLIVAN

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: _____

James M. Connell

BOARD OF
COUNTY COMMISSIONERS
97 FEB 27 PM 2:40
MULTNOMAH COUNTY
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277 or 248-5222

#1

PLEASE PRINT LEGIBLY!

MEETING DATE 3-6-97

NAME Christopher Reiser

ADDRESS 2600 N. Williams

STREET

Portland OR 97227

CITY ZIP

I WISH TO SPEAK ON AGENDA ITEM NO. R4

SUPPORT X OPPOSE _____

SUBMIT TO BOARD CLERK _____

#2

PLEASE PRINT LEGIBLY!

MEETING DATE 3-6-97

NAME Laurie Sitton

ADDRESS 2600 N Williams

STREET

Portland OR 97227

CITY ZIP

I WISH TO SPEAK ON AGENDA ITEM NO. R4

SUPPORT X OPPOSE _____

SUBMIT TO BOARD CLERK _____

#3

PLEASE PRINT LEGIBLY!

NO-565 MEETING DATE 3/6/97

NAME Rob Nosse OPEU

ADDRESS 1712 SE 47th Ave.

STREET

Portland 97215

CITY ZIP

Multinomial transfer

I WISH TO SPEAK ON AGENDA ITEM NO. R4

SUPPORT _____ OPPOSE X

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MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION
AREA AGENCY ON AGING
421 S.W. 5TH, 3RD FLOOR
PORTLAND, OREGON 97204
SENIOR HELPLINE: (503) 248-3646 ADMINISTRATION: 248-3620
TDD: 248-3683 FAX: 248-3656

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Beverly Stein, Board Chair

FROM: Jim McConnell, Director *Jm=6*

DATE: February 21, 1997

SUBJECT: Implementation Plan: Transfer of Services for People with Disabilities

I. Recommendation: The Aging Services Department recommends that Board of County Commissioners approve the attached Implementation Plan: Transfer of Services for People with Disabilities.

II. Analysis/Background: Resolution 96-111, June 27, 1996, accepts the recommendations of the Feasibility Committee to transfer the administration of services for persons with disabilities from the State Senior and Disabled Services Division to Multnomah County Aging Services Department.

The resolution further provided that staff continue planning efforts and return to the Board with an implementation plan to be approved by the Board prior to entering into an intergovernmental agreement with the State of Oregon. This plan is attached.

Management and staff of both State and County agencies have conducted an extensive planning effort over the past eight months to develop the implementation plan. Advocates have been part of all planning work groups and at all levels of planning.

The implementation plan proposes to enhance access services, coordination, and advocacy for people with disabilities. Services for seniors will not be compromised or reduced as a result of improving services for people with disabilities.

III. Fiscal Impact: Funding of the program is through the Federal Medicaid Program, allocated by the State Senior and Disabled Services Division, Department of Human Resources.

The implementation plan is designed to be budget-neutral. Staff transferring from the State will be placed in comparable job classifications at comparable pay in the County.

Funds will be budgeted in the estimated amount of \$7 million in the FY 1998 Aging Services Department County Budget. The implementation plan projects funds from the Senior and Disabled Services Division in the amount of \$14,194,551 for the 1998-2000 Biennium.

IV. Legal Issues: Oregon Law allows SDSD to delegate services for persons with disabilities to Area Agencies on Aging within local government. For Multnomah County, the Area Agency on Aging is a joint designation of Multnomah County and the City of Portland, with the Aging Services Department the administrative unit.

V. Controversial Issues: NA

VI. Link to Current County Policies: See "Legal issues" above. The transfer would enhance services to consumers by (1) coordination and pooling of resources now used for elderly only to cover disabled people as well, e.g. Information and Referral, 24 Hour Access; and (2) improvement of linkages with other County Departments to leading to improved access and service delivery, e.g. Developmental Disabilities and Behavioral (Mental) Health. Substantial citizen involvement would be maintained.

Both Federal and State government prefer that Medicaid programs be operated as a smooth continuum of services rather than be fragmented by age.

VII. Citizen Participation: Over 100 people participated in the planning process, of which at least 50% were advocates. Advocates served on each of the 6 committees developing different parts of the Implementation Plan. Advocate groups involved are The Disability Services Advisory Council, the City-County Advisory Committee on Disabilities, and the Portland Multnomah commission on Aging.

VIII Other Government Participation: County Labor Relations staff, County Department of Community and Family Services and representatives from the State Senior and Disabled Services Division participated in the planning process.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Resolution accepting the implementation)
plan to transfer Services for People) RESOLUTION
with Disabilities from State to) 97-35
County Administration)

WHEREAS, the State of Oregon, Department of Human Resources, Senior and Disabled Services Division agrees that the transfer of Multnomah County District and Branch Disability Services Offices from STATE to COUNTY administration is consistent with state policy contained in ORS410.101 "to encourage and emphasize local control to achieve the most effective blend of state and local authority, and

WHEREAS, Multnomah County Board of Commissioners accepted an initial planning document "Transfer of Services for People with Disabilities" and asked that staff continue planning efforts and develop an implementation plan, through Resolution 96-111, June 27, 1996, and

WHEREAS the Aging Services Department has completed an Implementation Plan to transfer Disability Services Offices from State to County Administration, based on an extensive planning process involving staff and advocates representing all the involved agencies, persons with disabilities and older persons, and

WHEREAS, the Disability Services Advisory Council, the City-County Advisory Committee on the Disabled, and the Portland/Multnomah Commission on Aging, on behalf of persons with disabilities and older residents of Multnomah County, have approved the implementation plan to transfer Disability Services Offices from State to County Administration.

THEREFORE IT IS RESOLVED that the Multnomah County Board of Commissioners approve the Implementation Plan to Transfer Services for People with Disabilities, attached as Exhibit A, and

IT IS FURTHER RESOLVED that the Multnomah County Board of Commissioners agree to enter into an intergovernmental agreement with State Department of Human Resources, Senior and Disabled Services Division, to transfer the Multnomah County District and Branch Disability Services Offices from State to County administration effective July 1, 1997.

APPROVED this 6th day of March, 1997



MULTNOMAH COUNTY OREGON

By Beverly Stein
Beverly Stein
Multnomah County Chair

REVIEWED
LAURENCE KRESSEL, COUNTY COUNSEL
for MULTNOMAH COUNTY, OREGON

By Katie Gaetjens
Katie Gaetjens
Assistant County Counsel

MULTNOMAH COUNTY AGING SERVICES DEPARTMENT

**TRANSFER OF SERVICES
FOR PEOPLE WITH DISABILITIES**

IMPLEMENTATION PLAN

February 20, 1997

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TRANSFER OF SERVICES FOR PEOPLE WITH DISABILITIES

IMPLEMENTATION PLAN February 20, 1997

SUMMARY

In Multnomah County, long term care services for seniors and for people with disabilities are currently operated separately. Multnomah County Aging Services Department (ASD) administers services for seniors, while the State Senior and Disabled Services Division (SDSD) maintains local offices to serve people with disabilities who are under age 65. Other County departments administer health, mental health, developmental disabilities, and alcohol and drug services which also serve people with disabilities.

ASD proposes that Disability Services be transferred from State-only administration, to a partnership between the State and the County. SDSD would continue to provide policy, client services payment, and administrative and case management funding, as it provides for aging services programs. Multnomah County would administer Disability Services locally, and have the opportunity to develop and enhance services for people with disabilities.

The transfer of program management to designated local government Area Agencies on Aging is supported by Oregon law. Both Federal and State government prefer that Medicaid programs be operated as a smooth continuum of services rather than be fragmented by age.

A Feasibility Study was conducted in early 1996 to determine whether a transfer of Disability Services to County management was desirable and feasible. An Advisory Committee determined that services for people with disabilities would be enhanced, service coordination and advocacy would be improved, and that staff would be treated fairly in the transfer process. The Disability Services Advisory Council, City-County Advisory Committee on Disabilities, and Portland Multnomah Commission on Aging all recommended in May of 1996 that the transfer be approved. The Board of County Commissioners authorized continued planning.

In this Implementation Plan, ASD proposes to enhance access services, coordination, and advocacy for people with disabilities. Services for seniors will not be compromised or reduced as a result of improving services for people with disabilities.

Three programs which assist seniors to gain access to needed services will be expanded to also serve people with disabilities: ASD's central information and referral program, the Senior Helpline; the Gatekeeper program which trains community workers to recognize and refer people who may be in need of assistance; and the 24-Hour Access program which provides assistance when there are urgent consumer needs after regular business hours.

Work is continuing to develop Co-Management Agreements to coordinate services among County aging and disability services, developmental disability, alcohol and drug, and mental health services. The value of expanding ASD's Multi-Disciplinary Teams to also serve people

with disabilities is being explored. Teams of ASD and DSO staff who perform similar functions will be meeting to coordinate and enhance their areas of service.

The physical transition has been designed to minimize change. The same four offices, vehicles, and equipment will continue to be used by transferred Disability Services staff. No staff from either ASD or DSO would lose employment because of the transfer, all regular DSO staff would be transferred to County positions, staff would not lose in salary due to the transfer, and all benefits available to Multnomah County staff would be available to the transferring staff. A budget has been developed which balances ASD costs to operate the Disability Services program with available State revenue.

Due to Measure 47, ASD will be required to make cuts in its County funds. Because ASD is funded heavily by State and Federal funds, cuts would be about 3% of ASD's budget. No cuts are proposed for the long term care program, which is federal/state funded.

ASD believes that the reasons for supporting the proposed transfer to County administration are still valid and important, and that the transfer should occur.

1. Enhancements of services for people with disabilities will still occur through a variety of means, although probably at a slower rate than without Measure 47.

2. There will be no effect on current services for DSO clients due to a transfer.

3. State funding balances with County costs for the disability services case management program. Locally managed programs have more flexibility in spending funds.

4. Advocacy for services for people with disabilities, to all levels of government, will be more consistent and vigorous in a County managed program. Combined advocacy with senior programs provides a larger base of interest in issues affecting both seniors and people with disabilities, and is critical for maintaining quality long term care programs.

5. If there are major changes to the Medicaid program, particularly if long term care is incorporated into managed care systems, a locally-administered, combined Aging and Disability program can best plan and manage the changes and protect vulnerable client groups.

I. PURPOSE OF THE PROPOSED TRANSFER

Multnomah County is dedicated to enhancing full participation by its citizens in community life. The County achieves this by: providing integrated services systems that are easily accessible, client oriented, and enhance the individuality and independence of each client; providing quality programs; and soliciting citizen and consumer participation to plan and provide quality services.

In 1985, services for seniors were transferred from State to County management. This locally managed service system is now highly coordinated with other local aging service programs, and delivers an enhanced package of quality services for area seniors. Multnomah County's Aging Services system is recognized nationally as a model program.

The County's Aging Services Department (ASD) has proposed a similar transfer to the County of the State's Disability Services Offices (DSO). ASD believes that locating the Disability Services program in local government would: improve advocacy; enhance program development; encourage quality and innovation in customer service and service delivery; and improve partnership among local government, providers, and consumers.

II. DISABILITY SERVICES POPULATION AND PROGRAMS

The Multnomah Disability Services Offices serve about 12,500 Multnomah County residents through Medicaid programs. Most people are age 18 to 64, and receive financial assistance, food stamps, or participation in the Oregon Health Plan. About 1,600 of these individuals also need assistance with activities of daily living, and receive long term care services. About 800 are supported to live independently at home, 550 in community residences, and 250 in nursing facilities. Several hundred severely disabled SSI recipient children are served in nursing homes and community care.

Disability Service Offices Clients

250 NF	550 Comm. Resid.	800 At Home	10,900 financial and medical assistance or food stamps
1,600 Long Term Care clients			12,500 total clients

The types of disabilities which cause an individual to seek assistance from the DSO vary widely. About 2,000 DSO financial assistance clients are adults with developmental disabilities who receive services through the County's Department of Community and Family Services. DSO staff estimate that about 4,000 of their clients receive or have a need for service from the County's Mental Health contractors. Clients receiving long term care services include people with AIDS and other terminal diseases, early Alzheimer's disease, traumatic brain injuries, ventilator dependency, and a variety of severe physical impairments, often coupled with mental illness and/or behavior problems.

Multnomah DSOs also serve about 750 individuals through the General Assistance program, which provides cash assistance while the individual's application for Supplemental Security Income is being processed by the Social Security Administration. This is about half of the General Assistance clients in the state.

The Disability Services Office Staff provide a range of services for adults with disabilities, similar to those provided for senior clients by ASD branch staff. They use the same financial eligibility criteria and forms, the same activities of daily living assessment process and forms, are connected to the State Senior and Disabled Services Division computer authorization system, plan services with maximum independence for clients as the central objective, and provide protective services for vulnerable adults age 18 to 64.

Multnomah Disability Services Offices receive citizen input from the Multnomah Disability Services Advisory Council (DSAC), with a twelve member group, all of whom have personal and/or professional experience with disabilities.

Disability Services Offices are located in four geographic locations: West, Southeast, North and East. All four locations are proposed to be retained. The 137 DSO staff will continue to work at their current locations; three regional staff will move to ASD Central Office. Office leases, equipment and computer systems will be transferred.

III. FEASIBILITY OF THE TRANSFER

Multnomah County Aging Services Department has proposed to transfer Disability Services to County operation on July 1, 1997.

Oregon Law supports such a transfer, allowing services to be delegated to Area Agencies on Aging operated within local government. Local planning was conducted in 1990, and again in 1992, to review whether services for adults with disabilities should be operated by Multnomah County; both reviews found that such a transfer would be beneficial for client services, but a transfer was postponed due to lack of funding from the state.

ASD convened a Feasibility Study Advisory Committee in early 1996, formed of aging and disability advocates, and State and County staff, to evaluate the proposed transfer. The Advisory Committee met from January to April, developed criteria, assumptions and policies, findings, and recommendations. Their Feasibility Report was reviewed by the Disability Services Advisory Committee, the Portland Multnomah Commission on Aging, and at two public hearings, prior to being finalized. The Report was presented to the Board of County Commissioners in June of 1996.

The Feasibility Study Advisory Committee found, if the programs were transferred as proposed, that:

- Disability Services mission would be enhanced;
- the DSAC's advocacy efforts would be strengthened and enhanced;
- current client services would be retained, and service coordination would improve;
- new services would likely be added over time;
- the proposed organizational structure would maintain separate specialized case management (the preferred model);
- positions would be available for all transferring staff; and
- work was underway to project balanced costs and revenue.

The Advisory Committee therefore recommended that:

- its Assumptions and Policies be adhered to;
 - more work be done to improve comparability of the benefits package for transferring staff;
 - revenue sufficient to operate the program be negotiated;
 - a detailed implementation plan be developed and reviewed with both advisory councils;
- and
- enhanced advocacy activities begin in the current year.

On June 27, 1996, the Multnomah Board of County Commissioners accepted the report and recommendations on the proposed Disability Services Transfer from the Feasibility Study Advisory Committee. The Board referred the report to staff for further planning, with an Implementation Plan due to the Board by fall, 1996.

IV. IMPLEMENTATION PLANNING PROCESS

An Implementation Planning Process has been designed to address the questions posed by the Feasibility Study and Board of County Commissioners, and to support the process of transitioning staff smoothly and without disruption of services.

An Implementation Steering Committee was convened in September, with representatives of the advisory councils and staff of the two programs. The Steering Committee will continue meeting through September of 1997 to guide the overall process, coordinate committee work, obtain input from advocates and staff, make recommendations to ASD and the Board of County Commissioners, and monitor the transition.

A budget group has met over the past year to develop the proposed transfer budget, work with SDS D to develop the allocation, and advise working committees on resources. State and County personnel and labor relations staff, unions, staff and management have reviewed the proposed staff classification allocations and benefits package, and identified key issues for resolution and action.

Working committees, with members from both staff groups and advocates, are: developing new services for DSO clients; developing co-management agreements among disabilities, aging, developmental disabilities, alcohol and drug, and mental health programs; and planning and overseeing the physical transition.

Coordinating Committees, beginning in the spring, will: develop a new combined agency mission statement, coordinate ASD and DSO services, and develop community relations plans for the transfer. After the transfer, a committee will help resolve any unexpected coordination issues.

The Portland Multnomah Commission on Aging (PMCOA), Multnomah Disability Services Advisory Council (DSAC), and City County Advisory Committee on the Disabled (CCACD) have reviewed and will continue to advise on the Implementation Plan and other key decisions.

A monthly Update Newsletter is provided to staff and advocates of both systems. DSO management staff now participate in key ASD training and planning activities, and joint quarterly meetings of ASD and DSO managers have begun.

If the transfer is accepted by the Board, this report, including the Budget Plan and Implementation Transition Plan, will be forwarded to SDS D for approval. SDS D and Multnomah County would sign an Intergovernmental Agreement which would govern the transfer process.

The Program Improvement Plan will be expanded as additional committees complete their work. Program enhancements will be incorporated into the Multnomah Area Plan, which will be reviewed by PMCOA and DSAC, taken to public hearings, approved by the Board of County Commissioners, and submitted to the State SDS D each year. The annual contract with SDS D based on the Area Plan would incorporate the staff and funding for Disability Services.

V. PROGRAM IMPROVEMENT PLAN

Program Improvement for people with disabilities will be implemented through three avenues: implementation of new services for persons with disabilities, improved coordination of disability services with other County programs, and enhanced coordination with ASD senior service offices. Some enhancement of service will occur as of the date of the transfer, and additional improvement is expected over time. There will be no loss of services to seniors as a result of this transfer.

A. Entry and Response System

The Feasibility Study participants identified enhanced access to services as a key need. ASD offers three services for area seniors which assist older persons to enter the aging services system when assistance is needed, and which respond to their needs. Information and Referral is provided through the Senior Helpline, a single number that people can call for information about aging services. The Gatekeeper Program trains community workers such as mail carriers to recognize and refer individuals who may need assistance. The 24-Hour Access program screens after-hours callers and, when there is an urgent need, an ASD representative is available to provide assistance.

All three programs receive some referrals for people under age 60. DSO staff and advocates have identified a need for similar services for the disabled population.

The Entry and Response Committee, comprised of ASD and DSO staff and advocates, has reviewed how these programs now operate and identified the type and level of service needed by the disabled population.

The Entry & Response Committee recommends unanimously that information & referral, outreach, and emergency services be enhanced for people with disabilities at the time of the transfer of the Disability Services Offices (DSO) to Multnomah County Aging Services Department (ASD). Consumers would benefit by the extension of three services that are currently available to assist seniors. Recommendations are:

- Information & Referral: Expand the Senior Helpline by offering the same type of central number to call for any information about services for people with disabilities;
- Outreach: Help community service workers recognize when a person with a disability might be in need of service by expanding the Gatekeeper program; and
- Emergency Response: Extend the 24 Hour Access program for seniors to also respond to urgent needs that occur for persons with disabilities after regular business hours.

These services can be expanded to also serve people with disabilities with available resources. It is expected that service levels would increase as the programs become better known, and that staffing levels would adjust in response.

See Appendix F.

B. Multi-Disciplinary Teams

Multi-Disciplinary Teams (MDT) include ASD staff, plus Health Department Community Health Nurses and Mental Health staff. The MDTs staff difficult cases, complete joint assessments, and assist ASD staff to develop suitable care plans, refer appropriately for services, or complete short-term interventions for some clients.

The MDT Committee has reviewed how the teams now function within ASD branches. The committee has collected information on the needs of the DSO client population, and is testing models of service for the specific needs of DSO consumers. The Committee's preferred model for multi-disciplinary support of Disability Services clients would consist of teams of a nurse and mental health counselor, with part-time support of a developmental disability worker and substance abuse counselor. The teams would attend staffings with DSO workers to review and develop a service strategy for clients with multiple or complex needs, and would also as needed be involved in developing care plans, client assessment and intervention, and consultation beyond these meetings.

The Committee is exploring options for staffing, and for phasing in multi-disciplinary services. This committee will also need to coordinate its recommendations with those of the Co-Management Agreement Committee prior to implementation planning.

C. Co-Management Agreements

The Co-Management Committee, comprised of staff and advocates from disabilities, aging, developmental disabilities, alcohol and drug, and mental health programs, was convened to develop and foster a more seamless system of services.

The goals for the Co-Management Committee were developed jointly by County Aging Services and Community and Family Services Departments leadership. The overarching goals for the committee are to:

Develop recommendations for a seamless system of services in Multnomah County between disability, aging, developmental disabilities, alcohol and drug, and mental health programs so that individuals who need or qualify for expertise or services of these programs are assisted to develop a workable plan within the program's rules. This includes: a) coordinating services for consumers with multiple needs by defining case management roles and procedures, b) reaching agreement between programs about each other's service for specific clients, and c) improving client services.

The Committee has developed a consumer-focused vision of the ideal, integrated service delivery system, and a list of five guiding principles for developing the agreements. They have developed specific agreements to define case management roles and procedures, resolve service issues, and improve client services. Their recommendations include how to provide staff training, resolve problems, and periodically review how the

agreement is working. The group will also obtain consumer and advocate input on the agreement prior to finalizing their work.

In the second phase of work, a smaller group will be convened to coordinate recommendations with the Multi-Disciplinary Team's recommendations, and plan for implementation of the Co-Management Agreements within the County human services structure.

See Appendix G.

D. Service Coordination

Additional committees of staff and advocates will be convened beginning in the spring to examine service coordination in three different areas. In each area, staff will review the procedures of both aging and disability programs, and determine whether it would be beneficial to coordinate or streamline services, or to make the two programs' procedures more similar. Specialized procedures will be continued when these suit the needs of each population.

One group will examine how ASD and the DSOs serve people applying for, or served in, nursing facilities; they will review and coordinate procedures for pre-admission screening, diversion and relocation, and ongoing nursing facility case management. A second committee will focus on protective services for vulnerable seniors and adults. A third group will examine recruitment, training, and development of service provider resources needed to serve ASD and DSO clients. After the transfer, a committee will examine services for the 60 to 64 age group. This group will also review whether any unanticipated coordination issues resulted from the transfer.

VI. IMPLEMENTATION TRANSITION PLAN

A. ADVOCACY

The DSAC has expanded its membership to include broader representation of disabilities, and has appointed members to serve through joint membership as liaisons between the DSAC and PMCOA, as well as CCACD. Joint ASD/DSO advocacy activities for the legislative session have been initiated. The ASD Director attends DSAC meetings and key disability conferences and meetings. Sensitivity training for new DSO staff and key ASD staff, including people with disabilities to help provide the training, has been conducted this year, and will continue to be scheduled as needed.

B. COMMUNITY AND CLIENT AWARENESS

Every DSO client will receive written notice of the transfer with monthly benefits notices, and branch staff will distribute flyers announcing the transfer and new phone numbers. Notice will be provided in an alternate format for clients who do not read. A new department name reflective of the expanded agency mission will be developed by spring.

A joint Mission committee of staff and advocates will meet to develop a new, combined agency mission statement.

A Community Relations Committee will be convened, and will develop plans for community and client awareness, with oversight from the Steering Committee. Community Relations will also plan announcement of the merger and new agency name, updating and developing brochures, and media relations.

C. STAFF TRANSITION

Plans have been completed and procedures developed to assure that the key staff protections for both DSO and ASD staff are implemented as planned. These include: no staff from either system will lose employment because of the transfer; all regular DSO staff working on the day before the transfer are projected to be transferred to the County; staff will not lose in salary due to the transfer; and all the benefits available to Multnomah County staff would be available to transferring staff.

With the uncertainty about local and state budgets and labor contract provisions for cost of living adjustments due to passage of Ballot Measure 47, additional steps are needed to assure that the planned procedures and timelines are appropriate in light of changing circumstances. Additional review by the Personnel Workgroup, which includes representatives of State and County Personnel, Labor Relations and Unions, and of DSO employees, will be conducted to assure fair treatment.

The proposed status of the current plans is listed below, for a projected transfer on July 1, 1997.

1. Staff Classification and Salary Placement

Multnomah County Employee Services has reviewed State classification specifications and job descriptions, and completed field audits of some jobs. The classifications as specified by Employee Services have been used in the proposed budget. It is expected that staff will be transferred into the positions specified by Employee Services. Further appeal would be available to transferred staff as County employees.

The process for initial salary placement of transferring staff is proposed by ASD to be: determine ending State salary as of 6/30/97; add 6% adjustment (as County employees are required to pay into PERS); and place the transferred employee on the next available (same or higher) County step as of 7/1/97, assuring that each employee receives at least the same increase as they would have received from approved COLA as State employees.

After transfer, each employee would be treated as a County employee, receiving step increases and COLA as provided to any other County employee.

2. Staff Benefits

State anniversary dates, seniority, sick leave, and vacation leave up to 80 hours, will all transfer. The State will cash out other eligible leave balances.

There will be no discontinuity of benefits. Since the County does not offer all the same health options as the State, some employees will need to change health providers. Staff who have paid toward health insurance deductibles will be credited by the County toward its deductible requirements with proof of payment. The County offers paid long term disability insurance for all employees; State staff who have been paying for this benefit will have waiting periods waived. The short term disability carrier has agreed to accept all individuals who have been paying for short-term disability without underwriting.

The County does not offer a cafeteria plan, and State employees who have received cash back from the cafeteria plan would not do so at the County. The County offers a plan for pre-tax contributions for health and child-care funds.

A training plan will be developed for transferring staff, and will include training on County and ASD procedures, County employee and RESULTS training, and enhanced access to professional development. Staff will be able to participate in County health promotion and employee assistance programs.

3. Process

Multnomah County Employee Relations will issue individual salary placement decisions after an agreement has been signed with the State and procedures finalized. Employee Relations staff will visit each office in early spring, to answer staff questions about

placement and benefits. Individual problem solving may occur as needed. During May or June, another visit will allow staff to enroll for benefits.

The transfer of staff employment would occur as of July 1, 1997.

D. PHYSICAL TRANSITION

All DSO offices will remain in the same physical locations; leases will be transferred from the State to the County. New signs will be installed for office identity.

Regional DSO staff and ASD business services staff have met with County Fleet and Distribution services, and with Telecommunications and Facilities Management who have also inspected each office. The budget and transition plans include input from these departments. The State SDSD facilities manager has assisted with this process.

Staff will retain the same computer and telephone hardware, leased office equipment, and contracted services. All office phone and fax numbers will change, and adequate notice will be provided to clients and regular callers; a recorded message on the old phone number (including TTY lines) will refer callers to the new number after the transfer.

DSO's will continue to use State Motor Pool vehicles. The annual lease cost is lower cost than for comparable County leases, and there is no requirement for up-front purchase of the first vehicle.

The Transition Committee has reviewed the proposed Materials and Services portion of the budget, which they found to adequately reflect the costs of operating the Disability Services program in all but one area, technology support.

The DSOs currently rely on SDSD-provided computer hardware, software and support. SDSD recognizes that this support remains its responsibility for the statewide computer system network which both State and County offices are required to use. SDSD support is expected to include providing funding for future required systems upgrades (as occurred in 1995, when SDSD provided funds to ASD to upgrade computers and place a PC on each caseworker's desk). DSO staff now use telephone support from the State Office of Information Systems (OIS) in Salem. OIS support would continue to be available; SDSD will be requested to confirm this in the agreement.

However, SDSD and ASD also recognize that this system of support may not be ideal, and that additional on-site support would be beneficial. No specialized programming help is offered by SDSD to the DSOs. Some hardware is being upgraded this year and there may be some further upgrades that are desirable. New costs such as County computer "tax" have not been budgeted.

The Transition Committee, staffed by the DSO regional staff and ASD business services staff, and including representatives from each DSO, will plan and oversee transition of all the physical systems, and training of DSO staff on County business procedures.

E. EVALUATION

The Steering Committee will monitor that the Assumptions and Policies are adhered to throughout the planning process. Committees will be asked to report on the implementation status of their work areas, and the Steering Committee will conduct a Process Evaluation by September 1997 to identify any areas where the transition was not smooth, or which need immediate attention.

The Steering Committee will also plan for a limited Outcome Evaluation to be conducted within a year after the transfer to determine whether access, services and advocacy have been enhanced.

Overall monitoring of the success of the transfer will also be conducted by the advisory councils, which have an essential role in overseeing the quality of services. Staff will provide regular progress reports to the DSAC and to PMCOA. Both the Implementation Plan and the Area Plan will be reviewed by the DSAC and PMCOA, and approved by the Multnomah Board of County Commissioners and by State Senior and Disabled Services Division, prior to the occurrence of the transfer.

**VII. TRANSFER BUDGET PLAN
1997/99 BIENNIUM**

Costs of operating the transferred program have been developed using the following assumptions and procedures. SDSD revenue projections have been developed with SDSD assistance; revenue is contingent on legislative action. Minor changes among line items may occur in final budget preparation when actual rates for staff benefits and materials and services are substituted for the estimates used to develop this plan.

Given these assumptions, the costs of operating the program balance with available revenue.

BUDGET SUMMARY (as of October 1996)

	BIENNIUM TOTAL
ASD COSTS	
Salary	\$ 8,852,478
Benefits & Insurance	3,128,164
Turnover Savings	<u>(335,440)</u>
SUBTOTAL PERSONNEL	11,645,202
Materials & Services	2,528,949
Capital Outlay	20,400
TOTAL BASE COSTS	\$14,194,551
•Additional business services support staff	45,000
•Reduced staff turnover	<u>76,748</u>
TOTAL ASD COSTS	\$14,316,299
 SDSD ALLOCATION ESTIMATE	
Salary	7,644,224
Benefits & Insurance	3,274,235
Cost of Living Adjustment	<u>427,113</u>
SUBTOTAL PERSONNEL	11,345,572
Materials & Services - Base (lease, vehicles & communications)	1,954,131
Materials & Services - Per Capita	<u>763,028</u>
SUBTOTAL MATERIALS & SERVICES	2,717,159
Indirect Expense (estimated)	160,000
Capital Outlay	<u>93,568</u>
TOTAL BASE ALLOCATION	\$14,316,299
 SDSD Vacancy Factor Reduction (required by DAS)	 <u>(121,748)</u>
NET ALLOCATION	\$14,194,551

A. ASD COST CALCULATIONS

- All DSO positions are funded.
- DSO staff entry salary at ASD is calculated at the projected ending State salary and 7/1/97 State COLA, plus a 6% adjustment for PERS, and then placed on the next (same or higher) available County salary step.
- DSO staff fringe benefits are calculated for each position.
- All known costs for operating the offices are calculated according to County payment scales and practices.
- Adjustments in salary and benefits costs are made for normal turnover for the current year and over the first biennium. All positions continue to be funded.

B. SDSA ALLOCATION ASSUMPTIONS

- SDSA has provided written confirmation of the "base" salary and benefits allocations, and for materials and services adequate to cover base M&S costs.
- SDSA has agreed to Capital Outlay comparable to the current ASD allocation level.
- SDSA has agreed to allocate partial funds for indirect costs, to cover some personnel and accounting transactions.
- SDSA has agreed to transfer funds they receive in COLA adjustments for the DSO staff.

C. UNCERTAINTIES AND CONTINGENCIES

- This budget assumes no new funding from the County for the basic transfer.
- The State Department of Administrative Services requires refund to DAS of vacancy savings; however, negotiation on this point is continuing.
- Some allocation assumptions, such as the final SDSA legislatively approved budget and the COLA allocations, are beyond SDSA's control.
- New positions for caseload growth will be added later and will be budget neutral.
- No change in SDSA's budget due to Measure 47 is currently anticipated. If State funding to SDSA is reduced, the reduction would be the same whether the DSO program was transferred or not.

D. ONE TIME COSTS

- SDSA is currently providing or arranging for any needed facilities repairs or accessibility upgrades. State motor pool leases will be continued. There will be no one-time costs related to leases or vehicles.
- Office equipment and computer systems are at this time assumed to be adequate to operate the DSO business.
- Other one time costs, such as for printing, signage, and connection to the County telephone system, will be relatively small and will occur in the current fiscal year. ASD is negotiating with SDSA to pay for one-time costs from the current fiscal year's budget.

APPENDIX

A. FEASIBILITY STUDY ADVISORY COMMITTEE FINDINGS AND RECOMMENDATIONS

The Feasibility Study Advisory Committee found that:

1. **Mission** A jointly developed combined Mission statement will maintain and enhance the mission of Disability Services.
2. **Advocacy** The Disability Services Advisory Council will be retained and membership enhanced. Their role in advising the State will be retained, and advocacy with the Board of County Commissioners and other local officials developed. Partnership with PMCOA, the City County Advisory Committee on the Disabled, and leadership among local disability groups, will be enhanced.
3. **Services** All current services will be retained. No clients will lose services due to the transfer. Service quality will be enhanced by providing client sensitivity training to staff by people with disabilities, and by monitoring of services by advocates. New services will be added over time, including: Gatekeeper; Information and Referral, 24-Hour Access, and Multi-Disciplinary Teams. Coordination with other County programs such as Developmental Disabilities and Mental Health will enhance client service.
4. **Organizational Structure** The proposed Organizational Structure will continue specialized access and case management for aging and disability programs, and allow for efficiencies in operation and improved service.
5. **Staffing** Positions will be available for all current staff. Transferred staff will, overall, enjoy higher salaries at the County than at the State, and will have access to the full array of County benefits, without having to pass new-employee waiting periods. The State offers different medical plans than the County, and some optional benefits which may not be available under County employment.
6. **Budget** Costs and revenue were projected for the 1997/99 biennium Transfer Budget, and were within 3% of a balanced budget. Projected costs included all expenses of operating the program, including indirect costs; salary costs are projected to be higher at the County than at the State.

The Feasibility Study Advisory Committee recommends that the proposed transfer be approved by the Board of County Commissioners, with the following conditions:

- 1) That their Assumptions and Policies be adhered to in implementing the transfer;
- 2) That ASD continue to work with State and County personnel offices, unions and others to reduce remaining barriers to continuity of benefits for transferring staff;
- 3) That ASD negotiate transfer of funds from the State necessary for proper management of the program, including additional costs resulting from the transfer;
- 4) That a detailed Implementation Plan be developed and approved by the PMCOA and DSAC prior to the final transfer; and
- 5) That enhanced Advocacy activities be undertaken during the implementation phase.

**B. FEASIBILITY STUDY ADVISORY COMMITTEE
CRITERIA FOR A TRANSFER**

The criteria by which the proposed transfer of services for adults with disabilities will be evaluated by the Feasibility Study Advisory Committee, are that:

1. The quality of the current service system is maintained in the short term, and enhanced over time.
2. Access, benefits and services are not reduced for individuals due to the transfer.
3. Services are accessible; structures, interpersonal and written communication, and programs, are accessible to people with differing abilities and needs.
4. Commitment to the individuality and independence of each person is maintained.
5. Differences in life issues among consumer groups is reflected.
6. A single entry system for each consumer group - disability and aging - is maintained.
7. Eligibility policies and procedures are consistent across consumer populations, with advocacy to meet the client's needs as the guiding principle.
8. Local control is maximized to assure consumer and advocate access, and accountability of policy makers.
9. Flexibility in program development and working with individuals is a high priority.
10. The transfer is consistent with the current programs' missions.
11. The transfer meets the long and short term goals of the stakeholders.
12. Costs can be met with resources available to the program.

**C. FEASIBILITY STUDY ADVISORY COMMITTEE
ASSUMPTIONS AND POLICIES**

Assumptions and policies adopted by the Feasibility Study Advisory Committee for the proposed transfer are, that:

1. Advocacy

- a. The Disability Services Advisory Council (DSAC) becomes the ASD advisory council for Disability Services program.
- b. The Portland Multnomah Commission on Aging (PMCOA) continues as the ASD advisory council for Aging programs.
- c. Coordination between the DSAC and City County Advisory Committee on the Disabled is continued and/or enhanced.
- d. Coordination among groups, such as DSAC, PMCOA, Mental Health, and Developmental Disabilities Coordinating Council, is enhanced.

2. Mission and Services

- a. The transfer process does not disrupt existing services to people served by either Disability Service Offices (DSO) or ASD branch offices.
- b. ASD, with the DSAC, develops the mission and goals for the Disability Services program, encompassing:
 - quality services to individuals;
 - advocacy on behalf of consumers and their programs;
 - program development to expand services;
 - coordination with other County and community services (eg, Health, Mental Health, Developmental Disabilities, etc);
 - coordination with other local service and advocacy groups.

3. Structure

- a. ASD changes its name to reflect the broader mission.
- b. The four DSO branch offices and staffing at DSO's remain as is, except when caseload changes require shifts, or where consolidating a function would improve service, efficiency or effectiveness of Aging and Disability programs.
- c. Staff from the current District Office are located in the ASD Central Office; a manager for the Disability Services program would be maintained.

4. Employee Transfer

- a. Transferring State employees do not lose in salary as a result of the transfer, and are eligible for the full County employee benefits package. Accrued leave is either transferred or paid by the State Senior and Disabled Services Division (SDSD) at the time of transfer.
- b. Neither ASD employees nor DSO employees lose their positions as a result of the transfer. SDSD assists those not wishing to transfer to find suitable State positions.

5. Funding

- a. The costs of DSO staff and offices is paid for with State SDSD contract funds.
- b. No new County funds are available to support the transferred program. However, ASD would seek to use existing funds for match, or obtain new funding sources, to enhance services.

**CURRENT AND PROPOSED CLASSIFICATIONS AND SALARY COMPARISONS
PREPARED BY MULTNOMAH COUNTY EMPLOYEE SERVICES DIVISION
OCTOBER 25, 1996**

State SDSD

Multnomah County

CLASSIFICATION	CURRENT SAL. RG 96-97 (MO)	CURRENT + 6%(a)	CLASSIFICATION	7/1/96 SAL. RG (HOURLY)	7/1/96 SAL. RG (IF MONTHLY)
Office Assistant 2	1,210 - 1,568	1,283 - 1,662	Office Assistant 1	9.18 - 10.25	1,597 - 1,784
Office Specialist 1	1,381 - 1,789	1,464 - 1,896	Office Assistant 2	10.52 - 12.80	1,830 - 2,227
Public Svcs. Rep. 2	1,381 - 1,789	1,464 - 1,896			
Office Specialist 2	1,568 - 2,060	1,662 - 2,184			
Admin. Spec. 1	1,704 - 2,261	1,808 - 2,397	Medical Svcs. Clerk/OA Sr.	12.78 - 14.81	2,224 - 2,577
Human Resource Specialist 2	1,704 - 2,261	1,808 - 2,397	Eligibility Specialist (Case Manager 1) (b)	12.02 - 15.09	2,091 - 2,626
			Case Manager 2	15.53 - 18.00	2,702 - 3,132
Senior Services Case Mgr	2,060 - 2,732	2,184 - 2,896	Case Manager Senior (c)	16.32 - 18.92	2,840 - 3,292
			Community Health RN	17.23 - 23.13	2,998 - 4,025
Pre-Admission Screening Spec.	2,372 - 3,154	2,514 - 3,343	Admin. Analyst	16.20 - 22.68	2,819 - 3,946
Tech & Exec. Assistant (DO)	2,261 - 3,008	2,397 - 3,188	Program Dev Specialist	16.63 - 20.34	2,894 - 3,539
Program Tech 1	2,261 - 3,008	2,397 - 3,188			
Tech & Exec Asst. (Branches)	2,261 - 3,008	2,397 - 3,188			
Disability Analyst	2,261 - 3,008	2,397 - 3,188			
Sr Serv Case Mgr (Hearing Rep)	2,060 - 2,732	2,184 - 2,896	Case Management Supr	N/A	3,108 - 4,352
Principal Exec. Mgr A	2,278 - 3,206	2,415 - 3,398			
Principal Exec. Mgr B	2,511 - 3,536	2,662 - 3,748	Branch Administrator	N/A	3,426 - 4,798
Principal Exec. Mgr D	3,054 - 4,301	3,237 - 4,644	Aging Services Program Mgr.	N/A	4,373 - 6,123
Principal Exec. Mgr E	3,365 - 4,742	3,567 - 5,027			

- a) County employees pay into PERS; ASD has requested that entry salaries for transferring DSO employees be adjusted by 6%
- b) revision of current County class in process
- c) promotional (within DSO staff)

NOTE: This chart reflects the current State classification and salary ranges and the proposed County classifications and salary ranges for all DSO employees. These proposals are based upon analyses of class specifications and job descriptions submitted for each position as well as field audits of several positions as necessary.

E. PROPOSED TIMELINE:

Month Activity

1996

Sept Steering Committee begins meeting
Initiate Phase 1 Committees

Oct Initial staff classifications decided; update budget
Conclude negotiations with SDSD

Nov Develop Transition Plan
Review Budget and Transition Plan with PMCOA/DSAC

Dec Program Improvement Committees develop recommendations

1997

Jan Program Improvements reviewed by Steering Committee and Advocates
Updated Transition Plan reviewed by Advocates

Feb ASD fiscal staff prepare DSO FY'98 budget
Updated Transition Plan reviewed by Steering Committee

March Present Budget and Transition Plan to BCC for approval
SDSD Intergovernmental Transfer Agreement Memorandum developed and signed
ASD budget submitted to budget office, including DSO
DSO Services Improvement Plan incorporated into Draft FY'98 Area Plan

April Initiate Phase 2 Committees
Personnel/Benefits meetings with DSO staff
PMCOA/DSAC review of Area Plan; Public Hearings on Area Plan
BCC Budget meetings; approval of Area Plan

May Area Plan submitted to SDSD
BCC Public Hearings & Budget Review

June BCC Budget Adoption
Intergovernmental Agreement for FY'98 with SDSD
Personnel/Benefits completes staff enrollments

July Transfer DSO effective July 1st

Aug Steering Committee monitors transfer and transition

Sept Phase III Committee begins, other Committees conclude
Process Evaluation completed

**F. RECOMMENDATIONS OF THE DSO TRANSFER COMMITTEE
FOR NEW SERVICES – ENTRY & RESPONSE
January 2, 1997**

SUMMARY

The Entry & Response committee recommends unanimously that information & referral, outreach, and emergency services be enhanced for people with disabilities at the time of the transfer of the Disability Services Offices (DSO) to Multnomah County Aging Services Department (ASD). Consumers would benefit by the extension of three services that are currently available to assist seniors. Recommendations are:

- Information & Referral: Expand the Senior Helpline by offering the same type of central number to call for any information about services for people with disabilities;
- Outreach: Help community service workers recognize when a person with a disability might be in need of service by expanding the Gatekeeper program; and
- Emergency Response: Extend the 24 Hour Access program for seniors to also respond to urgent needs that occur for persons with disabilities after regular business hours.

These services can be expanded with available resources. It is expected that service levels would increase as the programs become better known, and that staffing levels would adjust in response.

BACKGROUND

PROCESS

The Entry & Response Committee was made up of staff representatives from Aging Services Department, Disability Services Offices and advocates from the Disability Services Advisory Committee and City/County Advisory Committee on the Disabled. The committee reviewed three programs operated by the Community Access unit of Aging Services Department. These three programs -- Senior Helpline, 24 Hour Access, and Gatekeeper -- are ways that seniors obtain information about services, efficient entry to the services provided through our system, and response to emergency needs. Services were evaluated to determine the need for persons with disabilities to use these services and how these services could be expanded.

ASSUMPTIONS

The committee operated with the following assumptions:

- Services to the senior population will not be compromised;
- The transfer will enhance services to persons with disabilities;
- No new County funds can be expected, though resources could be allocated differently;
- The committee would look at a vision of how to best serve persons with disabilities;
- Expansion of services can have an effect on other programs and staffing, and the committee wished to make suggestions regarding implementation;

- Once the agencies are combined, there will be common policies, procedures and philosophies in the way work is done.

NEEDS

The committee identified the following as the most critical needs for clients with disabilities, in relation to entry & response services.

- Care assistance crises, due to lack of, or abuse from, a personal care assistant
- Centralized information and referral to services
- Emergency needs, such as: food, heat, housing, protection, financial, equipment, medications, and transportation
- Single entry access for consumers
- Law enforcement support and coordination on difficult cases
- An avenue for Gatekeeper advocates to make referrals
- An avenue for client complaints

The committee agreed that all three programs were needed and could be heavily used by persons with disabilities or others on their behalf. All recommendations can be implemented at the time of transfer.

RECOMMENDATIONS

The following are recommendations regarding how these programs can be extended and enhanced for persons with disabilities. A complete report, with implementation plans, will be used by this committee and others to assure a smooth and successful transition.

INFORMATION & REFERRAL/SENIOR HELPLINE

Aging Services operates a Senior Helpline for centralized information and referral for seniors. The Helpline is a single number that an older person can call to obtain information about any type of service. Staff are knowledgeable and able to assist consumers to access the help they need. People with disabilities can also have difficulties with finding services to meet their needs and often must call several numbers before finding an agency to provide assistance. Persons with disabilities will benefit greatly from having one number to call for responsive, timely, and appropriate information regarding programs and services to help them.

The committee recommends implementing I & R/Helpline services to persons with disabilities, as follows:

1. Affirm a single entry access philosophy for all aging and disability services through which customers may obtain seamless access to services at any point in the system.
2. Expand information and referral linkages through building partnerships, sharing resource information and improving networking.

3. Expand Helpline services to serve people with disabilities, staffed by information & referral specialists.
4. Develop better technology linkages in order to improve effectiveness and efficiency in service delivery.

Implementation: Development of an expanded data base of resources, training of staff, and expanding the information & referral network to include disability services can occur before the transfer. The Senior Helpline has the capacity with current staff to begin taking additional calls from people with disabilities at the time of the transfer. As the service volume increases, staffing may be expanded through additional allocation or changes in workload distribution.

ASD & DSO are already working on technology improvements, which affects all the recommendations.

GATEKEEPER

The Gatekeeper outreach program provides a gateway to accessing services. The program builds a network of community partnerships and trains service persons to recognize and refer elders in distress due to confusion, neglect, abuse, or other problems. Gatekeepers include workers from utilities, law enforcement, public agencies, financial institutions, postal service and others. Persons with disabilities will benefit from the increased outreach and from the public becoming more aware of potential needs and services to meet those needs.

The committee recommends implementing Gatekeeper services to clients with disabilities as follows:

1. Use the same centralized Gatekeeper referral system for persons with disabilities and seniors to make it easy for Gatekeepers to call.
2. Phase in training for Gatekeepers on disability issues in stages, with the most likely referrers trained first:
 - Phase I --Fire Departments, ambulance & paramedics
 - Phase II --Add: Law enforcement agencies
 - Phase III --Add: Community service workers.
3. Develop better technology linkages to improve responsiveness and service delivery.
4. Evaluate a possible name change of the program to better reflect access to service rather than a sense of restriction.

Implementation: The ASD Central office can accommodate an increase in Gatekeeper referral calls. The DSO District Trainer will assist with developing and providing training. Intake and case management staff will handle many of the referrals. Additional Protective Service workers are being allocated at DSO this year and an assessment will be conducted to determine staffing and resources needed to handle increased client protection and risk issues.

24 HOUR ACCESS

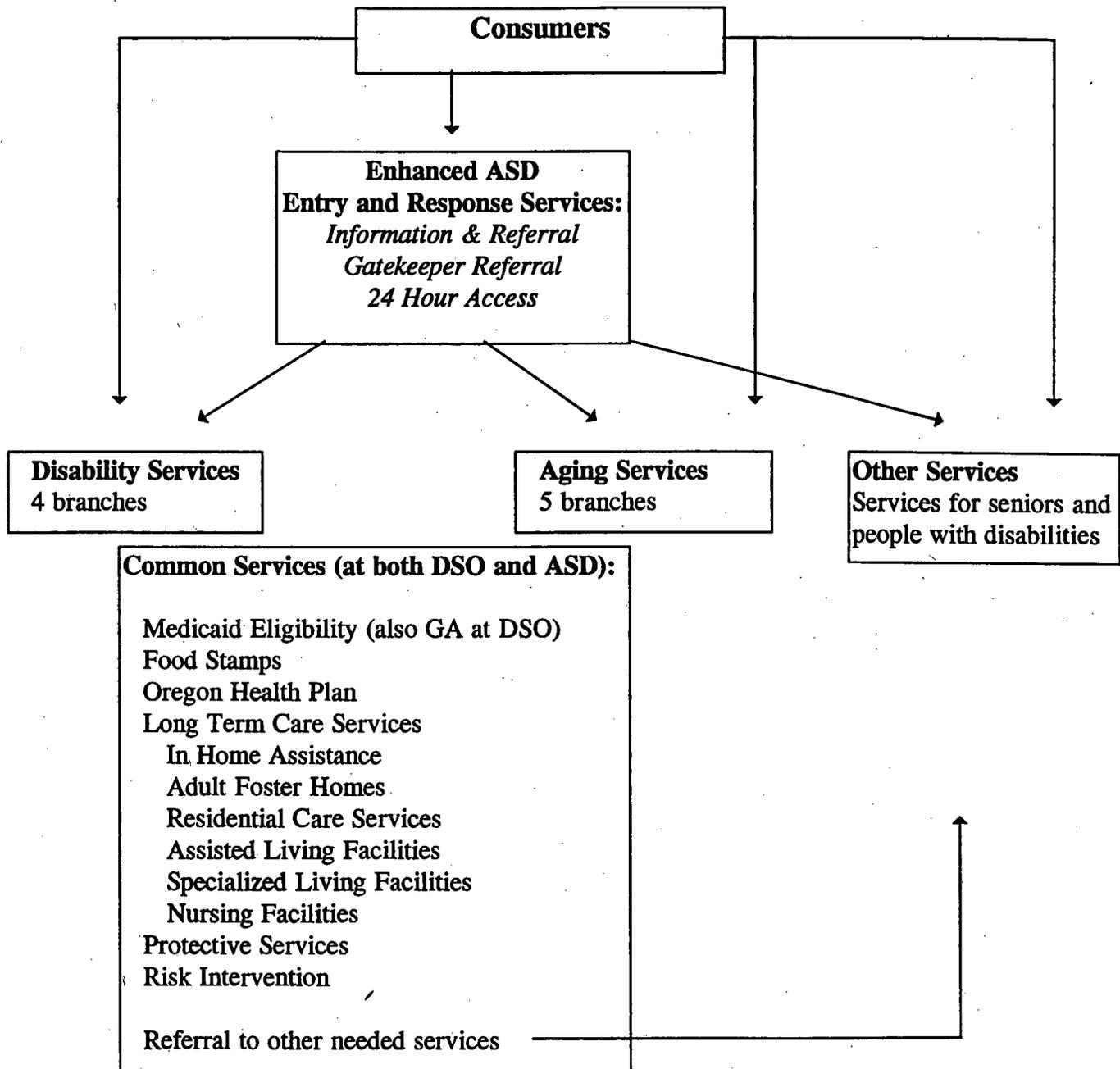
This program has provided an emergency system after normal business hours to respond to vulnerable seniors in immediate risk due to abuse, neglect, or endangerment. On-call workers respond by phone or direct in-person intervention. Expansion of the program will benefit persons with disabilities that have immediate or emergency needs.

The committee recommends providing 24 Hour Access Services to clients with disabilities, as follows:

1. Increase networking, improve information sharing, and identify resources to assist on-call workers in their response after hours.
2. Provide training on disability issues for on-call workers and a disability services phone consultant for back-up.
3. Evaluate a possible name change to better reflect the program's focus of services after normal business hours.
4. Improve technology linkages for access after hours.

Implementation: Identifying services and resources, training for on-call workers, and assigning a DSO consultant to support after hours needs will begin prior to the transfer. Once the transfer takes place and Helpline services have begun, calls after hours will increase as a result. An assessment will be conducted of staffing levels (for both immediate response and follow-up) as well as services which are needed. Resources and services are not always available or adequate to meet the needs for seniors or people with disabilities, but resource development and advocacy will be ongoing.

Proposed Enhanced Access to Services



Information and Referral - individuals call one central number, and receive information and help to access services that best meet their needs.

Gatekeeper Referral - community service agencies refer people who may need help.

24 Hour Access - assists current and new clients in after-hours emergencies.

This chart reflects only the proposed access system for ASD and DSO Medicaid and long term care services. ASD operates a number of other programs.

G. CO-MANAGEMENT AGREEMENT - VISION AND PRINCIPLES

A Consumer-Focused Vision of the Ideal, Integrated Service Delivery System:

In the ideal, integrated service delivery system, the consumer has a variety of means to access the system. This might include electronic technology, in-home visits and neighborhood sites, as well as information and referral systems. All access points offer a range of service options within a coherent, County-wide system. Consumers receive the individual attention and advocacy they need to determine their eligibility for their chosen service, as well as information about other possibilities. At all points of contact, consumers receive a summation, including clearly defined expectations of what resulted from the contact and/or a plan, as appropriate. The consumer participates in an on-going evaluation process focusing on quality of service delivery and consumer satisfaction.

Guiding Principles for the Co-Management Agreements:

These are the service philosophies, values, and basic interests shared by the programs involved in the co-management agreement.

1. Staff in all programs should see themselves as part of the whole human services system in Multnomah County so that they can provide consumers with information and access to programs across the system, as needed.
2. Every consumer should receive "professional attention," which includes the following:
 - consumers feel listened to
 - they are treated with respect and dignity
 - they have choices
 - there is recognition that consumers' perception of their needs is real to them
3. We share the philosophy of "screening people in rather than screening people out." This means all programs should facilitate consumers' access to services, County-wide, even if they're not eligible for the program through which they entered the service system.
4. In addition to consumers' primary request, service at every access point should consider their basic survival needs of food, safety, shelter, and medical care.
5. At all points of contact, consumers should receive a summation, including clearly defined expectations of what resulted from the contact and/or a plan, as appropriate.

#

MULTNOMAH COUNTY DISABILITY SERVICES TRANSFER
Implementation Planning Process - Committees

Steering Committee

Jim McConnell, Chair, ASD Director
Jack Benson, Disability Services Advisory Council
Cathy Clay-Eckton, Supervisor, ASD West Branch
Mel Dennis, Case Manager, DSO Southeast Branch
Terry Ford, HRS2, DSO North Branch
Betty Glantz, Branch Manager, ASD
Ellen Glynn, Portland Multnomah Commission
on Aging
Kevin McKay, CM2, ASD Nursing Facility Branch
Sharon Miller, District Manager, Disability Services
Laurie Sitton, City County Advisory Committee
on Disabilities
Tom Thomas, CM Sr., ASD Northeast Branch
Jeanne Wheaton, Branch Manager, DSO East Branch
Laura Woodruff, DSAC Alternate
Facilitator: Kamala Bremer, Consultant

Transition Committee

Tina Adams, Office Specialist 2, West DSO
Linda Anderson, Office Specialist 2, East DSO
Teri Andrews, Case Manager, North DSO
Efrain Diaz-Horna, Branch Manager, ASD Northeast
Kathy Gillette, Manager, ASD Business Services
Iris Harris, OA Sr., ASD Southeast
Cheryl MacPherson, Asst. Manager, Southeast DSO
Tracy Richards-Brown, Office Specialist 2, SE DSO
Facilitator: Martha Murray, DSO District Staff Asst.

DD/MH Co-Management Agreements

Members, Management Team:

Dennis Adams, DCFS, Developmental Disabilities
Program Manager
Holly Berman, Public Guardian, ASD
Howard Klink, DCFS Deputy Director
Jim McConnell, ASD Director
Sharon Miller, DSO District Manager

Members, Working Committee:

Dan Aledo, DD Program, DCFS
Phil Boss, Case Manager, Northeast ASD
Don Captein, Asst. Branch Manager, West DSO
Phil Deas, Branch Manager, West DSO
Dave Edwards, DSAC/DCFS
Will Grant, DD Program, DCFS
Cathy Hilger, Behavioral Health, DCFS
Cheryl Jardine, DCFS

Monica Kraus, DD Program, DCFS
Sheila Lewis, Case Manager, Southeast DSO
Norman Miller, DCFS
Mark Sanford, ASD Public Guardian Office
JoAnn Staino, DD Program, DCFS
Sally Stenson, Case Manager, Southeast DSO
Rex Surface, DD Program, DCFS
Sue Waite, DSAC/CCACD
Judy Wick, Case Manager, North DSO
Micheale Williams, HRS2, West DSO
Facilitators: Charlene Phipps, Luis Caraballo

New Services: Entry and Response

Jack Benson, DSAC
Renee Bove-Johnson, 24 Hour Access Program, ASD
Lisa Burnett, Case Manager, ASD West
Jan Campbell, DSAC/CCACD
Linda Doncaster, Case Manager, East DSO
Sue Girard, Branch Manager, St. Helens MSO
Ta'melle Livingston, Case Manager, North DSO
Laurie Olson, I & R, ASD
Laurie Sitton, DSAC/CCACD
Greg Stevens, Risk/Protective Services, SE DSO
Facilitator: Leslie Houston, ASD

New Services: Multi-Disciplinary Teams

Donna Breum, Case Manager, East DSO
Jan Campbell, DSAC/CCACD
Tom Ciesielski, DSAC/PMCOA
Scott Finnegan, Case Manager, West DSO
Diana Forester, Social Worker, ASD Northeast
Connie Guist, Nurse Supervisor, Health Department
Scott Henderson, Branch Manager, Southeast DSO
Cathy Hilger, DCFS Behavioral Health
Dawn Holt, Mental Health Specialist, ASD West
Randy Morrison, Social Worker, ASD Southeast
Chris Reisner, DSAC
Claire Wart, Field Nurse, ASD Southeast
Georgia Wetteland, Risk/Protective Svcs., SE DSO
Johnnie Wright, Branch Manager, ASD West
Facilitator: Leslie Houston, ASD

Meeting Date: MAR 06 1997

Agenda No: R-5

ESTIMATED STARTING TIME 10:45 am

(Above space for Board Clerk's Office Use ONLY)

AGENDA PLACEMENT FORM

Subject: Transfer of services for people with disabilities from State to Aging Services Department

BOARD BRIEFING Date Requested:
Requested by:
Amount of time:

REGULAR MEETING Date Requested: March 6, 1997
Amount of time: 60 minutes

DEPARTMENT: Aging Services

DIVISION: Aging Services

CONTACT: Caroline Sullivan/Kathy Gillette
26841

TELEPHONE: 248-3620

BLDG/RM #: 161/3rd floor

PERSON(S) MAKING PRESENTATION: Jim McConnell

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUGGESTED AGENDA TITLE

⁴⁰⁰⁰⁷
Intergovernmental Agreement with State Senior and Disabled Services Division for transfer of Disability Services Office.

3/7/97 ORIGINALS to Caroline Sullivan

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: _____

James W. Connell

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277 or 248-5224

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
97 FEB 27 PM 2:39



MULTNOMAH COUNTY OREGON

AGING SERVICES DIVISION
AREA AGENCY ON AGING
421 S.W. 5TH, 3RD FLOOR
PORTLAND, OREGON 97204
SENIOR HELPLINE: (503) 248-3646 ADMINISTRATION: 248-3620
TDD: 248-3683 FAX: 248-3656

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Beverly Stein, Board Chair

FROM: Jim McConnell, Director *JM*

DATE: February 21, 1997

SUBJECT: Intergovernmental Agreement: Transfer of Disability Services Office

I. Recommendation: The Aging Services Department recommends that Board of County Commissioners approve the attached Intergovernmental agreement with the State of Oregon, Senior and Disabled Services Division (SDSD) to transfer services for people with disabilities from State to County administration.

II. Analysis/Background: This intergovernmental agreement is to accomplish the transfer of the administration of services for persons with disabilities from the State Senior and Disabled Services Division (SDSD) to Multnomah County Aging Services Department.

The implementation plan for the transfer is being considered at the same time this intergovernmental agreement. By entering into this agreement, the County will carry out the provisions of the implementation plan.

III. Fiscal Impact: Funding of the program is through Federal Medicaid Program dollars. These funds will be placed in the FY98 County Budget.

IV. Legal Issues: Please see Implementation Plan and accompanying memo.

V. Controversial Issues: NA

VI. Link to Current County Policies: See Implementation Plan and accompanying memo.

VII. Citizen Participation: See Implementation Plan and accompanying memo.

VIII Other Government Participation: See Implementation plan and accompanying memo.

INTERGOVERNMENTAL AGREEMENT

**STATE OF OREGON, DEPARTMENT OF HUMAN RESOURCES
SENIOR AND DISABLED SERVICES DIVISION
AND
MULTNOMAH COUNTY, AGING SERVICES DEPARTMENT
TRANSFER OF DISABILITY SERVICES OFFICE**

SECTION I. INTRODUCTION

This agreement is between the State of Oregon, Department of Human Resources, Senior and Disabled Services Division (SDSD), hereinafter called STATE, and Multnomah County, hereinafter called COUNTY. The purpose of this agreement is to set forth guidelines that will apply to the transfer of the Disabled Services District and Branch Offices from STATE to COUNTY administration. The transfer is scheduled to be effective July 1, 1997. The guidelines set forth in this agreement are consistent with the provisions of ORS 236.605 to 236.640.

SECTION II. RECITALS

A. WHEREAS, STATE agrees that the transfer of Multnomah County District and Branch Disability Services Offices from STATE to COUNTY administration is consistent with state policy "to encourage and emphasize local control to achieve the most effective blend of state and local authority"; and

B. WHEREAS, Multnomah County Board of Commissioners, on June 27, 1996 accepted an initial planning document "Transfer of Services for People with Disabilities" and asked that staff continue planning efforts and develop an implementation plan through Resolution 96-111; and

C. WHEREAS, the Multnomah County Board of Commissioners has approved an implementation plan developed out of extensive planning efforts involving staff and advocates representing all the involved agencies, persons with disabilities and older persons; and

D. WHEREAS, the Disability Services Advisory Council, the City-County Advisory Committee on the Disabled, and the Portland/Multnomah Commission on Aging, on behalf of persons with disabilities and older residents of Multnomah County, have approved the implementation plan to transfer Disability Services Offices from State to County Administration;

THEREFORE, STATE and COUNTY agree as follows.

SECTION III: AGREED COUNTY

A. No SDSD employee shall be deprived of employment solely because of the transfer of Disability Services to Multnomah County Aging Services Department. Transferring employees shall transfer to Multnomah County without further employment examinations.

B. Each transferring employee shall be placed in a County position comparable to the position the employee held with SDSD. (See Attachment A, chart of comparable positions.) A position is defined as full time or part time based on the budgeted level and assignment at time of transfer. If a comparable

position does not exist, the employee will be offered a lesser position if such a position is available. If a position does not exist for a transferring employee, COUNTY shall place the individual on layoff status, with recall from such status to be in accordance with the same terms as any COUNTY employee in the same classification in accordance with the applicable collective bargaining agreement.

C. No transferring SDSA employee shall have his or her salary reduced as a result of this transfer. Following the transfer, any further changes in assignments which result in upward or downward classification changes are subject to COUNTY's salary rate and classification policies.

1. For employees represented by collective bargaining agents, the wages for FY1997-1998 of transferring employees covered by either the Local 88, AFSCME or Oregon Nurses Employees collective bargaining units shall be in accord with the Memoranda of Agreement governing these terms, such memoranda entered into in February, 1997 and which are incorporated by this reference herein.

2. For employees exempt from representation by a bargaining agent, the salaries of transferring employees shall be established as follows:

a. The employee's State of Oregon base rate of pay which would have been paid as of July 1, 1997 in his/her permanent classification shall be multiplied by 1.06. This rate shall be exclusive of any State of Oregon increase other than a simple percentage or cents per hour increase. Such exclusions shall include special increases of any other kind.

b. Following the calculation above, the employee shall be placed at the nearest amount in the County range in effect July 1, 1997 for the classification to which he/she is allocated which would not result in a decrease.

c. On July 1, 1997 and thereafter the employee shall be eligible for any merit increase in accordance with the Management Compensation Ordinance of Multnomah County.

d. In the event that the July 1, 1997 increase for exempt employees is not finalized by the State of Oregon on that date, the County shall implement that increase at a later date on a retroactive basis. If the increase is complex in terms of structure, or time or times of implementation, the Employee Services Division of Multnomah County will determine the amount of any such increase and implement it in writing by communication to each affected employee. Such determination shall take into account the mechanisms utilized in determining increases for non-exempt employees as provided in the Memoranda of Agreement cited in subsection 1 above.

D. COUNTY shall make arrangements for the following for each transferring employee:

1. To accept 80 hours or less accrued unused vacation leave.

2. To accept all accrued unused sick leave.

3. To honor each employee's seniority accrued through uninterrupted service with the State of Oregon and COUNTY. No regular COUNTY employee shall be laid off at the time the transfer occurs by reason of the transferring employee's seniority; thereafter, the transferring employee's seniority acquired from the transferring employer shall be regarded as seniority acquired under the COUNTY.

4. To continue participation in the Oregon Public Employees Retirement System (PERS) under COUNTY's retirement plan.

5. To assure that transferring employees currently serving a trial service period with SDSO will have time served in trial service applied to the probationary period for COUNTY.

6. To assure that each transferring employee shall be granted the same privileges, including benefits, leave, hours and conditions of employment, as are granted to COUNTY employees under COUNTY's benefit program. Employees will not have any additional waiting period for health insurance benefits or coverage of pre-existing conditions. In the event that any transferred employee is subject to a waiting period for coverage of pre-existing conditions under the health plan of the receiving employer, the receiving employer shall arrange for a waiver of such waiting period with its health insurer. COUNTY coverage begins the first of the month after the transfer.

E. On the effective date of the transfer, the COUNTY assumes responsibility for all leases for the four Disability Services Offices, and leased operating equipment.

IV. AGREED STATE

A. STATE shall allocate to COUNTY all funds budgeted for the operation of the Multnomah County Disability Services program in the 1997-99 Biennium, including:

1. All budgeted funds for the four Branch and District Offices, including: allocated staff salary and OPE, basic office operations, Service and Supply allocation, Capital Outlay, and caseload growth expansion;

2. Funds STATE would have received for Cost of Living adjustments for transferring employees for FY1997-99, when such funds become available;

3. Funds that STATE would have spent for indirect costs for the Disability Services Program, when such funds become available.

B. STATE shall transfer to COUNTY all owned program manuals, office furniture and work stations, including partitions, office machines, data processing equipment, telephone equipment, filing cabinets and systems, and other related manuals, machines, and equipment utilized by SDSO in the operation of the Multnomah County Disability Services program. STATE shall transfer leases for facilities and equipment as contracts allow. STATE shall retain ownership of network routers, Perdyne modems and SYBASE file servers.

C. STATE shall liquidate the following for each employee at the time of transfer:

1. Any accrued compensatory time due to transferring employees

2. Any accrued vacation time in excess of 80 hours due to transferring employees.

D. If necessary, STATE shall reimburse COUNTY for any additional health insurance premium costs for a period not to exceed twelve months, resulting from COUNTY securing from its health insurance carriers waivers of waiting periods for pre-existing conditions for transferring employees.

E. STATE coverage for health insurance for transferring employees shall cover the month that the transfer becomes effective.

F. At the time of the transfer, STATE shall pay to COUNTY a sum equal to the number of hours of accrued leave retained times the employee's hourly rate of pay.

G. STATE shall furnish COUNTY summary sheets of each transferring employee's records, and access to the STATE's employment records of each transferring employee if requested.

H. SDSD agrees to continue to provide access to data lines and technical support of SDSD-required computer systems and programs. It is the intent of SDSD to be involved in joint planning for any SDSD required computer systems. The needs of the entire senior and disabled service system, including transferred programs, will be a priority.

SECTION V. SEPARABILITY

Should any Section, or portion thereof, of this Agreement be held unlawful and unenforceable by any court of competent jurisdiction, or any administrative agency having jurisdiction over the subject matter, such decision shall apply only to specific Section or portion thereof directly specified in the decision. All other portions of the Agreement as a whole shall continue without interruption for the term hereof.

SECTION VI. TERM OF AGREEMENT

This Agreement shall be executed July 1, 1997 and continue until June 30, 1998 or until terminated or replaced. The agreement may be amended by written consent of the parties. STATE and COUNTY agree that prior to final transfer of the disabled services district and branch offices from STATE to COUNTY administration, the Area Plan and the resulting Intergovernmental Agreement must be approved and executed.

SECTION VII. TERMINATION

All or part of this contract may be terminated by mutual consent by both parties, or upon 60 days written notice by either party, delivered to the designated contact person.

SECTION VIII. LIAISONS

A. The parties mutually agree that the administrative authority for COUNTY shall be the Director of the Aging Services Department or his designee and for STATE shall be Director, Senior and Disabled Services Division or his designee.

B. Written notices pertaining to this agreement shall be sent to:

STATE

Roger Auerbach, Administrator
Senior and Disabled Services Division
500 Summer Street NE
Salem OR 97310

COUNTY

Jim McConnell, Director
Multnomah County Aging Services Department
421 SW 5th, 3rd floor
Portland OR 97204

IN WITNESS, the parties have caused this instrument to be executed by their duly authorized officers.

STATE OF OREGON
SENIOR AND DISABLED SERVICES
DIVISION

COUNTY OF MULTNOMAH

By: _____
Administrator or Designee Date

By: _____ Date
Beverly Stein
Multnomah County Chair

By: James McConnell 2-21-97
James McConnell, Director Date
Multnomah County Aging
Services Department

REVIEWED: Contract Services
Department of Human
Resources

REVIEWED:
LAURENCE KRESSEL, County
Counsel for Multnomah County

By: _____

By: Katie Gaetjens 2/25/97
Katie Gaetjens Date
Assistant County Counsel

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # _____ DATE _____

BOARD CLERK



MULTNOMAH COUNTY OREGON

AGING SERVICES DEPARTMENT
AREA AGENCY ON AGING
421 S.W. 5TH, 3RD FLOOR
PORTLAND, OREGON 97204
SENIOR HELPLINE: (503) 248-3646 ADMINISTRATION: 248-3620
TDD: 248-3683 FAX: 248-3656

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Beverly Stein, Multnomah County Chair
FROM: Jim McConnell, Director *Jim McConnell*
DATE: March 5, 1996
SUBJECT: Replacement Intergovernmental Agreement

This is to transmit a replacement copy of the Intergovernmental Agreement with the State Senior and Disabled Services Division for transfer of Disability Services Offices to Multnomah County.

In addition, I have attached a letter from Roger Aurbach, the Administrator of the State Senior and Disabled Services Division, supporting the transfer.

Changes have been made in this substitute Agreement, as described below:

1. Section III, Agreed County:
 - C.1. Change "February" to "March"

EXPLANATION: Reflects actual agreement date.

- C. 2.a. Simplify and streamline wording to clarify intent.

EXPLANATION: Language is changed to clarify that State employees will transfer to the County with COLA. There was agreement on the intent, but concern over possible confusion or misinterpretation. It is hoped that the revisions are more clear.

2. Section IV, Agreed State
 - A.3. Delete section

EXPLANATION: SDSD states that their negotiations on indirect costs for the transfer has not reached a state that would allow a specific financial commitment to be made at this time. SDSD and ASD will continue discussions. Actual SDSD revenue for the transfer will be reviewed by the Board of County Commissioners in late April as part of the Area Plan proposal.

- F. Changed to read "...of accrual vacation and sick leave retained..."

EXPLANATION: Clearer statement of requirements of the law.

3. Memoranda of Agreement/DSO Transfer to Multnomah County (Attachment B pertains to Local 88, AFSCME; Attachment C pertains to ONA)

III.2.a. Language deleted and moved to clarify intent.

EXPLANATION: There was agreement on intent, but concern over possible confusion or misinterpretation. It is hoped that the revisions are more clear.

III.2.d. Language inserted "...and thereafter for Fiscal Year 1997-98 which includes staff reclassification, or which is complex in nature . . .

The pending staff reclassification issue is moved from the methodology for entry salary calculation to the list of issues for resolution if they are approved in the state labor agreement.

EXPLANATION: SDSD states that no issues in their labor relations negotiations are yet finalized.

Oregon

DEPARTMENT OF HUMAN RESOURCES

Human Resources Bldg.

SENIOR AND DISABLED SERVICES DIVISION

Encouraging
Independence,
dignity and
quality of life

March 5, 1997

Jim McConnell, Director
Multnomah County Aging Services Division
421 SW 5th
Portland, Oregon 97204

Dear Jim:

As a follow up to our meeting yesterday, I am writing to express our general satisfaction with the work that has been done around the proposed transfer of the Multnomah Disability Service Offices (DSOs).

We feel that you have developed an excellent process for exploring the transfer issues and involving all the key stakeholders. While we are still discussing the last of the details, including several financial issues, it is our belief that the vast majority of issues have been settled in a manner that satisfies all parties.

As you know, SDSD has been supportive of transferring offices to local government management when it appears that doing so will provide a better range of services for clients, or allow program efficiencies, or both. This appears to be the case with the proposed Multnomah DSO transfer.

We look forward to working with you over the next few months on the final details.

Sincerely,



Roger Auerbach
Administrator

500 Summer St. NE, Salem, OR 97310-1015 • (503) 945-5811 Voice/TTY
Toll Free 1-800-282-8096 Voice/TTY • (503) 373-7823 Fax



John A. Kitzhaber
Governor

"We do not discriminate in employment, services or activities."

March 6, 1997

My name is Chris Reisner and I am the Chair of the Multnomah County Disability Services Advisory Council, or DSAC. Over the past year and a half, the DSAC has carefully considered the proposed transfer. DSAC members have been a part of the original Feasibility Committee, the Transfer Steering Committee, as well as the various other committees involved in planning the transfer.

It is the DSAC's position that a transfer would benefit the clients of the Disability Services Offices because of increased coordination of services with Aging Services and other County programs which serve our population base; because of the potential for enhanced services such as the Gatekeeper Program, 24-Hour Access and increased Information and Referral; and because of the potential for joint advocacy on issues which are common to both seniors and people with disabilities.

The DSAC has voted to support the transfer as long as the assumptions listed in the report of the Feasibility Committee are met. With the exception of final budgetary agreement with Senior and Disabled Services Division, we believe that the assumptions have been met, and we are eager to move ahead with the transfer.

**METROPOLITAN HUMAN RIGHTS COMMISSION**
1120 SW Fifth Avenue, Rm. 516
Portland, Oregon 97204-1989
City/County Advisory Committee on the Disabled

March 6, 1997

Multnomah County Board of Commissioners
1021 SW Fourth Avenue
Portland, OR 97204

Dear Chair Stein and Commissioners Saltzman, Hansen, Collier and Kelley:

The City/County Committee on the Disabled (CCACD), as part of the Metropolitan Human Rights Commission, is a volunteer citizen advisory committee comprised of persons with disabilities, and organizations representing various disabilities within our community.

For over a decade, through the Disability Project, CCACD has assisted the City of Portland and Multnomah County in interpreting and meeting local, state and federal laws and provided technical assistance on issues affecting the lives of persons with disabilities. We combine our knowledge, training, experience and expertise to address issues related not only to equal employment opportunities, program and service accessibility, removal and/or mitigation of structural barriers, and work on ways to reduce attitudinal barriers.

CCACD was involved in the 1989/90 planning process of a transfer of staff and associated services for adults with disabilities from state to local operation in Multnomah County.

The proposed transfer of long term care services for people with disabilities from state-only administration to a partnership between the state and county is consistent with the federal Health Care Financing Administration's (HCFA) preference.

Transfer of Services for People with Disabilities

Page 2

March 6, 1997

Board of County Commissioners

HCFA, as well as the state-level Senior and Disabled Services Division (SDSD) favor Medicaid programs operating as a smooth continuum of services that are not fragmented by a consumer's age.

Over the years, seniors and people with disabilities have recognized common long term care and health care needs. We have collectively advocated for removal of barriers and greater access to goods and services, transportation and housing, to name a few. While we have many differing needs, we have become more aware of how much more effective we are as a group. Also, a national trend toward the integration of long term care and managed health care concerns us. By combining some programs and services for seniors and people with disabilities at the local level, we can be more effective in our advocacy efforts.

Seniors have had a very powerful and proactive advocacy group at the local level with Multnomah County Aging Services Department (ASD). A number of programs and services have been developed and implemented which will be, with a transfer, extended to persons with disabilities. These include access to crisis assistance on a 24 hours/7 days a week basis; an extensive information and referral system; a program which provides training for community workers such as mail carriers to recognize and refer individuals who may need assistance.

The Feasibility Study Advisory Committee began meeting and working as a group in early January 1996. We met nearly every other week, along with staff, a consultant, and several interested citizens, up through May. We then came before the Board of Commissioners for approval to proceed with implementation planning. The transfer implementation planning process began in September. New committees were formed while others continued working through from the feasibility study group. These committees were comprised of representatives of the advisory councils and staff of both SDSD and ASD. If the County Board of Commissioners **approves** the transfer, Coordinating Committees will begin in April.

Page 3

March 6, 1997

Board of County Commissioners

On behalf of City/County Advisory Committee on the Disabled (CCACD), I would like to thank and commend the Feasibility Advisory Task Force and Implementation Planning committees for their proactive, thorough and comprehensive approach, and tireless and diligent efforts to address nearly every conceivable issue and/or concern associated with this proposed transfer.

At it's meeting on Monday, February 03, CCACD voted to **support the proposed transfer to Multnomah County.**

Sincerely,

A handwritten signature in cursive script that reads "Laurie P. Sitton".

Laurie P. Sitton
CCACD chair

D. COUNTY shall make arrangements for the following for each transferring employee:

1. To accept 80 hours or less accrued unused vacation leave.
2. To accept all accrued unused sick leave.
3. To honor each employee's seniority accrued through uninterrupted service with the State of Oregon and COUNTY. No regular COUNTY employee shall be laid off at the time the transfer occurs by reason of the transferring employee's seniority; thereafter, the transferring employee's seniority acquired from the transferring employer shall be regarded as seniority acquired under the COUNTY.
4. To continue participation in the Oregon Public Employees Retirement System (PERS) under COUNTY's retirement plan.
5. To assure that transferring employees currently serving a trial service period with SDSD will have time served in trial service applied to the probationary period for COUNTY.
6. To assure that each transferring employee shall be granted the same privileges, including benefits, leave, hours and conditions of employment, as are granted to COUNTY employees under COUNTY's benefit program. Employees will not have any additional waiting period for health insurance benefits or coverage of pre-existing conditions. In the event that any transferred employee is subject to a waiting period for coverage of pre-existing conditions under the health plan of the receiving employer, the receiving employer shall arrange for a waiver of such waiting period with its health insurer. COUNTY coverage begins the first of the month after the transfer.

E. On the effective date of the transfer, the COUNTY assumes responsibility for all leases for the four Disability Services Offices, and leased operating equipment.

IV. AGREED STATE

A. STATE shall allocate to COUNTY all funds budgeted for the operation of the Multnomah County Disability Services program in the 1997-99 Biennium, including:

1. All budgeted funds for the four Branch and District Offices, including: allocated staff salary and OPE, basic office operations, Service and Supply allocation, Capital Outlay, and caseload growth expansion;

2. Funds STATE would have received for Cost of Living adjustments for transferring employees for FY1997-99, when such funds become available;

B. STATE shall transfer to COUNTY all owned program manuals, office furniture and work stations, including partitions, office machines, data processing equipment, telephone equipment, filing cabinets and systems, and other related manuals, machines, and equipment utilized by SDSD in the

operation of the Multnomah County Disability Services program. STATE shall transfer leases for facilities and equipment as contracts allow. STATE shall retain ownership of network routers, Perdyne modems and SYBASE file servers.

C. STATE shall liquidate the following for each employee at the time of transfer:

1. Any accrued compensatory time due to transferring employees
2. Any accrued vacation time in excess of 80 hours due to transferring employees.

D. If necessary, STATE shall reimburse COUNTY for any additional health insurance premium costs for a period not to exceed twelve months, resulting from COUNTY securing from its health insurance carriers waivers of waiting periods for pre-existing conditions for transferring employees.

E. STATE coverage for health insurance for transferring employees shall cover the month that the transfer becomes effective.

F. At the time of the transfer, STATE shall pay to COUNTY a sum equal to the number of hours of accrued vacation and sick leave retained times the employee's hourly rate of pay.

G. STATE shall furnish COUNTY summary sheets of each transferring employee's records, and access to the STATE's employment records of each transferring employee if requested.

H. SDSD agrees to continue to provide access to data lines and technical support of SDSD-required computer systems and programs. It is the intent of SDSD to be involved in joint planning for any SDSD required computer systems. The needs of the entire senior and disabled service system, including transferred programs, will be a priority.

SECTION V. SEPARABILITY

Should any Section, or portion thereof, of this Agreement be held unlawful and unenforceable by any court of competent jurisdiction, or any administrative agency having jurisdiction over the subject matter, such decision shall apply only to specific Section or portion thereof directly specified in the decision. All other portions of the Agreement as a whole shall continue without interruption for the term hereof.

SECTION VI. TERM OF AGREEMENT

This Agreement shall be executed July 1, 1997 and continue until June 30, 1998 or until terminated or replaced. The agreement may be amended by written consent of the parties. STATE and COUNTY agree that prior to final transfer of the disabled services district and branch offices from STATE to COUNTY administration, the Area Plan and the resulting Intergovernmental Agreement must be approved and executed.

SECTION VII. TERMINATION

All or part of this contract may be terminated by mutual consent by both parties, or upon 60 days written notice by either party, delivered to the designated contact person.

SECTION VIII. LIAISONS

A. The parties mutually agree that the administrative authority for COUNTY shall be the Director of the Aging Services Department or his designee and for STATE shall be Director, Senior and Disabled Services Division or his designee.

B. Written notices pertaining to this agreement shall be sent to:

STATE

Roger Auerbach, Administrator
Senior and Disabled Services Division
500 Summer Street NE
Salem OR 97310

COUNTY

Jim McConnell, Director
Multnomah County Aging Services Department
421 SW 5th, 3rd floor
Portland OR 97204



CONTRACT APPROVAL FORM

(See Administrative Procedure #2106)

MULTNOMAH COUNTY OREGON

Contract # 400017

Amendment # _____

<p>CLASS I</p> <p><input type="checkbox"/> Professional Services under \$25,000</p>	<p>CLASS II</p> <p><input type="checkbox"/> Professional Services over \$25,000 (RFP, Exemption)</p> <p><input type="checkbox"/> PCRB Contract</p> <p><input type="checkbox"/> Maintenance Agreement</p> <p><input type="checkbox"/> Licensing Agreement</p> <p><input type="checkbox"/> Construction</p> <p><input type="checkbox"/> Grant</p> <p><input type="checkbox"/> Revenue</p>	<p>CLASS III</p> <p><input checked="" type="checkbox"/> Intergovernmental Agreement</p> <p style="text-align: center;">APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</p> <p>AGENDA # <u>R-5</u> DATE <u>3/6/97</u></p> <p style="text-align: center;"><u>DEB BOGSTAD</u> BOARD CLERK</p>
--	--	---

Department Aging Services Division _____ Date _____

Contract Originator Caroline Sullivan/Kathy Gillette Phone 248-3620 Bldg/Room 161/3rd floor

Administrative Contact Caroline Sullivan/Kathy Gillette Phone 248-3620 Bldg/Room 161/3rd floor

Description of Contract Provisions for transfer of DSO offices to County Administration. Funds from SDSD in the estimated amount of \$14 million will be transmitted through Area Plan.

RFP/BID # _____ Date of RFP/BID _____ Exemption Exp. Date _____

ORS/AR # _____ Contractor is MBE WBE QRF

Contractor Name Senior and Disabled Services Division

Mailing Address 500 Summer Street NE
Salem OR 97310-1015

Phone (503) 945-5811

Employer ID# or SS# _____

Effective Date July 1, 1997

Termination Date June 30, 1998

Original Contract Amount \$ 0

Total Amount of Previous Amendments \$ _____

Amount of Amendment \$ _____

Total Amount of Agreement \$ 0

Remittance Address _____
(If Different)

Payment Schedule	Terms
<input type="checkbox"/> Lump Sum \$ _____	<input type="checkbox"/> Due on receipt
<input type="checkbox"/> Monthly \$ _____	<input type="checkbox"/> Net 30
<input type="checkbox"/> Other \$ _____	<input type="checkbox"/> Other _____

Requirements contract - Requisition required.

Purchase Order No. _____

Requirements Not to Exceed \$ _____

Encumber: Yes No

Date March 5, 1997

Date _____

Date March 6, 1997

Date March 6, 1997

Date _____

REQUIRED SIGNATURES:

Department Manager James H. Connell

Purchasing Director (Class II Contracts Only) _____

County Counsel Ronie Galt

County Chair / Sheriff Neville O'Leary

Contract Administration (Class I, Class II/Contracts Only) _____

VENDOR CODE			VENDOR NAME						TOTAL AMOUNT \$		
LINE NO.	FUND	AGENCY	ORGANIZATION	SUB ORG	ACTIVITY	OBJECT/ REV SRC	SUB OBJ	REPT CATEG	LGFS DESCRIPTION	AMOUNT	INC/ DEC IND
01.											
02.											
03.											
* If additional space is needed, attach separate page. Write contract # on top of page.											

INSTRUCTIONS ON REVERSE SIDE

WHITE - CONTRACT ADMINISTRATION CANARY - INITIATOR PINK - FINANCE

INTERGOVERNMENTAL AGREEMENT

STATE OF OREGON, DEPARTMENT OF HUMAN RESOURCES
SENIOR AND DISABLED SERVICES DIVISION

AND

MULTNOMAH COUNTY, AGING SERVICES DEPARTMENT

TRANSFER OF DISABILITY SERVICES OFFICE

SECTION I. INTRODUCTION

This agreement is between the State of Oregon, Department of Human Resources, Senior and Disabled Services Division (SDSD), hereinafter called STATE, and Multnomah County, hereinafter called COUNTY. The purpose of this agreement is to set forth guidelines that will apply to the transfer of the Disabled Services District and Branch Offices from STATE to COUNTY administration. The transfer is scheduled to be effective July 1, 1997. The guidelines set forth in this agreement are consistent with the provisions of ORS 236.605 to 236.640.

SECTION II. RECITALS

A. WHEREAS, STATE agrees that the transfer of Multnomah County District and Branch Disability Services Offices from STATE to COUNTY administration is consistent with state policy "to encourage and emphasize local control to achieve the most effective blend of state and local authority"; and

B. WHEREAS, Multnomah County Board of Commissioners, on June 27, 1996 accepted an initial planning document "Transfer of Services for People with Disabilities" and asked that staff continue planning efforts and develop an implementation plan through Resolution 96-111; and

C. WHEREAS, the Multnomah County Board of Commissioners has approved an implementation plan developed out of extensive planning efforts involving staff and advocates representing all the involved agencies, persons with disabilities and older persons; and

D. WHEREAS, the Disability Services Advisory Council, the City-County Advisory Committee on the Disabled, and the Portland/Multnomah Commission on Aging, on behalf of persons with disabilities and older residents of Multnomah County, have approved the implementation plan to transfer Disability Services Offices from State to County Administration;

THEREFORE, STATE and COUNTY agree as follows.

SECTION III: AGREED COUNTY

A. No SDSD employee shall be deprived of employment solely because of the transfer of Disability Services to Multnomah County Aging Services

Department. Transferring employees shall transfer to Multnomah County without further employment examinations.

B. Each transferring employee shall be placed in a County position comparable to the position the employee held with SDS. (See Attachment A, chart of comparable positions.) A position is defined as full time or part time based on the budgeted level and assignment at time of transfer. If a comparable position does not exist, the employee will be offered a lesser position if such a position is available. If a position does not exist for a transferring employee, COUNTY shall place the individual on layoff status, with recall from such status to be in accordance with the same terms as any COUNTY employee in the same classification in accordance with the applicable collective bargaining agreement.

C. No transferring SDS employee shall have his or her salary reduced as a result of this transfer. Following the transfer, any further changes in assignments which result in upward or downward classification changes are subject to COUNTY's salary rate and classification policies.

1. For employees represented by collective bargaining agents, the wages for these terms, such memoranda entered into in March, 1997 and which are incorporated FY1997-1998 of transferring employees covered by either the Local 88, AFSCME or Oregon Nurses Employees collective bargaining units shall be in accord with the Memoranda of Agreement governing by this reference herein. (See Attachments B and C)

2. For employees exempt from representation by a bargaining agent, the salaries of transferring employees shall be established as follows:

a. The employee's State of Oregon base rate of pay which would have been paid as of July 1, 1997, including COLA, in his/her permanent classification shall be multiplied by 1.06. This rate shall be exclusive of any State of Oregon step increase or increase other than a simple percentage or cents per hour increase.

b. Following the calculation above, the employee shall be placed at the nearest amount in the County range in effect July 1, 1997 for the classification to which he/she is allocated which would not result in a decrease.

c. On July 1, 1997 and thereafter the employee shall be eligible for any merit increase in accordance with the Management Compensation Ordinance of Multnomah County.

d. In the event that the July 1, 1997 increase for exempt employees is not finalized by the State of Oregon on that date, the County shall implement that increase at a later date on a retroactive basis. If the increase is complex in terms of structure, or time or times of implementation, the Employee Services Division of Multnomah County will determine the amount of any such increase and implement it in writing by communication to each affected employee. Such determination shall take into account the mechanisms utilized in determining increases for non-exempt employees as provided in the Memoranda of Agreement cited in subsection 1 above.

D. COUNTY shall make arrangements for the following for each transferring employee:

1. To accept 80 hours or less accrued unused vacation leave.

2. To accept all accrued unused sick leave.

3. To honor each employee's seniority accrued through uninterrupted service with the State of Oregon and COUNTY. No regular COUNTY employee shall be laid off at the time the transfer occurs by reason of the transferring employee's seniority; thereafter, the transferring employee's seniority acquired from the transferring employer shall be regarded as seniority acquired under the COUNTY.

4. To continue participation in the Oregon Public Employees Retirement System (PERS) under COUNTY's retirement plan.

5. To assure that transferring employees currently serving a trial service period with SDSO will have time served in trial service applied to the probationary period for COUNTY.

6. To assure that each transferring employee shall be granted the same privileges, including benefits, leave, hours and conditions of employment, as are granted to COUNTY employees under COUNTY's benefit program. Employees will not have any additional waiting period for health insurance benefits or coverage of pre-existing conditions. In the event that any transferred employee is subject to a waiting period for coverage of pre-existing conditions under the health plan of the receiving employer, the receiving employer shall arrange for a waiver of such waiting period with its health insurer. COUNTY coverage begins the first of the month after the transfer.

E. On the effective date of the transfer, the COUNTY assumes responsibility for all leases for the four Disability Services Offices, and leased operating equipment.

F. Representatives from Multnomah County Labor Relations, Oregon Public Employees Union, and AFSCME will meet to clarify outstanding labor issues identified in the Memorandum of Agreement with AFSCME, Attachment B.

IV. AGREED STATE

A. STATE shall allocate to COUNTY all funds budgeted for the operation of the Multnomah County Disability Services program in the 1997-99 Biennium, including:

1. All budgeted funds for the four Branch and District Offices, including: allocated staff salary and OPE, basic office operations, Service and Supply allocation, Capital Outlay, and caseload growth expansion;

2. Funds STATE would have received for Cost of Living adjustments for transferring employees for FY1997-99, when such funds become available;

B. STATE shall transfer to COUNTY all owned program manuals, office furniture and work stations, including partitions, office machines, data processing equipment, telephone equipment, filing cabinets and systems, and other related manuals, machines, and equipment utilized by SDSD in the operation of the Multnomah County Disability Services program. STATE shall transfer leases for facilities and equipment as contracts allow. STATE shall retain ownership of network routers, Perdyne modems and SYBASE file servers.

C. STATE shall liquidate the following for each employee at the time of transfer:

1. Any accrued compensatory time due to transferring employees
2. Any accrued vacation time in excess of 80 hours due to transferring employees.

D. If necessary, STATE shall reimburse COUNTY for any additional health insurance premium costs for a period not to exceed twelve months, resulting from COUNTY securing from its health insurance carriers waivers of waiting periods for pre-existing conditions for transferring employees.

E. STATE coverage for health insurance for transferring employees shall cover the month that the transfer becomes effective.

F. At the time of the transfer, STATE shall pay to COUNTY a sum equal to the number of hours of accrued vacation and sick leave retained times the employee's hourly rate of pay.

G. STATE shall furnish COUNTY summary sheets of each transferring employee's records, and access to the STATE's employment records of each transferring employee if requested.

H. SDSD agrees to continue to provide access to data lines and technical support of SDSD-required computer systems and programs. It is the intent of SDSD to be involved in joint planning for any SDSD required computer systems. The needs of the entire senior and disabled service system, including transferred programs, will be a priority.

SECTION V. SEPARABILITY

Should any Section, or portion thereof, of this Agreement be held unlawful and unenforceable by any court of competent jurisdiction, or any administrative agency having jurisdiction over the subject matter, such decision shall apply only to specific Section or portion thereof directly specified in the decision. All other portions of the Agreement as a whole shall continue without interruption for the term hereof.

SECTION VI. TERM OF AGREEMENT

This Agreement shall be executed July 1, 1997 and continue until June 30, 1998 or until terminated or replaced. The agreement may be amended by written

consent of the parties. STATE and COUNTY agree that prior to final transfer of the disabled services district and branch offices from STATE to COUNTY administration, the Area Plan and the resulting Intergovernmental Agreement must be approved and executed.

SECTION VII. TERMINATION

All or part of this contract may be terminated by mutual consent by both parties, or upon 60 days written notice by either party, delivered to the designated contact person.

SECTION VIII. LIAISONS

A. The parties mutually agree that the administrative authority for COUNTY shall be the Director of the Aging Services Department or his designee and for STATE shall be Director, Senior and Disabled Services Division or his designee.

B. Written notices pertaining to this agreement shall be sent to:

STATE

Roger Auerbach, Administrator
Senior and Disabled Services Division
500 Summer Street NE
Salem OR 97310

COUNTY

Jim McConnell, Director
Multnomah County Aging Services Department
421 SW 5th, 3rd floor
Portland OR 97204

IN WITNESS, the parties have caused this instrument to be executed by their duly authorized officers.

STATE OF OREGON
SENIOR AND DISABLED SERVICES
DIVISION

COUNTY OF MULTNOMAH

By: _____
Administrator or Designee Date

By: *Beverly Stein* 3/6/97
Beverly Stein Date
Multnomah County Chair

By: *James McConnell* 3-6-97
James McConnell, Director Date
Multnomah County Aging
Services Department

REVIEWED: Contract Services
Department of Human
Resources

REVIEWED:
LAURENCE KRESSEL, County
Counsel for Multnomah County

By: _____
Date

By: *Katie Gaetjens* 3/6/97
Katie Gaetjens Date
Assistant County Counsel

Reviewed:
Department of Justice

By: _____
Date

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-5 DATE 3/6/97
DEB BOGSTAD
BOARD CLERK

**CURRENT AND PROPOSED CLASSIFICATIONS AND SALARY COMPARISONS
PREPARED BY MULTNOMAH COUNTY EMPLOYEE SERVICES DIVISION
OCTOBER 25, 1996**

State SDSD

Multnomah County

CLASSIFICATION	CURRENT SAL. RG 98-97 (MO)	CURRENT + 6% (d)	CLASSIFICATION	7/1/96 SAL. RG (HOURLY)	7/1/96 SAL. RG (IF MONTHLY)
Office Assistant 2	1,210 - 1,568	1,283 - 1,662	Office Assistant 1	9.18 - 10.25	1,597 - 1,784
Office Specialist 1	1,381 - 1,789	1,464 - 1,896	Office Assistant 2	10.52 - 12.80	1,830 - 2,227
Public Svcs. Rep. 2	1,381 - 1,789	1,464 - 1,896			
Office Specialist 2	1,568 - 2,060	1,662 - 2,184			
Admin. Spec. 1	1,704 - 2,261	1,806 - 2,397	Medical Svcs. Clerk/OA Sr.	12.78 - 14.81	2,224 - 2,577
Human Resource Specialist 2	1,704 - 2,261	1,806 - 2,397	Eligibility Specialist (Case Manager 1) (b)	12.02 - 15.09	2,091 - 2,628
Senior Services Case Mgr	2,060 - 2,732	2,184 - 2,896	Case Manager 2	15.53 - 18.00	2,702 - 3,132
			Case Manager Senior (c)	16.32 - 18.92	2,840 - 3,292
Pre-Admission Screening Spec.	2,372 - 3,154	2,514 - 3,343	Community Health RN	17.23 - 23.13	2,998 - 4,025
Tech & Exec. Assistant (DO)	2,261 - 3,008	2,397 - 3,188	Admin. Analyst	16.20 - 22.68	2,819 - 3,946
Program Tech 1	2,261 - 3,008	2,397 - 3,188	Program Dev Specialist	16.63 - 20.34	2,894 - 3,539
Tech & Exec. Asst. (Branches)	2,261 - 3,008	2,397 - 3,188			
Disability Analyst	2,261 - 3,008	2,397 - 3,188			
Sr Serv Case Mgr (Hearing Rep)	2,060 - 2,732	2,184 - 2,896	Case Management Supr	N/A	3,108 - 4,352
Principal Exec. Mgr A	2,278 - 3,206	2,415 - 3,398			
Principal Exec. Mgr B	2,511 - 3,536	2,662 - 3,748	Branch Administrator	N/A	3,426 - 4,798
Principal Exec. Mgr D	3,054 - 4,301	3,237 - 4,644	Aging Services Program Mgr.	N/A	4,373 - 6,123
Principal Exec. Mgr E	3,365 - 4,742	3,567 - 5,027			

- a) County employees pay into PERS; ASD has requested that entry salaries for transferring DSO employees be adjusted by 6%
- b) revision of current County class in process
- c) promotional (within DSO staff)

NOTE: This chart reflects the current State classification and salary ranges and the proposed County classifications and salary ranges for all DSO employees. These proposals are based upon analyses of class specifications and job descriptions submitted for each position as well as field audits of several positions as necessary.

**Memorandum of Agreement
DSO Transfer to Multnomah County**

**I.
Parties**

The parties to this Agreement are Multnomah County, Oregon (the County) and Multnomah County Employees Union Local 88, AFSCME, AFL-CIO (the Union).

**II.
Purpose**

The purpose of this agreement is to specify the terms for calculation of wages of employees transferring to the County on or about July 1, 1997 from the Disability Services Office, State of Oregon, Department of Human Resources, Senior and Disable Services Division. It is the desire of the parties that the employees wage calculations be clear and specific, take into account the effects of the PERS "Pick-up," and assure that the regular rate of pay of a transferring employees at the date of transfer shall be no less than that which he or she would received if he or she had remained in state service.

**III.
Terms**

1. Unless otherwise stated in this agreement the wages of employees transferred from the DSO shall be in accordance with the provisions of ORS 236.610 AND 236.640.

2. In calculating the salary of employees transferring from the state, the following method of calculation shall be utilized:

a. The employee's State of Oregon base rate of pay which would have been paid as of July 1, 1997, including COLA, in his/her permanent classification shall be multiplied by 1.06. This rate shall be exclusive of any State of Oregon step increase, or increase other than a simple percentage increase or cents per hour increase.

b. Following the calculation provided for in Subsection 2.a. above, the employee shall be placed in the County range in effect July 1, 1997, for the classification to which he/she is allocated at the step rate which would not result in a decrease.

c. On July 1, 1997 and thereafter the employee shall be eligible for a step increase within the County's pay ranges based on his/her anniversary date.

d. In the event that the OPEU Agreement is not finalized as to the increase which shall be in effect as of July 1, 1997, for State of Oregon DSO Employees, the County shall at such later date as such negotiations are finalized, implement such amount retroactively as though it had been in effect as of July 1, 1997. Provided further, however, if the OPEU Agreement provides for an increase July 1, 1997 and thereafter for Fiscal Year 1997-1998 which includes staff reclassifications or which is complex in nature, i.e. other than a simple percentage across the board increase or an increase in cents per hour, only the simple percentage increase or cents per hour increase shall be implemented for that date. Other increases for July 1, 1997, or thereafter in the Fiscal Year, shall not be implemented. In such event the County within thirty (30) days of receipt of notification of such increases from the Union shall meet and confer with the Union for the purposes of implementing a program of increases which takes into account the OPEU increase or increases for the entire Fiscal Year as well as the amount budgeted for wage increases for such employees in the transfer. Following the process of meeting and conferring with the Union, and consultation with the Department of Aging Services, the Labor Relations Division as the County's agent in these matters shall certify any increases in writing to the Union.

3. The terms of this Agreement supersede any and all provisions of the Local 88 Agreement which might otherwise apply in wage calculation, and are without precedent or prejudice to either party. All terms of this Memorandum shall be effectuated if, and only if, an Intergovernmental Agreement providing for transfer and referring to this Memorandum is executed between the State and the County.

Entered into this date, March ____, 1997.

For the County

Kenneth Upton, Labor Relations Manager
Multnomah County

For the Union

Jim Younger
Union Representative
Local 88, AFSCME

c: Kathy Gillette
Melissa Dailey

Susan Daniell
Susan Ayers

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**Memorandum of Agreement
DSO Transfer to Multnomah County**

**I.
Parties**

The parties to this Agreement are Multnomah County, Oregon (the County) and the Oregon Nurses Association (the Association).

**II.
Purpose**

The purpose of this agreement is to specify the terms for calculation of wages of employees transferring to the County on or about July 1, 1997 from the Disability Services Office, State of Oregon, Department of Human Resources, Senior and Disable Services Division. It is the desire of the parties that the employees wage calculations be clear and specific, take into account the effects of the PERS "Pick-up," and assure that the regular rate of pay of a transferring employees at the date of transfer shall be no less than that which he or she would received if he or she had remained in state service.

**III.
Terms**

1. Unless otherwise stated in this agreement the wages of employees transferred from the DSO shall be in accordance with the provisions of ORS 236.610 AND 236.640.

2. In calculating the salary of employees transferring from the state, the following method of calculation shall be utilized:

a. The employee's State of Oregon base rate of pay which would have been paid as of July 1, 1997, including COLA, in his/her permanent classification shall be multiplied by 1.06. This rate shall be exclusive of any State of Oregon step increase, or increase other than a simple percentage increase or cents per hour increase.

b. Following the calculation provided for in Subsection 2.a. above, the employee shall be placed in the County range in effect July 1, 1997, for the classification to which he/she is allocated at the step rate which would not result in a decrease.

c. On July 1, 1997 and thereafter the employee shall be eligible for a step increase within the County's pay ranges based on his/her anniversary date.

d. In the event that the OPEU Agreement is not finalized as to the increase which shall be in effect as of July 1, 1997, for State of Oregon DSO Employees, the County shall at such later date as such negotiations are finalized, implement such amount retroactively as though it had been in effect as of July 1, 1997. Provided further, however, if the OPEU Agreement provides for an increase July 1, 1997 and thereafter for Fiscal Year 1997-1998 which includes staff reclassification is which is complex in nature, i.e. other than a simple percentage across the board increase or an increase in cents per hour, only the simple percentage increase or cents per hour increase shall be implemented for that date. Other increases for July 1, 1997, or thereafter in the Fiscal Year, shall not be implemented. In such event the County within thirty (30) days of receipt of notification of such increases from the Association shall meet and confer with the Association for the purposes of implementing a program of increases which takes into account the OPEU increase or increases for the entire Fiscal Year as well as the amount budgeted for wage increases for such employees in the transfer. Following the process of meeting and conferring with the Association, and consultation with the Department of Aging Services, the Labor Relations Division as the County's agent in these matters shall certify any increases in writing to the Association."

3. The terms of this Agreement supersede any and all provisions of the ONA Agreement which might otherwise apply in wage calculation, and are without precedent or prejudice to either party. All terms of this Memorandum shall be effectuated if, and only if, an Intergovernmental Agreement providing transfer for and referring to this Memorandum is executed between the State and County.

Entered into this date, March _____, 1997.

For the County

Kenneth Upton, Labor Relations Manager
Multnomah County

For the Association

Michael Alexander
Labor Relations Representative
ONA

c: Kathy Gillette
Melissa Dailey

Susan Daniell
Susan Ayers

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