

property.

(a) Freeboard

At maximum storage, the water surface elevation shall be a minimum of 0.5 feet below the top of the structure (curb, bank, berm, etc. ) designed to contain the water.

(b) Overflow System

The detention facility shall have an overflow system with the capacity to pass a 50-year frequency storm. The overflow shall discharge into a public storm drain facility or the natural drainage course for the drainage basin where the development is located.

(5) Simplified design for sites between 0.5 acres and 5 acres.

For developments in this size range, the detention facility may be designed in accordance with Standard Drawing No. 30. This method is based on the following conditions:

- (a) The sites are small enough so that there is an insignificant difference between the times of concentration for the different site sizes. For calculating the allowable runoff rate, a uniform time of concentration of 10 minutes is applicable and, as a result, the allowable runoff rate is 0.2 cfs per acre.
- (b) The sites, when developed, will have surfaces that are almost entirely impermeable (buildings, pavement, etc.). For a site not conforming to this condition, the required storage capacity can be reduced by doing a detailed analysis instead of following the standard drawing.

3. Pipes

- a. Concrete pipe shall be used, except for temporary or unusual conditions, with a minimum diameter of 10 inches and a minimum cover of 12 inches. Based on the cover and anticipated loading, the required type ASTM C-76 ( reinforced ) or ASTM C-14( non-reinforced ) and class of pipe shall be specified. Within county right-of-ways, under all public roadway areas, the pipe shall have rubber gasket joints. When the pipe has less than 12 inches of cover, Ductile Iron, Class 52 shall be installed. High-density polyethylene pipe with a corrugated exterior and a smooth interior ( Advanced Design Systems, Inc., N-12 or equivalent ), ASTM F-405 and F-667 or AASHTO M-252 and M-294, may be used for driveway culverts, provided a minimum cover of 18 inches can be placed and still

keep the surface of the driveway (at the ditch line ) lower than the surface of the county road, in accordance with Standard Drawing No. 11J.

- b. Pipes shall be designed for free flow (i.e., not under head).
  - c. Allowance for energy loss due to turns, structures, pipe size change, etc., shall be considered in the design of the storm drainage facilities.
  - d. Mannings "n" value shall be 0.013 for concrete pipe.
  - e. Minimum velocity shall be 3.0 fps at peak design flow. Minimum velocity of 2.5 fps will be allowed if the developer provides a construction bond, or similar assurance, for the cost of relaying the pipe if it is laid flatter than 80% of the design grade between structures or pipe ends.
  - f. Pipe slopes greater than 20% shall have concrete encasement or anchor walls at 21-foot spacing, and shall be reviewed by the Director of Public Works for impact or excessive velocity and the need for energy dissipators.
  - g. Storm sewer and other utility lines should not meander across the road right-of-way, creating conflicts with existing and future utilities and preempting orderly future installation. With a few exceptions, underground utilities should parallel the roadway centerline and be placed per Standard Drawings Nos. 2, 3, and 4.
  - h. When fill or trench depths exceed 10 feet, design calculations for pipe loading and strength shall be submitted.
  - i. Pipe bedding and trench backfill shall conform to Standard Drawing No. 25.
  - j. Storm sewers crossing private property shall have minimum easement widths of 10 feet. Deep storm sewers, large pipe or unstable soil situations will require wider easements.
4. Storm Drain Manholes, Junction Boxes and Cleanouts
- a. Manholes shall be required at:
    - (1) All changes in horizontal or vertical alignment. Minor horizontal curvature in pipe less than 15 degrees may be allowed, (without manholes or cleanouts), depending on pipe size, street alignment, degree of curvature and reason. Maximum joint deflection shall be per manufacturer's recommendation.
    - (2) All connections.

- (3) All changes in pipe size.
- (4) At a spacing no greater than 500 feet.
- b. Standard catch basins, junction boxes, or cleanouts may be used in place of manholes for pipe no larger than 18 inches and with a depth less than 4.0 feet.
- c. In place of manholes, on new main line and lateral construction, catch basing laterals of 30 feet or less in length and 10 inches in diameter may connect to the main line with a shop fabricated 90 degree "T", provided the connection is located not more than 100 feet from a manhole or cleanout on the main line and the main line is 15 inches or larger in diameter.
- d. In place of manholes or cleanouts, laterals draining private property may be connected directly to the main line, provided the lateral diameter is 8 inches or less and is no more than one half the diameter of the main line. The hole in the main line shall be made with a drill designed for cutting concrete. The connection shall be properly grouted to provide a strong, leak-proof point. The lateral shall not project inside the main line.

5. Inlets and Catch Basins

Inlets and catch basins shall be required at:

- a. All low spots, whether on public or private property, and shall be connected to a storm drainage facility.
- b. A maximum gutter flow length of 500 feet.

6. Drywells and French Drains

Drywells and French drains shall not be allowed as the exclusive method for draining public right-of-ways but may be used for developments on private property for paved driveways, parking and loading areas, subject to the following conditions:

- a. There are no public storm drain facilities, available within a reasonable distance of the development.
- b. A soils test shall be provided to show that there is adequate permeability.
- c. The system shall be engineered to insure that adequate capacity is available.
- d. Provisions shall be made for grease and fines removal.

- e. The site shall be graded so that it does not drain onto a public right-of-way in the event that the drywell or French drain fails.
- f. The design shall be approved by the Department of Public Works.

7. Open Channels

- a. All existing streams and ditches and other open channels requiring a pipe diameter greater than 36 inches shall remain open channel except at road crossing.
- b. Where possible, ditches shall be located along or adjacent to lot lines. Within the UGB, creation of new open channels will not be allowed, unless it is to relocate an existing open channel.
- c. For reasons of maintenance and safety, bank slopes generally shall be 4:1 or flatter but may be a maximum of 2:1 with Department of Public Works approval.
- d. The maximum allowable design velocity shall be 7 fps.
- e. The minimum allowable design velocity shall be 2 fps. The installation of a concrete lined low-flow channel may be required to achieve minimum velocity.
- f. The normal maximum depth for an open ditch shall be 4 feet outside of road rights-of-way and 2 feet adjacent to the roadways.
- g. Channels crossing private property shall have a minimum easement width equal to the channel width at the top plus 10 feet along one side of the channel.

B. PLANS

- 1. All plans shall include a map outlining the drainage basin boundaries for which a storm water runoff system is being designed and those adjacent basins which may be affected. This drainage basin map shall show the existing and proposed drainage swale, stream or body of water. The scale of this map may vary from 1" equals 200' to 1" equals 2,000' depending on the size of the drainage basins.
- 2. All crossings and potential conflicts between storm sewers and other underground utilities shall be shown on the profile.
- 3. Means of preventing erosion along new channels, ditches and at pipe outfalls, are required and shall be shown on the plans.

4. Pipe sizes, types, classes and bedding shall be specified on the plan.
5. Pipe bedding and trench backfill shall be specified on plans and shall be per Standard Drawing No. 25.

## **VI. USE OF COUNTY RIGHT-OF-WAY BY OTHERS**

Written permission to work in or modify a county right-of-way or easement, including the construction of driveway accesses, must be obtained from the Director of Public Works or his representative prior to actual commencement of said work. Such work must restore the road structure to its present physical characteristics, including any additional work or materials necessary to compensate for weaknesses caused by disturbing the structural integrity of the roadway. Standard Drawing No. 25 shows backfill requirements for excavation work undertaken in the right-of-way.

The location of utilities or other facilities in the right-of-way shall be as shown on Standard Drawing Nos. 2, 3, and 4, or as authorized by the Director of Public Works.

Underground utility crossing shall in general be installed by boring, jacking, or tunneling, rather than excavating or ditching. Unless there are special circumstances approved by the Director of Public Works, (e.g., rock subgrade), open cuts for utilities in paved roads shall not be permitted for:

1. Conduits 4 inches and smaller in diameter.
2. Roads classified as arterials.
3. Roads overlayed within the last 3 years.

Where the Director of Public Works has approved an open cut, the pavement shall be saw cut and the crossing shall be perpendicular to the centerline of the road.

## **VII CHECK LIST FOR SUBDIVISION REVIEW**

On the following pages appear check lists to be used in the various stages of subdivision review listed below:

- A. Preliminary Plat
- B. Engineering Plans
- C. Final Plat ( hard copy )

## Chapter 17.112

### FUTURE RIGHT-OF-WAY LINES Revised 3/19

#### Sections:

- 17.112.010 Establishment, alterations, or elimination of future right-of-way lines.
- 17.112.020 Special street setbacks. Revised 3/19

Prior legislation: Ordinance 329.

#### **17.112.010 Establishment, alterations, or elimination of future right-of-way lines.**

The governing body may establish, vary, modify, alter or eliminate any future right-of-way line for any reason or purpose after proceedings as provided for administrative reviews as outlined in MCC 17.110.680. [Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003. RZ Ord. § 112.010.]

#### **17.112.020 Special street setbacks. Revised 3/19**

A. The special setbacks in this section are based upon the functional classification of streets as described in the Marion County Rural Transportation System Plan outside urban growth boundaries. The purpose of these special setbacks is to permit the eventual expansion or improvement of streets and roads in order to safely accommodate vehicular or pedestrian traffic. The special setback shall be measured from the centerline of the street right-of-way.

B. Except as provided herein structures, including but not limited to utilities, retaining walls, fences and curbing and paved surfaces shall not be located within the special setbacks specified in subsection (F) of this section. Any portion of a structure lawfully established within a special street setback prior to adoption of this title shall be considered a nonconforming structure. Other yard areas and setbacks specified adjacent to streets shall be in addition to the special setbacks required by this section. These setback distances shall be measured at right angles to the centerline of the established right-of-way. Parking requirements shall be met outside of the special setback area.

C. The planning director may approve placement of signs or light standards, and temporary structures, or paved surfaces within the special setback area upon determination that the county department of public works or Division of State Highways, if applicable, has no objections, and provided the property owner signs a written agreement that the owner or his heirs or assigns will, within 45 days after being notified by the county, remove all portions of the structures or signs, light standards, parking or temporary structures within the special setback. The agreement shall provide that if the owner fails to remove the listed items the county or state may do so at the expense of the owner and the expense shall be a lien against the land and may be collected or foreclosed in the same manner as liens entered in the county lien docket. The agreement shall be recorded by the owner in the applicable deed records. Notice requiring removal shall be given when the responsible public agency is planning a project or identifies an actual need to improve the street in front of the owner's property or the department of public works determines that the structure is a threat to the public health, safety or welfare. The agreement shall also provide that the owners shall not be entitled to any damages or compensation for the removing of any structure or loss of parking spaces approved under this provision but this stipulation shall not deny the owner the right to compensation for any land or any structures existing prior to the adoption of this title, taken for a roadway-related project.

D. The planning director may also approve temporary structures within the street yard required in the applicable zone, exclusive of the vision clearance area, subject to the requirements in subsection (C) of this section.

E. Required yard areas adjacent to a street shall be measured from the setback lines as set forth in this section.

#### F. Special Setback Requirements.

1. The special setback requirements shall be based on the functional classification in the Rural Transportation System Plan with the exception of those road segments listed under subsection (F)(2) of this section.

- a. State highway: 50 feet.
- b. Principal arterial: 50 feet.

- c. Arterial: 50 feet.
- d. Major collector: 40 feet.

All other facilities shall have a special setback of 30 feet as identified in the Rural Transportation System Plan (Section 10.3.6).

2. The following streets or roads shall have a centerline setback as specified:

- a. *Repealed by Ord. 1397.*
- b. Cordon Road adjacent to the urban growth boundary of Salem and up to Hazelgreen Road: 60 feet.
- c. North Fork Road from Oregon 22 to Gates Hill Road: 50 feet.
- d. State Street from Howell Prairie Road to Cascade Highway: 40 feet.
- e. Sunnyview Road from Howell Prairie Road to Cascade Highway: 40 feet.
- f. Macleay Road from 65th Avenue to Howell Prairie Road: 40 feet.
- g. Riverside Road from River Road to Sidney Road: 40 feet.
- h. Sidney Road from Riverside Road to Buena Vista Road: 40 feet.
- i. Buena Vista Road from Sidney Road to Buena Vista Ferry: 40 feet. [Ord. 1397 § 4 (Exh. B), 2019; Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003. RZ Ord. § 112.020.]

## Chapter 17.115

### DETERMINATIONS AND ADMINISTRATIVE REVIEWS

#### Sections:

- 17.115.010 Authorization.
- 17.115.020 Definition.
- 17.115.030 Requests for a determination.
- 17.115.040 Review procedure.
- 17.115.050 Standards for making determinations.
- 17.115.060 Scope of determinations.
- 17.115.070 Conditions under previous ordinance.
- 17.115.080 Modification or withdrawal of determinations and administrative reviews.
- 17.115.090 Expiration and extensions.
- 17.115.100 Effect of determinations on zoning ordinance amendments.
- 17.115.110 Administrative review.

#### **17.115.010 Authorization.**

The director is authorized to issue determinations or administrative reviews regarding conformance of existing or proposed uses on a particular lot or parcel within the requirements of this title, including determinations or administrative reviews relating to nonconforming uses as provided in Chapter 17.110 MCC, subject to the requirements of this chapter. [Ord. 1313 § 4 (Exh. A), 2011.]

#### **17.115.020 Definition.**

A determination includes, but is not limited to, written information provided by the director regarding the application of this title to a specific lot or parcel such as an indication of conformance with applicable provisions of this title. In official correspondence or on a state agency permit, building permit, mobile home siting permit, occupancy permit, or similar document. (See Chapter 17.110 MCC for procedures for clarifying the applicability of this title under general circumstances). Oral information is not a determination and cannot be considered the basis for any act in violation of this title.

An administrative review is a written determination that requires an interpretation or the exercise of factual, policy, or legal judgment, and is considered a land use decision and is issued as a land use permit. [Ord. 1313 § 4 (Exh. A), 2011.]

#### **17.115.030 Requests for a determination.**

The following procedures shall apply to requests for written determinations not associated with a building permit, mobile home siting permit, occupancy permit or similar action.

- A. Any interested person may request a written determination.
- B. The request shall identify the name, address and phone number of the applicant, and the owner and address of the property.
- C. Requests shall include a copy of the latest property transfer document.
- D. The request shall also include a written explanation of the specific issues to be determined. [Ord. 1313 § 4 (Exh. A), 2011.]

#### **17.115.040 Review procedure.**

A. The director shall review requests for determinations. For requests submitted under MCC 17.115.030 written findings shall be prepared indicating whether or not the use meets the criteria in MCC 17.115.050. The written determination shall identify the expiration date and procedure for obtaining an extension as provided in MCC 17.115.090.

B. The written determination shall be provided to the applicant and to any persons who request a copy.

C. The director may charge a fee set by order of the board for a written determination. The director shall keep a file of all written determinations.

D. The director shall not be responsible for verifying the accuracy or completeness of information provided by the applicant. The validity and effectiveness of determinations is limited to the facts presented by the applicant. No liability is assumed for erroneous or incomplete information in the request. [Ord. 1313 § 4 (Exh. A), 2011.]

**17.115.050 Standards for making determinations.**

A determination of conformance with this title shall be made if the director finds compliance with the requirements of the applicable zone or overlay zone, the regulations pertaining to nonconforming uses in Chapter 17.114 MCC, the general development regulations in Chapters 17.112, 17.113, 17.118, 17.120, 17.121, 17.126 through 17.172, and 17.191 MCC, and the definitional limits in Chapter 17.110 MCC. In addition, the director shall not make a determination of conformance with this title unless the provisions of this chapter have been met. [Ord. 1313 § 4 (Exh. A), 2011.]

**17.115.060 Scope of determinations.**

A. For requests submitted pursuant to MCC 17.115.030 or 17.115.110 the director shall determine from available records whether the subject lot or parcel and existing uses were established in conformance with applicable county regulations.

B. If a determination cannot be made without interpretation or the exercise of factual, policy or legal judgment the director shall deny the request. When a determination with regard to a proposed use, structure, or the legality of a parcel cannot be made without interpretation or the exercise of factual, policy or legal judgment, the proposed use, structure, or the legality of a parcel may be reviewed as an administrative review subject to submittal of an application as provided in MCC 17.115.110. [Ord. 1313 § 4 (Exh. A), 2011.]

**17.115.070 Conditions under previous ordinance.**

A. If under previous ordinances conditions were imposed as part of a zone change or a resolution of intent to rezone that have not been met, or require continuing compliance, any determination or administrative review for the subject property shall identify the conditions and note that they remain in effect.

B. If a conditional use permit was granted under previous ordinances and the conditions imposed have not been met, or require continuing compliance, a determination for the subject property shall identify the conditions and note that they remain in effect. [Ord. 1313 § 4 (Exh. A), 2011.]

**17.115.080 Modification or withdrawal of determinations and administrative reviews.**

Written determinations or administrative reviews may be modified or withdrawn prior to establishment of a use or occupancy of a structure if new information is received that demonstrates that the determination or administrative review was in error. Those provided with a copy of the original determination or administrative review shall be provided a copy of the modified determination, or administrative review or notice of the withdrawal. [Ord. 1313 § 4 (Exh. A), 2011.]

**17.115.090 Expiration and extensions.**

A determination remains effective for one year; provided, that determinations made as part of a permit issuance shall remain effective as long as the permit remains effective. An administrative review runs with the land, unless a specific expiration date is identified in the decision or the decision is revoked. [Ord. 1313 § 4 (Exh. A), 2011.]

**17.115.100 Effect of determinations on zoning ordinance amendments.**

When a structure or use has been modified or established in reliance on a written determination or administrative review and the applicable land use regulations change, the structure or use shall be subject to the provisions of Chapter 17.114 MCC, Nonconforming Buildings and Uses. [Ord. 1313 § 4 (Exh. A), 2011.]

**17.115.110 Administrative review.**

When a determination about a proposed use, structure or the legality of a parcel cannot be made without interpretation or the exercise of factual, policy or legal judgment, the proposed use, structure, or the legality of a lot or parcel may be reviewed as an administrative review subject to submittal of an application as provided in MCC

17.119.020 and 17.119.025. The administrative review procedures, as provided below, shall be followed in making these decisions.

A. The decision shall be made on the basis of the comprehensive plan and applicable standards and criteria in this title. The director or designee may attach any conditions of approval deemed necessary to ensure conformance of the use, structure, lot or parcel or to the standards or criteria. Administrative review applications may be filed and shall be signed as required in MCC 17.119.020 and 17.119.025. Notwithstanding any other provisions of this title, the director or designee may forward any land use permit or application to the planning commission or hearings officer for a public hearing and initial decision.

B. Notice of a decision shall be sent to the applicant, the owner(s) of the subject property, the co-tenants if the subject property is owned by tenants in common, and all property owners within the notification area prescribed by MCC 17.110.408 or as required by state law or administrative rule.

C. The applicant or any person aggrieved or affected by the decision may file a request for a hearing to the planning division within 15 days of the date the decision was rendered.

D. The applicant may file a request for reconsideration without a hearing to the planning division within 15 days of the date the decision was rendered. The request must be in writing and received in the planning division office prior to the decision being final, and should explain wherein the decision is factually or legally incorrect, or state new facts material to the decision that were not available to the director, or propose modifications that will better conform the proposal to the requirements of the ordinance. The request for reconsideration shall include a signed 30-day extension of the 150-day time limit in ORS 215.427.

Applicants shall be limited to one request for reconsideration per application. The director shall reconsider the matter and provide notice to the applicant requesting reconsideration and as required in subsection (B) of this section.

The board may call up any action of the director, planning commission or hearings officer in granting or denying administrative reviews. This action of the board shall be taken at the meeting at which notice of the decision is presented. When the board takes such action, the director's, planning commission's or hearings officer's records pertaining to the administrative review in question shall be submitted to the board by the director or hearings officer. The call up shall stay all proceedings in the same manner as the filing of a notice of appeal.

E. When reconsideration has been requested, the decision is stayed until final action is taken.

F. On request for a hearing, the hearings officer shall hold a hearing on the matter in accordance with Chapter 17.111 MCC.

G. MCC 17.122.070 through 17.122.130 shall apply to any appeals from the decision of the hearings officer. [Ord. 1313 § 4 (Exh. A), 2011.]

## Chapter 17.119

### CONDITIONAL USES Revised 7/23

#### Sections:

- 17.119.010 General concept.
- 17.119.020 Application. Revised 7/23
- 17.119.025 Required signatures. Revised 7/23
- 17.119.030 Power to hear and decide conditional uses.
- 17.119.040 Hearings.
- 17.119.050 Conditional use and concurrent variances.
- 17.119.060 Conditions.
- 17.119.070 Findings of the director, planning commission or hearings officer.
- 17.119.080 *Repealed.*
- 17.119.100 Director review.
- 17.119.110 Decision review.
- 17.119.120 Information from affected agencies.
- 17.119.130 Notification of decision.
- 17.119.140 Appeal.
- 17.119.150 Public hearing and decision on appeals.
- 17.119.160 Appeal to the board.
- 17.119.170 Call up to the board.
- 17.119.180 Effective date of conditional use.
- 17.119.190 Conditional use right must be exercised to be effective.
- 17.119.200 Cessation of conditional use.
- 17.119.210 Transfer of conditional use.
- 17.119.220 Resubmission of conditional use application.

#### **17.119.010 General concept.**

A conditional use is an activity which is basically similar to other uses permitted in the zone, but due to some of the characteristics of the conditional use, which are not entirely compatible with the zone, such use could not otherwise be permitted in the zone. Review of the proposed conditional use by the director, planning commission or hearings officer will ensure that the use will be in consonance with the purpose and intent of the zone. [Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1047 § 4, 1996; Ord. 516 § 2, 1978. RZ Ord. § 119.010.]

#### **17.119.020 Application.** Revised 7/23

An application for a conditional use may be filed by the following only:

- A. The owner of the property that is the subject of the application;
- B. The purchaser of the property that is subject to the application when a duly executed written contract or earnest-money agreement, or copy thereof, is submitted with the application;
- C. A lessee in possession of the property subject to the application who submits written consent of the owner to make the application;
- D. The appropriate local government or state agency when the application is for a public works project;
- E. A governmental body that has initiated condemnation proceedings on the property that is subject to the application, but has not yet gained title; or
- F. A co-tenant if the property that is the subject of the application is owned by tenants in common.
- G. A public agency or utility, or an entity authorized by a public agency or utility, if the public agency or utility holds an easement or other right that entitles the applicant to conduct the proposed use on the subject property without the approval of the property owner.

The application for a proposed conditional use, or to enlarge, expand, or alter a conditional use, shall be on a form provided by the planning division and shall contain such information as the director, planning commission or hearings officer feels is necessary to fully assess the effect of the conditional use on the surrounding area. [Ord. 1454 § 4 (Exh. B), 2023; Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1047 § 4, 1996; Ord. 516 § 2, 1978. RZ Ord. § 119.020.]

**17.119.025 Required signatures.** Revised 7/23

A. Applications shall include the following signatures:

1. Signatures of all owners of the subject property;
2. The signatures of the purchasers of the property under a duly executed, recorded, written contract of sale or earnest-money agreement;
3. The signatures of the lessee in possession of the property with the written consent of all the owners; or
4. The signatures of the agents of those identified in MCC 17.119.020(A), (B), or (C) when authorized in writing by those with the interests described in MCC 17.119.020(B) or (C), and all the owners of the property;
5. For an application filed by an entity authorized by a public agency or utility pursuant to MCC 17.119.020(G), the signature of an authorized agent of a public agency or utility holding an easement or other right that entitles the applicant to conduct the proposed use on the subject property without the approval of the property owners; or
6. The signature of co-tenants owning at least a one-half undivided interest in the property, when the property is owned by tenants in common; provided, that the signing co-tenant provides current addresses for all co-tenants who have not signed the application so the planning division can give them notice of the decision.

B. Prima Facie Proof of Ownership. When any person signs as the owner of property or as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any owner, or when any person states that he or she is buying the property under contract, the director, planning commission, hearings officer and the board may accept these statements to be true, unless the contrary be proved, and except where otherwise in this title more definite and complete proof is required. Nothing herein shall prevent the director, planning commission, hearings officer or board from demanding proof that the signer is the owner, officer, attorney in fact, or agent. [Ord. 1454 § 4 (Exh. B), 2023; Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002. RZ Ord. § 119.025.]

**17.119.030 Power to hear and decide conditional uses.**

The planning commission, hearings officer, or board on its own motion may hear and decide only those applications for conditional uses, their expansion or alteration, that are listed in this title. The planning commission, hearings officer or board shall decide whether or not the conditional use may be placed in a zone and may impose the conditions listed below, subject to the restrictions and provisions of this title. [Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1047 § 4, 1996; Ord. 619 § 3, 1982; Ord. 516 § 2, 1978. RZ Ord. § 119.030.]

**17.119.040 Hearings.**

The planning commission or hearings officer shall hold a public hearing on the proposed conditional use as prescribed in MCC 17.119.150. [Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1047 § 4, 1996; Ord. 516 § 2, 1978. RZ Ord. § 119.040.]

**17.119.050 Conditional use and concurrent variances.**

Variances may be processed concurrently and in conjunction with a conditional use application and when so processed will not require an additional public hearing. [Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1047 § 4, 1996; Ord. 516 § 2, 1978. RZ Ord. § 119.050.]

**17.119.060 Conditions.**

The director, planning commission or hearings officer may prescribe restrictions or limitations for the proposed conditional use but may not reduce any requirement or standard specified by this title as a condition to the use. Any reduction or change of the requirements of this title must be considered as varying this title and must be requested

and viewed as such. The director, planning commission or hearings officer shall impose conditions only after it has determined that such conditions are necessary for the public health, safety or general welfare, or to protect persons working or residing in the area, or the protection of property or improvements in the area. The director, planning commission or hearings officer may prescribe such conditions it deems necessary to fulfill the purpose and intent of this title. [Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1047 § 4, 1996; Ord. 516 § 2, 1978. RZ Ord. § 119.060.]

**17.119.070 Findings of the director, planning commission or hearings officer.**

Before granting a conditional use, the director, planning commission or hearings officer shall determine:

A. That it has the power to grant the conditional use;

B. That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone;

C. That any condition imposed is necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood. [Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1047 § 4, 1996; Ord. 516 § 2, 1978. RZ Ord. § 119.070.]

**17.119.080 Variance procedure applicable to conditional uses.**

*Repealed by Ord. 1397.* [Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1047 § 4, 1996; Ord. 516 § 2, 1978. RZ Ord. § 119.080.]

**17.119.100 Director review.**

The provisions of MCC 17.119.030 and 17.119.040 and all other provisions of this title notwithstanding, the director shall have the power to decide applications for all conditional uses listed in this title and impose conditions consistent with MCC 17.119.060 and 17.119.070. The director shall also have the power to forward an application to the hearings officer or planning commission for the initial decision. In such case, the reviewing body shall conduct a public hearing on the application pursuant to MCC 17.119.150.

The director may, any time prior to the decision being final, reconsider the decision and issue a new or modified decision. [Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1047 § 4, 1996; Ord. 602 § 6, 1981; Ord. 555 § 2, 1979; Ord. 516 § 2, 1978. RZ Ord. § 119.100.]

**17.119.110 Decision review.**

The director shall decide whether to approve or deny the conditional use based on the Marion County Comprehensive Plan and applicable criteria in this title. The decision should be made and notice thereof sent within 30 days of an application being determined to be complete. This administrative decision shall be final unless an appeal is taken as provided below. [Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1047 § 4, 1996; Ord. 555 § 2, 1979; Ord. 516 § 2, 1978. RZ Ord. § 119.110.]

**17.119.120 Information from affected agencies.**

Upon receipt of an application under MCC 17.119.100, a summary of the application shall be distributed to the public works department, assessor's office, building inspector, other affected agencies and the recognized area advisory committee with a request for comments or suggestions regarding those features that come within the scope of their activities. [Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1047 § 4, 1996; Ord. 555 § 2, 1979; Ord. 516 § 2, 1978. RZ Ord. § 119.120.]

**17.119.130 Notification of decision.**

Notice of the decision and information on the appeal process shall be sent to the applicant, the owner(s) of the subject property, the co-tenants of the subject property if the property is owned by tenants in common, affected agencies and members of the recognized area advisory committee requesting information, others requesting notification, and all landowners within the required notification area. [Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1047 § 4, 1996; Ord. 555 § 2, 1979; Ord. 516 § 2, 1978. RZ Ord. § 119.130.]

**17.119.140 Appeal.**

After the director's final action on the application, interested persons may appeal the decision no later than 15 days after the decision is mailed. [Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1047 § 4, 1996; Ord. 555 § 2, 1979; Ord. 516 § 2, 1978. RZ Ord. § 119.140.]

**17.119.150 Public hearing and decision on appeals.**

If the director's decision is appealed, the hearings officer or planning commission shall conduct a public hearing in accordance with Chapter 17.111 MCC. Notice of an appeal of the director's decision shall be mailed to the applicant, those requesting notice of a hearing and all landowners within the required notification area at least 20 days prior to the hearing date. The notice shall be consistent with the requirements in ORS 197.763(3). Failure to receive such notice by mail shall not affect the validity of the proceedings. The public hearing before the hearings officer or planning commission shall be de novo. [Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1047 § 4, 1996; Ord. 555 § 2, 1979; Ord. 516 § 2, 1978. RZ Ord. § 119.150.]

**17.119.160 Appeal to the board.**

A. An appeal may be taken to the board by any person, firm, or corporation, or by an officer, department, board or commission of any public corporation or political subdivision of the state of Oregon, aggrieved or affected by the decision of the planning commission or hearings officer on an application for a conditional use. An appeal must be filed with the county clerk within 15 days from the date of mailing of notice of the decision of the planning commission or hearings officer.

The appeal shall be filed in duplicate and one copy thereof shall be forwarded immediately by the clerk to the board. The appeal shall state wherein the planning commission or hearings officer failed to conform to the provisions of this title.

B. When an appeal is filed it shall stay all proceedings by all parties in connection with the matter upon which the appeal is taken until the determination of such appeal by the board.

C. The board shall review the action of the planning commission or hearings officer and may refer the matter back to the planning commission or hearings officer for further consideration, in which case the planning commission or hearings officer shall conduct such further investigation if it is deemed advisable and report its findings to the board. The board may summarily, after considering the application and appeal and finding that the facts therein stated do not warrant any further hearings, affirm the action of the planning commission or hearings officer and deny the appeal. If the board is of the opinion that the facts in the case warrant further action, the board shall give notice of the time and place of such hearing in the same manner as set forth in MCC 17.111.030. After the hearing, the board may reverse or affirm or may impose such conditions as the facts warrant and may grant a conditional use, and its decision or determination shall be final. Any hearing may be continued to a time and day certain or as otherwise provided for by re-noticing the hearing.

D. If the board exercises its authority, pursuant to MCC 17.110.765, to make the initial determination on a land use application, the decision of the board is final and appealable only to the Oregon Land Use Board of Appeals. [Ord. 1397 § 4 (Exh. B), 2019.]

**17.119.170 Call up to the board.**

The board may call up any action of the director, planning commission or hearings officer in granting or denying a conditional use. Such action of the board shall be taken at the meeting where notice of the decision is presented. When the board takes such action the director's, planning commission's or hearings officer's records pertaining to the conditional use in question shall be submitted to the board by the director or hearings officer and such call up shall stay all proceedings in the same manner as the filing of a notice of appeal. [Ord. 1397 § 4 (Exh. B), 2019.]

**17.119.180 Effective date of conditional use.**

Conditional uses granted by the director, planning commission or hearings officer under the provisions of this title shall not be effective until 15 days after the mailing of the notice of decision; provided, however, in case call up of the proceedings has been requested by the board or an appeal has been taken as herein provided, the conditional use shall not be effective until the planning commission, hearings officer or board has acted on the call up or appeal. [Ord. 1397 § 4 (Exh. B), 2019.]

**17.119.190 Conditional use right must be exercised to be effective.**

Conditional uses granted under this title shall be effective only when the exercise of the right granted thereunder shall be commenced within two years from the effective date of that conditional use, unless a longer period be specified or thereafter allowed by the director, planning commission, hearings officer, or board. In case the right has not been exercised, or extension obtained, the conditional use shall be void. A written request for an extension of time filed with the director prior to the expiration of the conditional use shall extend the running of the conditional use period until the director, planning commission, hearings officer or board has acted on the request. [Ord. 1397 § 4 (Exh. B), 2019.]

**17.119.200 Cessation of conditional use.**

Discontinuance of the exercise of any right heretofore or hereafter authorized by any conditional use for a continuous period of one year shall be deemed an abandonment of such conditional use, and the property affected thereby shall be subject to all the provisions and regulations of this title applicable to the district or zone in which such property is located at the time of such abandonment. [Ord. 1397 § 4 (Exh. B), 2019.]

**17.119.210 Transfer of conditional use.**

Unless otherwise provided in the decision granting the conditional use permit, conditional use permits shall run with the land. [Ord. 1397 § 4 (Exh. B), 2019.]

**17.119.220 Resubmission of conditional use application.**

No application which has been denied wholly or in part by the director, planning commission, hearings officer or by the board shall be resubmitted for a period of one year from such denial, unless consent for resubmission be given by the director, two-thirds of the members of the planning commission, the hearings officer or the board. [Ord. 1397 § 4 (Exh. B), 2019.]

## Chapter 17.123

### ZONE CHANGE PROCEDURE

#### Sections:

- 17.123.010 Amendments.
- 17.123.020 Initiation of a zone change.
- 17.123.030 Hearing before the planning commission or hearings officer.
- 17.123.040 Hearing before the board.
- 17.123.050 Final action by the board.
- 17.123.060 Criteria.
- 17.123.070 Conditional zoning.
- 17.123.080 Acknowledgment of resolution of intent to rezone.

#### **17.123.010 Amendments.**

A zone change is a reclassification of any lot, parcel, or area from one zone or district to another. Such change shall be by an ordinance enacted by the board after proceedings have been accomplished in accordance with this title. [Ord. 1271 § 5, 2008; Ord. 1168 § 5, 2002; Ord. 619 § 3, 1982; Ord. 516 § 2, 1978. RZ Ord. § 123.010.]

#### **17.123.020 Initiation of a zone change.**

A. The board may initiate a zone change only as provided below:

1. The board may initiate a zone change proposed for some governmental, educational, religious, or philanthropic purpose; or
2. The board may initiate a zone change that is legislative when a majority of all property owners in the area proposed to be changed have signed a notarized statement requesting initiation of the zone change. Under this provision, the applicants shall make application consistent with MCC 17.119.020 and 17.119.025 and pay the appropriate fee.
3. When the board initiates a zone change, it shall do so by resolution. The resolution may be referred to the planning commission, hearings officer, or planning director.
4. The board may exercise its authority to initially determine the zone change, pursuant to the provisions of MCC 17.110.765. If the board so elects, it shall hold a public hearing pursuant to Chapter 17.111 MCC. If the board refers the zone change to the planning commission or hearings officer, the planning commission or hearings officer shall hold a public hearing and make a recommendation to the board, which may in its discretion hold a public hearing on the change.

B. The planning commission or hearings officer may initiate a zone change only as provided below:

1. The planning commission or hearings officer may initiate a zone change that is in the public interest and will be of general benefit;
2. When the proceedings are initiated by the planning commission or hearings officer, the director shall fix a date for hearing before the planning commission or hearings officer and give notice of the hearing as provided in Chapter 17.111 MCC.
3. After the hearing, the planning commission or hearings officer shall refer its recommendation to the board.

C. A quasi-judicial zone change may be initiated by a property owner(s) consistent with the application requirements of MCC 17.119.020 and 17.119.025. [Ord. 1271 § 5, 2008; Ord. 1168 § 5, 2002; Ord. 619 § 3, 1982; Ord. 516 § 2, 1978. RZ Ord. § 123.020.]

**17.123.030 Hearing before the planning commission or hearings officer.**

Except in those cases where the board summons the application for initial determination pursuant to MCC 17.110.765, the planning commission or hearings officer shall hold a public hearing as prescribed in Chapter 17.111 MCC on the application for zone change. After concluding its hearings, the planning commission or hearings officer shall prepare a report setting forth a summary of facts and conditions involved in the reclassification and submit the same together with its recommendation to the board and to the petitioner. [Ord. 1271 § 5, 2008; Ord. 1168 § 5, 2002; Ord. 619 § 3, 1982; Ord. 516 § 2, 1978. RZ Ord. § 123.030.]

**17.123.040 Hearing before the board.**

The board shall hold a public hearing on any application for which the board has summoned for initial determination pursuant to MCC 17.110.765. In all other cases, the board may in its discretion hold a public hearing on the application. All public hearings shall be held pursuant to Chapter 17.111 MCC. [Ord. 1271 § 5, 2008; Ord. 1168 § 5, 2002; Ord. 619 § 3, 1982; Ord. 516 § 2, 1978. RZ Ord. § 123.040.]

**17.123.050 Final action by the board.**

Any zone change or reclassification of property shall be by ordinance which shall be passed by the board. Any denial of a proposed zone change shall be by order. Whenever any premises are reclassified as to zone, or a new zone established, or boundary lines of a zone changed, the official zoning map shall be changed as provided in MCC 17.110.660. [Ord. 1271 § 5, 2008; Ord. 1168 § 5, 2002; Ord. 516 § 2, 1978. RZ Ord. § 123.050.]

**17.123.060 Criteria.**

Approval of a zone change application or initiated zone change shall include findings that the change meets the following criteria:

- A. The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the goals and policies of the Comprehensive Plan and the description and policies for the applicable land use classification in the Comprehensive Plan; and
- B. The proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area; and
- C. Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property; and
- D. The other lands in the county already designated for the proposed use are either unavailable or not as well suited for the anticipated uses due to location, size or other factors; and
- E. If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the new zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses. [Ord. 1271 § 5, 2008; Ord. 1168 § 5, 2002. RZ Ord. § 123.060.]

**17.123.070 Conditional zoning.**

A. Purpose and Criteria. A zone change allowing more intensive use of property may be conditioned to require provisions for buffering or provision of off-site public facilities. In order to impose conditions on a zone change, findings must be adopted showing that the use of the property will be intensified and that the conditions:

1. Are reasonably related to development allowed in the proposed zone or to the specific development proposed on the subject property;
2. Will serve a public purpose such as mitigating the negative impacts of allowed uses on adjacent properties; and
3. Are based upon policies or standards in the Comprehensive Plan or other standards adopted by the board of commissioners or by state and federal agencies.

B. Scope of Conditions. Conditions that could be imposed and satisfy the criteria in subsection (A) of this section include, but are not limited to:

1. Granting a right-of-way for public roads, including easements, etc.;
2. Improvement of private or public roads, including bike paths, curbs, and sidewalks;
3. Provision of storm drainage facilities;
4. Extension of public sewer and water service, including over-sizing to permit development on other lands;
5. Provision of fire suppression facilities and equipment;
6. Provision of transit and traffic control facilities;
7. Special building setbacks, orientation, landscaping, fencing, berming, and retention of natural vegetation;
8. Special locations for truck loading, parking, access routes, or any outdoor activity that could impact adjacent property;
9. Administrative review of development plans to ensure that conditions of approval have been satisfied; and
10. Financial contributions to public agencies to offset increased costs for providing services or facilities related to the intensification of the use of the property.

C. The following limits and requirements apply to conditions imposed pursuant to this section:

1. Conditions shall be stated with specificity; shall be reasonably related to the public health, safety, and welfare; and shall be designed to reasonably effectuate their intended purpose.
2. Conditions that would have the effect of limiting use of the subject property to one particular owner, tenant, or business shall not be imposed, except as authorized under a limited use overlay zone. Conditions shall not be so restrictive that they may not reasonably be complied with by other occupants who might devote the property to the same or a substantially similar use.
3. If the dedication of street right-of-way or street improvements are required, provision of dedication, improvements or funding shall be deferred until a building permit or final inspection is required.

D. Enforcement. Unless otherwise specified, conditions relate to the development of the property and are not enforceable until development is imminent. No building permit shall be issued on property subject to conditional zoning without a determination that all conditions are satisfied. Compliance is a continuing requirement applicable to subsequent building permits unless the use of the land has been changed and the director finds that the conditions no longer apply. Extensions of time for compliance with conditions may be granted by the director, hearings officer, planning commission, or board of commissioners upon a finding that no negative impacts on the public or nearby landowners will occur and there are extraordinary circumstances justifying the extension. [Ord. 1271 § 5, 2008; Ord. 1168 § 5, 2002; Ord. 637 § 3, 1982. RZ Ord. § 123.070.]

**17.123.080 Acknowledgment of resolution of intent to rezone.**

The county shall acknowledge and allow for the completion of any zone change for which a valid resolution of intent to rezone exists, pursuant to the requirements of the resolution. [Ord. 1271 § 5, 2008; Ord. 1168 § 5, 2002. RZ Ord. § 123.080.]

## Chapter 17.126

### PERMITTED USES GENERALLY Revised 7/23

#### Sections:

- 17.126.010 Uses permitted in all zones.
- 17.126.020 Permitted secondary and accessory structures and uses. Revised 7/23
- 17.126.030 Permitted temporary uses.
- 17.126.040 Recreational vehicle spaces.
- 17.126.050 Co-location of additional antennas.

#### **17.126.010 Uses permitted in all zones.**

The following uses, facilities and activities, whether primary, accessory, secondary or temporary, are permitted in all zones subject to compliance with the requirements in Chapters 17.110, 17.112, 17.113, 17.114, 17.116, 17.117, 17.118, 17.120, 17.121, 17.176, 17.177, 17.178, 17.179, and 17.191 MCC, except when specifically prohibited or when a conditional use is required in the applicable primary or overlay zones:

A. Public rights-of-way and easements existing at the time of adoption of this title, including public streets, roads and utilities located therein, except as provided in SA, EFU, FT and TC zones.

B. Except in SA, EFU, FT and TC zones, expansion and realignment of existing rights-of-way and easements, including improvement and construction of streets, roads and utilities in conformance with the applicable comprehensive plan and the standards of the department of public works. Street rights-of-way shall not be expanded to a greater width than twice the special setback in Chapter 17.112 MCC unless the expansion is necessary to include cut-and-fill slopes and turn lanes at intersections.

C. Except in SA, EFU, FT and TC zones, establishment of new public rights-of-way and easements, including construction of streets, roads and utilities in conformance with the applicable comprehensive plan, the standards of the department of public works, and Chapter 17.172 MCC, Subdivision and Partition Requirements. Street rights-of-way shall not be greater in width than twice the special setback in Chapter 17.112 MCC unless the greater width is necessary to include cut-and-fill slopes and turn lanes at intersections.

D. Railroad tracks and related structures and facilities located within existing rights-of-way controlled by railroad companies. Also, except in SA, EFU, FT and TC zones, expansion and realignment of railroad rights-of-way. Railroad rights-of-way shall not be greater in width than necessary to accommodate rail supporting structure and drainage facilities.

E. Use of nongeothermal groundwater, natural or manmade waterways and impoundments, and related structures and facilities for supply associated with permitted uses.

F. Creation, restoration, or enhancement of wetlands as defined in ORS 197.015(17).

G. Condominium buildings. [Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 950 § 4, 1993. RZ Ord. § 126.010.]

#### **17.126.020 Permitted secondary and accessory structures and uses. Revised 7/23**

The following secondary and accessory uses and structures shall be permitted on a lot or parcel with a primary use and are subject to the limitations and requirements in Chapters 17.110, 17.112, 17.113, 17.114, 17.116, 17.117, 17.118, 17.120 and 17.121 MCC, and the requirements in any applicable overlay zone:

A. The following accessory structures and uses are permitted on a lot in any zone in conjunction with a permitted dwelling unit or mobile home:

1. Decks and patios (open, covered, or enclosed);

2. Storage building for: firewood, equipment used in conjunction with dwelling and yard maintenance, personal property (except vehicles) not in conjunction with any commercial or industrial business other than a home occupation;
3. Vegetable gardens, orchards and crop cultivation for personal use, including greenhouses. No sale of produce is permitted;
4. Sauna;
5. Hobby shop;
6. Shelter for pets;
7. Fallout shelters;
8. Swimming pools and hot tubs;
9. Guest facilities not in a primary dwelling unit, provided:
  - a. Only one guest facility is allowed per contiguous property ownership; and
  - b. Total combined maximum floor area shall not exceed 600 square feet, including all levels and basement floor areas; and
  - c. No stove top, range, or conventional oven is allowed; and
  - d. All water, sewer, electricity and natural gas services for the guest facility shall be extended from the primary dwelling services; no separate meters for the guest facility shall be allowed; and
  - e. The guest facility shall be located within 100 feet of the primary use dwelling on the same property, measured from the closest portion of each structure; and
  - f. The guest facility shall use the same septic system as the primary use dwelling, except when a separate system is required by the building inspection division due to site constraints, or failure of the existing system, or where the size or condition of the existing system precludes its use, additional drain lines may be added to an existing system, when appropriate; and
  - g. The guest facility shall not be occupied as a dwelling unit; and
  - h. The guest facility shall not have an address; and
  - i. A declaratory statement shall be recorded requiring compliance with the standards in this subsection;
10. Rooming or boarding of up to two persons in a dwelling unit;
11. Pets, provided a conditional use permit is required in the RS and AR zones if there are more than 10 mammals over four months old. No birds or furbearing animals, other than pets, and no livestock, or poultry, are permitted in RS zones;
12. Beekeeping as outlined in MCC Title 6 (Animals);
13. One recreational vehicle space subject to the requirements in MCC 17.126.040;
14. One additional kitchen in a single-family dwelling, subject to the filing of a declaratory statement;
15. Offering to sell five or less vehicles owned by the occupants of the dwelling unit in any calendar year;
16. Garages and carports for covered vehicle parking;

17. Child foster home;
18. Residential home\* (see MCC 17.110.190(C));
19. Sleeping quarters for domestic employees of the resident of the dwelling unit or mobile home;
20. Bed and breakfast establishments in AR zones, provided they do not include more than four lodging rooms and may employ no more than two persons ("person" includes volunteers, nonresident employees, partners or any other person);
21. Ham radio facilities;
22. In EFU, SA, FT and TC zones, a home office, provided:
  - a. The home office shall be carried on solely by the resident or residents of a dwelling on the subject property as an accessory use. No other persons shall be employed by the business.
  - b. The home office shall be continuously conducted in such a manner as not to create any public or private nuisance, including, but not limited to, offensive noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference. In a residential zone noise associated with the home office shall not violate Department of Environmental Quality or Chapter 8.45 MCC, Noise.
  - c. No sign or display on the premises is allowed that will indicate the presence of the home office.
  - d. The home office shall be conducted entirely within the dwelling or attached garage. There shall be no outside storage or display of materials, equipment, or merchandise used in, or produced in connection with, the home office.
  - e. No structural alterations shall be made to the dwelling or garage that would be inconsistent with future use of the building exclusively as a dwelling.
  - f. No visits by suppliers shall occur.
  - g. No customers or clients shall visit the property in the course of doing business.

B. Fences are a permitted accessory or secondary use in all zones subject to the requirements in Chapter 17.117 MCC.

C. Transit stop shelters and school bus stop shelters are a permitted secondary use in all zones. Shelters shall not be located within a required vision clearance area.

D. Parking of vehicles in a structure or outdoors is a permitted accessory use in conjunction with a dwelling in any zone, provided:

1. The vehicles are owned by the occupant of the lot or domestic employees of the occupant; and
2. Vehicles parked outdoors in a residential zone may be parked in a space within the front yard meeting the requirements for required parking in Chapter 17.118 MCC; or, they may be parked elsewhere on the lot where accessory buildings are permitted, provided the parking area is screened by a six-foot-high sight-obscuring fence, wall or hedge if the vehicle is parked within 100 feet of another lot in a residential zone. On a lot in the RS zone not more than three vehicles shall be parked within required yards adjacent to streets; and
3. Vehicles parked on a lot or parcel shall be for the personal use of the occupants of the dwelling and the personal use of employees of an approved conditional use home occupation.
  - a. One vehicle used in conjunction with a home occupation and one vehicle used in other employment may be parked on the lot;

b. In the RS zone any vehicle that is rated at more than one ton capacity shall be parked in an enclosed structure.

E. Portable classrooms and dormitories for students are a permitted accessory use in conjunction with elementary and secondary schools (as defined in Chapter 17.110 MCC).

F. Except in SA, EFU, FT and TC zones, a parsonage in conjunction with a religious organization.

G. Parking of vehicles in a structure or outdoors is a permitted accessory or secondary use in the CC, C, IUC, ID and I zones, provided:

1. The vehicles are owned by the occupant of the lot;
2. If vehicles are stored outdoors, the parking area shall be an all-weather surface, and be enclosed by a six-foot-high sight-obscuring fence, wall, hedge or berm; and
3. If vehicles are parked outdoors, the vehicles shall be operational, and used in conjunction with the primary use of the lot. If more than five vehicles are parked outdoors on the lot the parking area shall be screened by a six-foot-high sight-obscuring fence, wall or hedge if located within 100 feet of a lot in a residential zone and from streets.

H. Drop stations are permitted in CC, C, IUC, and I zones.

I. Retail sales or offices in a building in conjunction with a use in an industrial zone, provided:

1. The floor area of the retail sales or offices shall not be more than 30 percent of the floor area of the industrial use;
2. The development requirements are met for the accessory use as if it was a primary use; and
3. The accessory use shall be located on the same lot as the primary use and the building shall be owned or leased by the industrial business owner.

J. Except in SA, EFU, FT and TC zones, accessory and secondary uses not otherwise permitted may be allowed as a conditional use, provided the use is consistent with the definition of accessory or secondary and is compatible with the purpose of the zone and land uses on adjacent lots.

K. Private energy generating facilities (such as wind turbines, solar power panels, fuel cells, and hydropower facilities) are permitted in all zones as an accessory use, provided:

1. Generates energy using means such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow "farm use" and ORS 215.283(1)(r) in the exclusive farm use zone;
2. Is intended to offset part of the customer-generator's requirements for energy;
3. Will operate in parallel with a utility's existing transmission and distribution facilities;
4. Is consistent with generating capacity as specified in ORS 757.300 and/or OAR 860-039-0010 as well as any other applicable regulations;
5. Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

L. In addition to the use permitted in subsection (K) of this section, a solar photovoltaic energy system or solar thermal energy system is permitted on residential and commercial structures, provided:

1. The installation of the system will not increase the footprint of the structure or peak height of the portion of the roof on which the system is installed; and
2. The system will be mounted so that the plane of the system is parallel to the slope of the roof; and
3. Installations on historic buildings or landmarks, on buildings in a historic district, on conversation landmarks, or on buildings located in an area designated as a significant scenic resource shall be constructed of material designated as either anti-reflective or less than 11 percent reflective. [Ord. 1454 § 4 (Exh. B), 2023; Ord. 1408 § 4 (Exh. A), 2019; Ord. 1397 § 4 (Exh. B), 2019; Ord. 1369 § 4 (Exh. B), 2016; Ord. 1326 § 4 (Exh. A), 2012; Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1204 § 4, 2004; Ord. 1191 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 950 § 4, 1993. RZ Ord. § 126.020.]

**17.126.030 Permitted temporary uses.**

The following temporary uses shall be permitted subject to the following limitations and requirements and the requirements in applicable overlay zones:

- A. Storage of a mobile home on a lot for not more than one year, unless extensions are granted, where the mobile home is or has been a permitted use and the mobile home is offered for sale. The mobile home shall not be used for sleeping, eating or restroom purposes.
- B. Garage sales and yard sales in any zone in conjunction with a dwelling, and auctions in commercial and industrial zones, provided there are not more than three sales in a calendar year with each sale not to exceed three consecutive days. All display of merchandise to remain on private property.
- C. Except as provided for in MCC 17.178.050(F), one recreational vehicle space on a lot or parcel without a dwelling in the AR, SA, FT and TC zones subject to the requirements in MCC 17.126.040, except subsections (B) and (C). In addition, the space shall:
1. Not be occupied for more than 120 days in any calendar year; and
  2. Satisfy all development standards and requirements applied to a non-resource-related dwelling in the applicable zone.
- D. A real estate sales office in a subdivision or planned community containing more than 50 lots or dwelling units for sale or lots or dwelling units that remain available for sale to the public.
- E. Temporary uses that do not meet the limitations identified in this section and other temporary uses not addressed herein may be approved as a conditional use as provided in Chapter 17.119 MCC subject to meeting the following criteria:
1. The temporary use is compatible with the purpose of the zone and adjacent land uses.
  2. The temporary use will have adequate public services to maintain the public health and safety.
  3. The operator of the temporary use has signed an agreement with the planning division regarding termination of the use consistent with the time limitations established in the conditions of approval.
- F. Mobile asphalt batching plant provided:
1. The use is for a single paving project and the use will not exceed 90 days; and
  2. The use will not involve permanent installations or structures, will not leave any residue on the property, involves no change in the land or buildings and makes no permanent impact on the surrounding area. [Ord. 1369 § 4 (Exh. B), 2016; Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 950 § 4, 1993. RZ Ord. § 126.030.]

**17.126.040 Recreational vehicle spaces.**

Recreational vehicle spaces shall meet the following use and development standards. Long-term storage of a recreational vehicle must comply with the requirements for accessory uses and structures.

- A. The space shall have an all-weather surface and be drained to prevent standing water.
- B. The space shall not be located closer than 10 feet to any other spaces, any building, dwelling, mobile home, street or roadway boundary and not closer than 10 feet to any property line.
- C. If the space is occupied by an occupied recreational vehicle for more than 120 days in any calendar year, the space shall be located in a mobile home park or recreational vehicle park.
- D. The space shall not be located in any required off-street parking space or required yard areas.
- E. Unless located in a recreational vehicle park no permanent electrical or gas connections are permitted.
- F. Unless located in a recreational vehicle park the space shall not be rented or leased for consideration. [Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 950 § 4, 1993. RZ Ord. § 126.040.]

**17.126.050 Co-location of additional antennas.**

The co-location of additional antennas and the addition of cabinets and other facility equipment to an existing wireless communication facility is permitted in the EFU, SA, TC, FT, I, ID and P zones, provided:

- A. The existing tower previously received land use approval or is permitted outright; and
- B. The additional antennas do not increase the height of the tower beyond the approved height; and
- C. The co-location is consistent with conditions of approval applied to the existing facility. [Ord. 1326 § 4 (Exh. A), 2012.]

## Chapter 17.128

### AR (ACREAGE RESIDENTIAL) ZONE Revised 1/17 Revised 3/19

#### Sections:

- 17.128.010 Purpose.
- 17.128.020 Permitted uses. Revised 1/17 Revised 3/19
- 17.128.030 Conditional uses. Revised 3/19
- 17.128.040 Conditional use review criteria.
- 17.128.045 Commercial activities in conjunction with farm use.
- 17.128.050 Special siting standards for dwellings near resource zones.
- 17.128.060 Development standards.
- 17.128.070 Minimum lot size and density.

#### **17.128.010 Purpose.**

The purpose and intent of the acreage residential zone is to provide appropriate regulations governing the division and development of lands designated rural residential in the Marion County Comprehensive Plan. Acreage residential zones are areas that are suitable for development of acreage homesites. Such areas are necessary to meet the housing needs of a segment of the population desiring the advantages of a rural homesite. It is the intent that residential sites be provided with adequate water supply and wastewater disposal without exceeding the environmental and public service capability of the area or compromising the rural character of the area. [Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1168 § 5, 2002; Ord. 1125 § 7, 2000. RZ Ord. § 128.010.]

#### **17.128.020 Permitted uses.** Revised 1/17 Revised 3/19

Within an AR (acreage residential) zone no building, structure or premises shall be used or arranged except for the following purposes:

- A. Single-family dwelling.
- B. Farm use, including the sale of produce that is raised on the premises, but not including a medical marijuana processor (see MCC 17.110.376), medical marijuana producer (see MCC 17.110.378), or a medical marijuana dispensary (see MCC 17.110.374).
- C. Planned developments.
- D. Playgrounds and parks operated by governmental agencies.
- E. Public and private utility facilities and public buildings such as fire stations, sheriff and police substations.
- F. Creation, restoration, or enhancement of wetlands as defined in ORS Chapter 197.
- G. Limited home occupations (see limited use, MCC 17.125.100).
- H. Wireless communication facilities, attached subject to MCC 17.125.110 and pursuant to MCC 17.115.110.
- I. Religious organizations and expansions of existing religious organizations where the religious organization or the expanded religious organization will be less than 20,000 square feet in total area.
- J. Replacement of a lawfully established dwelling, subject to the special siting standards in MCC 17.128.050(B), when the dwelling:
  - 1. Is a manufactured dwelling, mobile home, or manufactured home, the replaced dwelling shall be removed or demolished within 90 days of the occupancy of the replacement dwelling.
  - 2. Is a site-built dwelling, the replaced dwelling shall be removed, demolished or converted to an allowable nonresidential use within 90 days of the occupancy of the replacement dwelling.

3. A dwelling constructed between 1850 and 1945 on a parcel at least two acres in size outside of any area designated as an urban reserve may remain on the parcel as an accessory dwelling unit if replaced by a new single-family dwelling on the parcel subject to the following conditions:

- a. The property owner shall obtain all required permits from Marion County building inspection to convert the existing residence to an accessory dwelling unit upon completion of the new single-family dwelling, including permits for sanitation and wastewater disposal and treatment.
- b. The land containing the accessory dwelling cannot be divided from the land containing the new single-family dwelling.
- c. The accessory dwelling unit cannot be renovated or remodeled so that the square footage of the accessory dwelling unit is more than 120 percent of the historic home's square footage at the time construction of the new single-family dwelling commenced.
- d. The accessory dwelling cannot be rebuilt if the structure is lost to fire.
- e. The property owner shall record a declaratory statement acknowledging compliance with the conditions in subsections (J)(3)(b), (c) and (d) of this section. [Ord. 1397 § 4 (Exh. B), 2019; Ord. 1372 § 4 (Exh. A), 2016; Ord. 1326 § 4 (Exh. A), 2012; Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1168 § 5, 2002; Ord. 1125 § 7, 2000. RZ Ord. § 128.020.]

**17.128.030 Conditional uses.** Revised 3/19

The following uses may be permitted subject to obtaining a conditional use permit:

- A. Kennels.
- B. Temporary use of a mobile home or recreational vehicle during certain hardship conditions, subject to MCC 17.120.040.
- C. Day nursery.
- D. Commercial uses in conjunction with farm use subject to MCC 17.128.045.
- E. Religious organizations and expansions not qualifying under MCC 17.128.020(I), and related conference and residence facilities.
- F. Schools, elementary and secondary (as defined in Chapter 17.110 MCC).
- G. Conditional home occupation (other than those home occupations listed in MCC 17.125.100) (see specific conditional uses, MCC 17.120.075).
- H. Wireless communications facilities (see specific conditional uses, MCC 17.120.080). [Ord. 1397 § 4 (Exh. B), 2019; Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1168 § 5, 2002; Ord. 1125 § 7, 2000. RZ Ord. § 128.030.]

**17.128.040 Conditional use review criteria.**

The following criteria apply to all conditional uses in the AR zone:

- A. The conditional use as described by the applicant will be in harmony with the purpose and intent of the zone.
- B. The use will not increase traffic beyond the capacity of existing roads.
- C. Adequate fire protection and other rural services are, or will be, available when the use is established.
- D. The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.
- E. Any noise associated with the use will not have a significant adverse impact on nearby land uses.

F. The use will not have a significant adverse impact on potential water impoundments identified in the Comprehensive Plan, and not create significant conflicts with operations included in the Comprehensive Plan inventory of significant mineral and aggregate sites. [Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1168 § 5, 2002; Ord. 1125 § 7, 2000. RZ Ord. § 128.040.]

**17.128.045 Commercial activities in conjunction with farm use.**

A. The commercial activity must be primarily a customer or supplier of farm uses.

B. The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.

C. The agricultural and commercial activities must occur together in the local community to satisfy the statute.

D. The products and services provided must be essential to the practice of agriculture. [Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1168 § 5, 2002. RZ Ord. § 128.045.]

**17.128.050 Special siting standards for dwellings near resource zones.**

A. Any new dwelling in an AR zone shall be required to maintain a special setback from any parcel in the EFU, SA, FT, or TC zones. A 100-foot setback is the standard adjacent to farm use and 200 feet is the standard adjacent to forest uses. These setbacks may be reduced if it is determined, concurrently with any land use application or as provided in Chapter 17.116 MCC, that a lesser setback will meet the following review criteria for alternative home sites:

1. The location of the home site will have the least impact on nearby or adjoining forest or agricultural lands.
2. The location of the home site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.
3. The amount of agricultural and forestlands used to site access roads, service corridors, the dwelling and structures is minimized.
4. The risks associated with wildfire are minimized.

B. The owner of a proposed dwelling to be located within 500 feet of the EFU, SA, FT, or TC zones shall be required to concur in the filing of the declaratory statement prescribed in the respective resource zone.

C. The owner of a proposed dwelling located on a parcel adjacent to the FT or TC zone shall, as a condition of approval, be required to provide for fire hazard management in accordance with Chapter 3 of "Fire Safety Considerations for Developments in Forested Areas, 1978" and any revisions thereto.

D. The special setback in subsection (A) of this section shall not be applied in a manner that prohibits dwellings approved pursuant to ORS 195.300 through 195.336 nor should the special setback in subsection (A) of this section prohibit a claimant's application for homesites under ORS 195.300 through 195.336. [Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1168 § 5, 2002; Ord. 1125 § 7, 2000. RZ Ord. § 128.050.]

**17.128.060 Development standards.**

The following standards apply to development in an AR zone:

A. Maximum Height.

1. Dwellings: 35 feet.
2. Farm-related structures on farm parcels: none.
3. Nonresidential and non-farm structures: 35 feet unless they are in conjunction with conditional uses allowed in MCC 17.128.030, and a greater height is requested and approved as part of the conditional use permit.

B. Minimum Setbacks. Except as required in MCC 17.128.050(A), the following setback requirements shall be implemented for all new structures other than residential accessory structures (see Chapter 17.117 MCC), farm-exempt buildings, signs and fences:

1. Rear Yard. A minimum of 20 feet.
2. Side Yard. A minimum of 10 feet, except for lots or parcels of one-half acre or smaller created prior to January 1, 1994, in which case the side yard setback shall be five feet. In the case of a corner lot any side yard adjacent to a street shall be not less than 20 feet.
3. Front Yard. A minimum of 20 feet. When by ordinance a greater setback or a front yard of greater depth is required than specified in this section, then such greater setback line or front yard depth shall apply (See Chapter 17.112 MCC). [Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1168 § 5, 2002; Ord. 1125 § 7, 2000. RZ Ord. § 128.060.]

**17.128.070 Minimum lot size and density.**

The minimum lot size for subdivisions and partitioning is two acres. When a numerical suffix has been applied to the AR zone, the minimum lot size shall conform to the numerical designation. The minimum lot size shall also apply to planned developments. [Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1168 § 5, 2002; Ord. 1125 § 7, 2000. RZ Ord. § 128.070.]

## Chapter 17.136

### EFU (EXCLUSIVE FARM USE) ZONE

#### Sections:

- 17.136.010 Purpose.
- 17.136.020 Permitted uses.
- 17.136.030 Dwellings permitted subject to standards.
- 17.136.040 Uses permitted subject to standards.
- 17.136.050 Conditional uses.
- 17.136.060 Conditional use review criteria.
- 17.136.070 Non-farm dwelling requirements.
- 17.136.080 Existing dwellings and other structures.
- 17.136.090 Minimum parcel size, divisions of land, and property line adjustments.
- 17.136.100 Development requirements.
- 17.136.110 Contiguous ownership.
- 17.136.120 Permit expiration dates.
- 17.136.130 Consideration of soil classification changes for non-farm dwellings.
- 17.136.140 Definition of terms used in this chapter.

#### **17.136.010 Purpose.**

The purpose of the EFU (exclusive farm use) zone is to provide areas for continued practice of commercial agriculture. It is intended to be applied in those areas composed of tracts that are predominantly high-value farm soils as defined in OAR 660-033-0020(8). These areas are generally well suited for large-scale farming. It is also applied to small inclusions of tracts composed predominantly of non-high-value farm soils to avoid potential conflicts between commercial farming activities and the wider range of non-farm uses otherwise allowed on non-high-value farmland. Moreover, to provide the needed protection within cohesive areas it is sometimes necessary to include incidental land unsuitable for farming and some pre-existing residential acreage.

To encourage large-scale farm operations the EFU zone consolidates contiguous lands in the same ownership when required by a land use decision. It is not the intent in the EFU zone to create, through land divisions, small-scale farms. There are sufficient small parcels in the zone to accommodate those small-scale farm operations that require high-value farm soils. Subdivisions and planned developments are not consistent with the purpose of this zone and are prohibited.

To minimize impacts from potentially conflicting uses it is necessary to apply to non-farm uses the criteria and standards in OAR 660-033-0130 and in some cases more restrictive criteria are applied to ensure that adverse impacts are not created.

The EFU zone is also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county.

The EFU zone is intended to be a farm zone consistent with OAR 660, Division 033 and ORS 215.283. [Ord. 1454 § 4 (Exh. B), 2023; Ord. 1369 § 4 (Exh. B), 2016; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.010.]

#### **17.136.020 Permitted uses.**

Within an EFU zone no building, structure or premises shall be used, arranged or designed to be used, erected, structurally altered or enlarged except for one or more of the following uses:

A. Farm uses (see farm use definition, MCC 17.110.223), provided a medical marijuana producer as defined in MCC 17.110.378 shall have visible grow lights turned off between the hours 7:00 p.m. and 7:00 a.m. and all activity shall take place indoors.

B. The propagation or harvesting of a forest product.

C. Buildings, other than dwellings, customarily provided in conjunction with farm use.

D. Alteration, restoration, or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.136.100(C), when the dwelling:

1. Is assessed in the current county assessor's records as a site-built dwelling or manufactured home.
2. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
  - a. Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
  - b. If the dwelling to be replaced is in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and
  - c. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.
3. The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted to a nonresidential use.
4. Replacement dwellings may be sited on any part of the same lot or parcel. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned EFU, SA (special agriculture) or FT (farm/timber), the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement of dwellings have changed to allow the siting of another dwelling.
5. Replacement under this section includes a dwelling replaced pursuant to MCC 17.136.080(C) when a fire report is provided at the time building permits are applied for.
6. Accessory farm dwellings destroyed by a wildfire identified in an executive order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610, may be replaced. The temporary use of modular structures, manufactured housing, fabric structures, tents and similar accommodations is allowed until replacement under this subsection occurs.

E. Operations for the exploration for 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 customary production equipment for an individual well adjacent the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732.

F. Operations for the exploration for minerals as defined by ORS 517.750.

G. Widening of roads including public road and highway projects as follows:

1. Climbing and passing lanes within the street right-of-way existing as of July 1, 1987.
2. Reconstruction or modification of public streets, including the placement of utility facilities overhead and in the subsurface of public roads and highways along public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new parcels result.
3. Temporary public street detours that will be abandoned and restored to original condition or use at such time as no longer needed.

4. Minor betterment of existing public street related facilities such as maintenance yards, weigh stations and rest areas, within rights-of-way existing as of July 1, 1987, and contiguous publicly owned property utilized to support the operation and maintenance of public streets.

H. Creation of, restoration of, or enhancement of wetlands.

I. On-site filming and activities accessory to filming, as defined in MCC 17.136.140(A), if the activity would involve no more than 45 days on any site within a one-year period.

J. Composting operations and facilities limited to those that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, and that meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.

K. Single agri-tourism or other commercial event, excluding events that promote the sale of marijuana products or extracts, subject to MCC 17.125.130. [Ord. 1454 § 4 (Exh. B), 2023; Ord. 1372 § 4 (Exh. A), 2016; Ord. 1369 § 4 (Exh. B), 2016; Ord. 1330 § 4 (Exh. A), 2013; Ord. 1326 § 4 (Exh. A), 2012; Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.020.]

**17.136.030 Dwellings permitted subject to standards.**

The following dwellings may be established in the EFU zone with filing of the declaratory statement in MCC 17.136.100(C), subject to approval by the director, based on satisfaction of the standards and criteria listed for each type of dwelling pursuant to the procedures in Chapter 17.115 MCC.

A. Primary Farm Dwellings. A single-family dwelling customarily provided in conjunction with farm use. The dwelling will be considered customarily provided in conjunction with farm use when:

1. It is located on high-value farmland as defined in MCC 17.136.140(D) and satisfies the following standards:

a. There is no dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term “farm operation” means all lots or parcels of land in the same ownership that are used by the farm operator for farm use;

b. The farm operator earned on the subject tract in the last two years, three of the last five years, or the average of the best three of the last five years at least \$80,000 in gross annual income from the sale of farm products, not including marijuana. In determining gross annual income from the sale of farm products, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented, shall be counted;

c. The subject tract is currently employed for the farm use that produced the income required in subsection (A)(1)(b) of this section;

d. The proposed dwelling will be occupied by a person or persons who produced the commodities which generated the income in subsection (A)(1)(b) of this section; or

2. It is not located on high-value farmland as defined in MCC 17.136.140(D) and satisfies the following standards:

a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term “farm operation” means all lots or parcels of land in the same ownership that are used by the farm operator for farm use;

b. The farm operator earned on the subject tract in the last two years, three of the last five years, or the average of the best three of the last five years at least \$40,000 in gross annual income from the sale of the farm products, not including marijuana. In determining gross income, the cost of purchased livestock shall

be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented, shall be counted;

c. The subject tract is currently employed for the farm use that produced the income required in subsection (A)(2)(b) of this section;

d. The dwelling will be occupied by a person or persons who produced the commodities which generated the income required in subsection (A)(2)(b) of this section; or

3. It is not located on high-value farmland, as defined in MCC 17.136.140(D), and satisfies the following standards:

a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use;

b. The parcel on which the dwelling will be located is at least 160 acres;

c. The subject tract is currently employed for farm use, as defined in ORS 215.203, other than marijuana production;

d. 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;

4. It is in conjunction with a commercial dairy farm as defined in this chapter and if:

a. The subject tract will be employed as a commercial dairy as defined; and

b. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and

c. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract; and

d. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm activities necessary to the operation of the commercial dairy farm; and

e. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

f. The Oregon Department of Agriculture has approved the following:

i. A permit for a confined animal feeding operation under ORS 468B.050 and 468B.200 through 468B.230; and

ii. A producer license for the sale of dairy products under ORS 621.072;

5. The applicant had previously operated a commercial farm use and if:

a. Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by subsection (A)(1) or (2) of this section, whichever is applicable.

b. The subject lot or parcel on which the dwelling will be located is:

i. Currently employed for the farm use, as defined in this title, that produced in the last two years or three of the last five years, or the average of the best three of the last five years, the gross farm income required by subsection (A)(1) or (2) of this section, whichever is applicable; and

ii. At least the size of the applicable minimum lot size in this chapter; and:

(A) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract; and

(B) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in subsection (A)(2)(b) of this section;

(C) In determining the gross income required by subsections (A)(5)(a) and (b) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract, and only gross income from land owned, not leased or rented, shall be counted;

6. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:

It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.

These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions is located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

B. Secondary Farm Dwellings. Secondary (accessory) dwellings customarily provided in conjunction with farm use. The dwelling will be considered customarily provided in conjunction with farm use when:

1. The primary dwelling and the proposed dwelling will each be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm uses, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator.

2. There is no other dwelling on lands in the EFU, SA or FT zone owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm and could reasonably be used as an additional farm dwelling.

3. The proposed dwelling will be located:

a. On the same lot or parcel as the primary farm dwelling; or

b. On the same contiguous ownership as the primary dwelling, and the lot or parcel on which the proposed dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the same ownership; or

c. On a lot or parcel on which the primary farm dwelling is not located, when the secondary farm dwelling is limited to only a manufactured dwelling with a deed restriction filed with the county clerk. The deed restriction shall require the additional dwelling to be removed when the lot or parcel is conveyed to another party. Occupancy of the additional farm dwelling shall continually comply with subsection (B)(1) of this section; or

d. On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable State Building Code or similar types of farm worker housing as that existing on farm operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The county shall require all accessory farm

dwellings approved under this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or

e. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in subsection (B)(4) of this section, whichever is applicable.

4. The primary dwelling to which the proposed dwelling would be accessory satisfies the following criteria:

a. On land not identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and the farm operator earned at least \$40,000 gross annual income from the sale of farm products, not including marijuana, in the last two years, three of the last five years, or the average of the best three of the last five years; or

b. On land identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and the farm operator earned at least \$80,000 in gross annual income from the sale of farm products, not including marijuana, in the last two years, three of the last five years, or the average of the best three of the last five years;

c. The primary dwelling is located on a commercial dairy farm as defined in this chapter; and

i. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and

ii. The Oregon Department of Agriculture has approved a permit for a confined animal feeding operation under ORS 468B.050 and 468B.200 through 468B.230; and

iii. The Oregon Department of Agriculture has approved a producer license for the sale of dairy products under ORS 621.072;

d. In determining the gross income in subsections (B)(4)(a) and (b) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

5. The dwelling will be consistent with the fish and wildlife habitat policies of the Comprehensive Plan if located in a designated big game habitat area.

6. A deed restriction filed with the county clerk requiring removal of the home or removal, demolition or conversion to a nonresidential use if other residential structures are used, when the occupancy or use no longer complies with the criteria or standards under which the manufactured home was originally approved.

C. A secondary single-family dwelling on real property used for farm use subject to the following standards:

1. 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 relative of the farm operator or farm operator's spouse, which means grandparent, step-grandparent, grandchild, parent, step-parent, child, step-child, brother, sister, step-sibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use.

2. The farm operator shall continue to play the predominant role in management and 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.

3. A deed restriction is filed with the county clerk requiring removal of the dwelling when the occupancy or use no longer complies with the criteria or standards under which the dwelling was originally approved.

4. For purposes of this subsection, a commercial farm operation is one that meets the income requirements for a primary farm dwelling identified in subsection (A)(1)(b) of this section.

5. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:

It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.

These covenants, conditions, and restrictions can be removed only at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions is located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

D. Dwelling Alteration and Replacement. Alteration, restoration, or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.136.100(C), other than as permitted in MCC 17.136.020(D), when:

1. The dwelling to be altered, restored or replaced has or formerly had:
  - a. Intact exterior walls and roof structure;
  - b. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  - c. Interior wiring for interior lights; and
  - d. A heating system; and
2. In addition to the provisions of subsection (D)(1) of this section, the dwelling to be replaced meets one of the following conditions:
  - a. If the dwelling was removed, destroyed or demolished:
    - i. The dwelling's tax lot does not have a lien for delinquent ad valorem taxes; and
    - ii. Any removal, destruction, or demolition occurred on or after January 1, 1973.
  - b. If the dwelling is currently in such a state of disrepair that the dwelling is unsafe for occupancy or constitutes an attractive nuisance, the dwelling's tax lot does not have a lien for delinquent ad valorem taxes; or
  - c. A dwelling not described in subsection (D)(2)(a) or (b) of this section was assessed as a dwelling for the purposes of ad valorem taxation:
    - i. For the previous five property tax years; or
    - ii. From the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010;
3. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
  - a. Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or

- b. If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and
  - c. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location;
- 4. The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted;
- 5. As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, Chapter 462, Section 2 and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling;
- 6. A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling;
- 7. The replacement dwelling must be sited on the same lot or parcel consistent with the following:
  - a. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and
  - b. If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.

E. Lot-of-Record Dwellings. A single-family dwelling subject to the following standards and criteria:

- 1. The lot or parcel on which the dwelling will be sited was lawfully created and acquired and owned continuously by the present owner:
  - a. Since prior to January 1, 1985; or
  - b. By devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
  - c. "Owner," as the term is used in this subsection only, 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, step-parent, step-child, grandparent, or grandchild of the owner or business entity owned by any one or a combination of these family members.
- 2. The tract on which the dwelling will be sited does not include a dwelling.
- 3. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, and no dwelling exists on another lot or parcel that was part of that tract.
- 4. 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.
- 5. The request is not prohibited by, and complies with, the Comprehensive Plan and other provisions of this title, including but not limited to floodplain, greenway, and big game habitat area restrictions.
- 6. The proposed dwelling will not:

- a. Exceed the facilities and service capabilities of the area.
  - b. Create conditions or circumstances contrary to the purpose of the special agriculture zone.
7. A lot-of-record dwelling approval may be transferred one time only by a person who has qualified under this section to any other person after the effective date of the land use decision.
8. The county assessor shall be notified that the county intends to allow the dwelling.
9. The lot or parcel on which the dwelling will be sited is not high-value farmland as defined in MCC 17.136.140(D); or
10. The lot or parcel on which the dwelling will be sited is high-value farmland as defined in MCC 17.136.140(D)(2) or (3) and:
  - a. Is 21 acres or less in size;
  - b. The tract on which the dwelling is to be sited is not a flag lot and is:
    - i. 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
    - ii. 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. No more than two of the four dwellings may be within an urban growth boundary;
  - c. The tract on which the dwelling is to be sited is a flag lot and is:
    - i. Bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The board, or its designee, must interpret the center of the subject tract as the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary.
    - ii. "Flag lot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
    - iii. "Geographic center of the flag lot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flag lot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot; or
11. The lot or parcel on which the dwelling is to be sited is high-value farmland as defined in MCC 17.136.140(D)(1) and:
  - a. The hearings officer 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. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot or parcel cannot be practicably managed for farm use. Examples of extraordinary circumstances inherent in the land or its physical setting include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with

adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use; and

ii. The use will not force a significant change in or significantly increase the cost of farm or forest practices on surrounding lands devoted to farm or forest use; and

iii. The dwelling will not materially alter the stability of the overall land use pattern in the area. To address this standard, the following information shall be provided:

(A) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm operations or practices that distinguish it from other adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, and why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area;

(B) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved under this subsection (E) and MCC 17.136.050(A), including identification of predominant soil classifications and parcels created prior to January 1, 1993. The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this provision;

(C) Determine whether approval of the proposed non-farm/lot-of-record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase, lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

b. The county shall provide notice of the application for a dwelling allowed under this subsection to the Oregon Department of Agriculture. [Ord. 1454 § 4 (Exh. B), 2023; Ord. 1372 § 4 (Exh. A), 2016; Ord. 1369 § 4 (Exh. B), 2016; Ord. 1326 § 4 (Exh. A), 2012; Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.030.]

#### **17.136.040 Uses permitted subject to standards.**

The following uses may be permitted in the EFU zone subject to approval of the request by the planning director, based on satisfaction of the standards and criteria specified for each use, pursuant to Chapter 17.115 MCC:

##### **A. Farm Stand. Farm stand subject to the following standards:**

1. The structures shall be designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the state of Oregon, including processed food items, and the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand; and

2. Annual sales of the incidental items and fees from promotional activity, sales of farm crops produced outside the state of Oregon, and sales of prepared food items together cannot make up more than 25 percent of the total annual sales of the farm stand; and

3. 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;
4. As used in this section, "processed food items" means farm crops and livestock that have been converted into other products through canning, drying, baking, freezing, pressing, butchering or other similar means of adding value to the farm product, such as jams, syrups, apple cider, and similar animal products, but not prepared food items;
5. As used in this section, "prepared food items" means food products that are prepared for immediate consumption, such as pies, shortcake, milk shakes, smoothies, and baked goods;
6. Adequate off-street parking shall be provided and all vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways;
7. No farm stand building or parking is permitted within the right-of-way;
8. Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips;
9. Approval is required from the county public works department regarding adequate egress and access including compliance with vision clearance standards. All egress and access points shall be clearly marked;
10. All outdoor light fixtures shall be directed downward, and have full cutoff and full shielding to preserve views of the night sky and to minimize excessive light spillover onto adjacent properties, roads and highways;
11. Signs are permitted consistent with Chapter 17.191 MCC;
12. All required permits shall be obtained from the Marion County health department or the Department of Agriculture, as required;
13. When requested by the planning director, the farm stand operator/landowner shall submit a statement demonstrating how the farm stand complies with this policy, certified by the landowner's/operator's accountant or attorney as being accurate and complete;
14. A farm stand may not be used for the sale of marijuana products or to promote the sale of marijuana products or extracts.

B. Winery. A winery subject to the standards in MCC 17.125.030 or 17.125.035.

C. Religious Organizations and Cemeteries. Religious organizations and cemeteries in conjunction with religious organizations subject to the following:

1. New religious organizations and cemeteries in conjunction with religious organizations:
  - a. May not be established on high-value farmland.
  - b. New religious organizations and cemeteries in conjunction with religious organizations, not on high-value farmland, may be established. All new religious organizations and cemeteries in conjunction with religious organizations within three miles of an urban growth boundary shall meet the following standards:
    - i. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved, unless an exception is approved pursuant to OAR Chapter 660, Division 004.

ii. Any new enclosed structure or group of enclosed structures subject to this subsection shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.

iii. For the purposes of this subsection, “tract” means a tract as defined in MCC 17.136.140(F) in existence on May 5, 2010.

2. Existing Religious Organizations and Cemeteries in Conjunction with Religious Organizations.

a. Existing religious organizations and cemeteries in conjunction with religious organizations may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.

b. Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsections (C)(1)(b)(i) through (iii) of this section.

D. Public and Private Schools. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, subject to the following:

1. New schools primarily for the residents of the rural area in which the school is located:

a. New schools may not be established on high-value farmland.

b. New schools not on high-value farmland may be established. Any new school within three miles of an urban growth boundary shall meet the following standards:

i. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved, unless an exception is approved pursuant to OAR Chapter 660, Division 004.

ii. Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.

iii. For the purposes of this subsection, “tract” means a tract as defined in MCC 17.136.140(F) in existence on May 5, 2010.

c. New schools must be determined to be consistent with the provisions contained in MCC 17.136.060(A)(1).

2. Existing Schools Primarily for the Residents of the Rural Area in Which the School Is Located.

a. Existing schools on high-value farmland may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.

b. Existing schools not on high-value farmland may be maintained, enhanced, or expanded consistent with the provisions contained in MCC 17.136.060(A)(1).

c. Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsections (D)(1)(b)(i) through (iii) of this section.

3. Existing schools that are not primarily for residents of the rural area in which the school is located may be expanded on the tax lot on which the use was established or on a contiguous tax lot owned by the applicant on January 1, 2009; however, existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsections (D)(1)(b)(i) through (iii) of this section.

E. Filming Activities. On-site filming and activities accessory to filming, and defined in MCC 17.136.140(A), if the activity:

1. Involves filming or activities accessory to filming for more than 45 days; or
2. Involves erection of sets that would remain in place longer than any 45-day period;
3. The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use.

F. Facilities for Processing Farm Crops. A facility for processing of farm crops, an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038, or the production of biofuel as defined in ORS 315.141, subject to the following:

1. A processing area of less than 10,000 square feet shall be established. The processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits siting of the processing facility.
2. Uses less than 2,500 square feet for its processing area shall be allowed notwithstanding any applicable siting standard. However, applicable standards and criteria pertaining to floodplains, geologic hazards, airport safety and fire siting standards shall apply.
3. Division of a lot or parcel that separates a processing facility from the farm operation on which it is located shall not be approved.
4. A medical marijuana processor as defined in MCC 17.110.376 shall:
  - a. Be conducted entirely indoors; and
  - b. Emit no light visible to adjacent neighboring property owners or the public; and
  - c. Ensure odors are not detectable on adjacent neighboring properties.
5. As used in this section, the following definitions apply:
  - a. "Facility for the processing of farm products" means a facility for:
    - i. Processing farm crops, including the production of biofuel as defined in ORS 315.141, if at least one-quarter of the farm crops come from the farm operation containing the facility; or
    - ii. Slaughtering, processing or selling poultry or poultry products from the farm operation containing the facility and consistent with the licensing exemption for a person under ORS 603.038(2).
  - b. "Processing area" means the floor area of a building dedicated to farm product processing. "Processing area" does not include the floor area designated for preparation, storage or other farm use.

G. Model Aircraft. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary, subject to the following:

1. Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use.
2. The site shall not include an aggregate surface or hard area surface unless the surface pre-existed the use.
3. As used in this section "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and controlled by radio, lines or design by a person on the ground.

4. An owner of property used for the purpose authorized in this subsection may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities.

H. *Repealed by Ord. 1397.*

I. Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A facility is "necessary" if it must be situated in the EFU zone in order for the service to be provided. An applicant must demonstrate that reasonable alternatives have been considered and that the facility must be sited in an EFU zone due to one or more of the following factors as found in OAR 660-033-0130(16):

1. Technical and engineering feasibility;
2. The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
3. Lack of available urban and nonresource lands;
4. Availability of existing right-of-way;
5. Public health and safety; and
6. Other requirements of state and federal agencies.

a. Costs associated with any of the factors listed above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

b. The owner of a utility facility approved under this section shall be responsible for restoring to its former condition as nearly as possible any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing upon a contractor the responsibility for restoration.

c. The applicant shall address the requirements of MCC 17.136.060(A)(1).

d. In addition to the provisions above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.

e. The provisions of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

f. If the criteria contained in this subsection (I) for siting a utility facility on land zoned for exclusive farm use are met for a utility facility that is a transmission line, the utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult. The requirement to consult under this section is in addition to and not in lieu of any other legally required consultation process. For the purposes of this subsection:

i. "Consult" means to make an effort to contact for purpose of notifying the record owner of the opportunity to meet.

ii. "Transmission line" means a linear utility facility by which a utility provider transfers the utility product in bulk from a point of origin or generation, or between transfer stations, to the point at which the utility product is transferred to distribution lines for delivery to end users.

7. An associated transmission line shall be considered necessary for public service solely based on the criteria below:

a. "Associated transmission line" means a new transmission line constructed to connect an energy facility to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.

b. An associated transmission line is necessary for public service if it is demonstrated to meet either subsection (I)(7)(b)(i) or (ii) of this section:

i. An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

(A) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;

(B) The associated transmission line is co-located with an existing transmission line;

(C) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or

(D) The associated transmission line is located within an existing right-of-way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.

ii. After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to subsections (I)(7)(b)(iii) and (iv) of this section, two or more of the following criteria:

(A) Technical and engineering feasibility;

(B) The associated transmission line is locationally dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land, to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(C) Lack of an available existing right-of-way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;

(D) Public health and safety; or

(E) Other requirements of state or federal agencies.

iii. As pertains to subsection (I)(7)(b)(ii) of this section, the applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.

iv. The governing body of a county or its designee may consider costs associated with any of the factors listed in subsection (I)(7)(b)(ii) of this section, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.

J. Parking of not more than seven log trucks on a tract when the use will not:

1. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.
2. Significantly increase the cost of accepted farm or forest practices on surrounding land devoted to farm or forest use.

K. Fire service facilities providing rural fire protection services.

L. Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and features, associated with a district as defined in ORS 540.505.

M. Utility Facility Service Lines. Utility facility service lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

1. A public right-of-way;
2. Land immediately adjacent to a public right-of-way, provided the written consent of all adjacent property owners has been obtained; or
3. The property to be served by the utility.

N. Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids, or the on-site treatment of septage prior to the land application for biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter. For the purposes of this section, on-site treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.

O. Dog training classes or testing trials conducted outdoors or in agricultural buildings existing on June 4, 2012, subject to the following:

1. The number of dogs in each training class shall not exceed 10.
2. There shall be no more than six training classes per day.
3. The number of dogs participating in the testing trials shall not exceed 60.
4. There shall be no more than four testing trials per calendar year.

P. Cider Business. A cider business is subject to the standards in MCC 17.125.140.

Q. Farm Brewery. A farm brewery is subject to the standards in MCC 17.125.150. [Ord. 1454 § 4 (Exh. B), 2023; Ord. 1397 § 4 (Exh. B), 2019; Ord. 1372 § 4 (Exh. A), 2016; Ord. 1369 § 4 (Exh. B), 2016; Ord. 1330 § 4 (Exh. A), 2013; Ord. 1326 § 4 (Exh. A), 2012; Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.040.]

#### **17.136.050 Conditional uses.**

The following uses may be permitted in an EFU zone subject to obtaining a conditional use permit and satisfying the criteria in MCC 17.136.060(A), and any additional criteria, requirements, and standards specified for the use:

A. Single-family dwelling or manufactured home not in conjunction with farm use, subject to the criteria and standards in MCC 17.136.060(B), 17.136.070 and 17.136.100.

B. Temporary residence for hardship purposes subject to the requirements of MCC 17.120.040 with filing of the declaratory statement in MCC 17.136.100(C).

C. Portable or temporary facility for primary processing of forest products subject to MCC 17.136.060(E).

D. The following commercial uses:

1. Home occupations, including bed and breakfast inns, subject to the criteria in MCC 17.136.060(C) with filing of the declaratory statement in MCC 17.136.100(C).
2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.136.040(F), and subject to MCC 17.136.060(D), but including a winery not permitted under MCC 17.136.040(B), but not including a medical marijuana processor as defined in MCC 17.110.376, subject to MCC 17.136.060(D).
3. Expansion of a lawfully established dog kennel with filing of the declaratory statement in MCC 17.136.100(C).
4. Room and board arrangements for a maximum of five unrelated persons in existing dwellings with filing of the declaratory statement in MCC 17.136.100(C).
5. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.
6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
7. Composting Facilities.
  - a. Existing composting operations and facilities that do not meet MCC 17.136.020(J) may be maintained, enhanced, or expanded on the same tract subject to meeting the performance and permitting requirements of the Department of Environmental Quality (DEQ) under OAR 340-093-0050 and 340-096-0060, subject to compost facility operators preparing, implementing and maintaining a site-specific odor minimization plan that:
    - i. Meets the requirements of OAR 340-096-0150;
    - ii. Identifies the distance of the proposed operation to the nearest residential zone;
    - iii. Includes a complaint response protocol;
    - iv. Is submitted to the DEQ with the required permit application; and
    - v. May be subject to annual review by the county to determine if any revisions are necessary.
  - b. New composting operations and facilities that do not meet MCC 17.136.020(J) may be established on land not defined as high-value farmland subject to the following:
    - i. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060; and
    - ii. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility; and
    - iii. On-site sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle;

iv. Compost facility operators must prepare, implement and maintain a site-specific odor minimization plan that:

- (A) Meets the requirements of OAR 340-096-0150;
- (B) Identifies the distance of the proposed operation to the nearest residential zone;
- (C) Includes a complaint response protocol;
- (D) Is submitted to the DEQ with the required permit application; and
- (E) May be subject to annual review by the county to determine if any revisions are necessary.

8. Operations for the extraction and bottling of water, except in the sensitive groundwater overlay zone.

9. Agri-tourism events and activities excluding events that promote the use or sale of marijuana products or extracts, subject to the requirements in MCC 17.120.090.

10. Dog training classes or testing trials not permitted under MCC 17.136.040(O).

E. The following mining and processing activities:

- 1. Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 and MCC 17.120.410 through 17.120.480.
- 2. Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298 and MCC 17.120.410 through 17.120.480.
- 3. Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement subject to MCC 17.120.410 through 17.120.480 and 17.136.060(H)(1).
- 4. Processing of other mineral resources and other subsurface resources subject to MCC 17.120.410 through 17.120.480.

F. The following utility uses:

- 1. Commercial utility facilities for the purpose of generating power, other than wind power generation or photovoltaic solar power generation, for public sale, subject to MCC 17.136.060(F).
- 2. Wind power generation facilities subject to MCC 17.120.100.
- 3. *Repealed by Ord. 1387.*
- 4. Transmission towers over 200 feet in height.

G. Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities as defined in ORS 215.283(2)(g).

H. The following recreation uses subject to MCC 17.136.060(I):

- 1. Expansion of a lawfully established private park, playground, hunting and fishing preserve or campground subject to MCC 17.136.060(G) with filing of the declaratory statement in MCC 17.136.100(C).
- 2. Expansion of a lawfully established community center, operated primarily by and for residents of the local rural community, where the land and facilities are owned and operated by a governmental agency or nonprofit community organization with filing of the declaratory statement in MCC 17.136.100(C).

3. Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035 or 660-034-0040, whichever is applicable, and consistent with ORS 195.120 and with filing of the declaratory statement in MCC 17.136.100(C).
  4. Expansion of a lawfully established golf course on the same tract consistent with definitions in MCC 17.136.140(C), and with filing of the declaratory statement in MCC 17.136.100(C).
  5. Living history museum subject to MCC 17.136.060(H)(2), and with filing of the declaratory statement in MCC 17.136.100(C).
- I. Expansion of a lawfully established solid waste disposal site together with facilities and buildings for its operation (see specific conditional uses, MCC 17.120.310 through 17.120.380).
- J. The following transportation uses:
1. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
  2. Reconstruction or modification of public streets involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
  3. Improvement of public street 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.
  4. Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 12.
- K. A replacement dwelling to be used in conjunction with farm use with filing of the declaratory statement in MCC 17.136.100(C), if the existing dwelling is listed in the Comprehensive Plan inventory and the National Register of Historic Places as historic property as defined in ORS 358.480.
- L. Residential home or adult foster home, as defined in ORS 197.660 and MCC 17.110.477, in an existing dwelling and with filing of the declaratory statement in MCC 17.136.100(C).
- M. A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(2).
- N. Expansion of existing schools not for kindergarten through grade 12 established on or before January 1, 2009, on the same tract wholly within a farm zone subject to MCC 17.136.060(I). [Ord. 1397 § 4 (Exh. B), 2019; Ord. 1387 § 4 (Exh. A), 2018; Ord. 1372 § 4 (Exh. A), 2016; Ord. 1369 § 4 (Exh. B), 2016; Ord. 1330 § 4 (Exh. A), 2013; Ord. 1326 § 4 (Exh. A), 2012; Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.050.]

**17.136.060 Conditional use review criteria.**

The uses identified in MCC 17.136.050 shall satisfy criteria in the applicable subsections below:

A. The following criteria apply to all conditional uses in the EFU zone:

1. The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use. Land devoted to farm or forest use does not include farm or forest use on lots or parcels upon which a non-farm or non-forest dwelling has been approved and established, in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.
2. Adequate fire protection and other rural services are, or will be, available when the use is established.

3. The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.
4. Any noise associated with the use will not have a significant adverse impact on nearby land uses.
5. The use will not have a significant adverse impact on potential water impoundments identified in the Comprehensive Plan, and not create significant conflicts with operations included in the Comprehensive Plan inventory of significant mineral and aggregate sites.

B. Non-Farm Dwellings. The following additional criteria apply to non-farm dwelling requests:

1. 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. Soils classifications shall be those of the Soil Conservation Service in its most recent publication, unless evidence is submitted as required in MCC 17.136.130.
2. The dwelling will be sited on a lot or parcel that does not currently contain a dwelling and was created before January 1, 1993. The boundary of the lot or parcel cannot be changed after November 4, 1993, in any way that enables the lot or parcel to meet the criteria for non-farm dwelling.
3. The dwelling will not materially alter the stability of the overall land use pattern of the area. In making this determination the cumulative impact of possible new non-farm dwellings on other lots or parcel in the area similarly situated shall be considered. To address this standard, the following information shall be provided:
  - a. Identify a study area for the cumulative impact analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;
  - b. Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm dwellings that could be approved under MCC 17.136.050(A), including identification of predominant soil classifications and parcels created prior to January 1, 1993. The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this provision;
  - c. Determine whether approval of the proposed non-farm dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase, or lease farmland, or acquire waste rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

C. Home Occupations.

1. Notwithstanding MCC 17.110.270 and 17.120.075, home occupations, including the parking of vehicles in conjunction with the home occupation and bed and breakfast inns, are subject to the following criteria:
  - a. A home occupation or bed and breakfast inn shall be operated by a resident of the dwelling on the property on which the business is located. Including residents, no more than five full-time or part-time persons shall work in the home occupation ("person" includes volunteer, nonresident employee, partner or any other person).

b. It shall be operated substantially in:

i. The dwelling; or

ii. Other buildings normally associated with uses permitted in the zone in which the property is located.

c. It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

d. A home occupation shall not be authorized in structures accessory to resource use on high-value farmland.

e. A sign shall meet the standards in Chapter 17.191 MCC.

f. The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.

g. Retail and wholesale sales that do not involve customers coming to the property, such as internet, telephone or mail order off-site sales, and incidental sales related to the home occupation services being provided are allowed. No other sales are permitted as, or in conjunction with, a home occupation.

2. Notwithstanding MCC 17.110.270 and 17.120.075, an event business hosting weddings, family reunions, class reunions, company picnics, memorials, and similar gatherings may be established as a home occupation subject to the following criteria:

a. Farm Assessment. All or a portion of the subject property where the event business will operate shall be subject to special assessment for farm use.

b. Owner. The property owner of the property upon which the event business is located shall be the operator of the event business and shall reside full-time in the dwelling on the property.

c. Employees. The property owner shall employ on the site no more than five full-time or part-time persons per ORS 215.448(1)(b).

d. Number of Events. A maximum of 18 events per calendar year may be held on the property.

e. Frequency. No more than three events a week shall occur from May 1st to September 30th and one event a week from October 1st to April 30th.

f. Duration. No event shall exceed three consecutive days including setup and take down.

g. Hours of Operation. No event shall take place before the hour of 7:00 a.m. or after the hour of 10:00 p.m. Setup and takedown shall occur as well between the hours of 7:00 a.m. and 10:00 p.m.

h. Guests. The property owner shall ensure that the maximum occupancy approved by the Marion County building official and local fire district is not exceeded in structures on the property at any time. A lower limit may be imposed based on the number of employees able to provide services to the guests. The applicant shall demonstrate how the employees of the business are able to provide services to all the guests at the event. All events shall be conducted in such a way as to comply with conditions of approval placed on the event business operation.

i. Structures. The event business shall be operated substantially in the dwelling, or other buildings normally associated with uses permitted in the zone in which the property is located. New structures shall obtain a building permit for the use. Existing structures shall obtain a change of use from building inspection. In either case, system development charges applied for the additional traffic impacts anticipated shall be paid prior to building permit issuance. Any changes to a structure shall not render the structure a building not normally associated with uses permitted in the zone

- j. Tents. Tents may be used in conjunction with the event business. Tents shall be considered outdoor areas for the purposes of this code.
- k. Outdoor Area. For events which take place both indoors and outdoors, at least 80 percent of the area of the property dedicated to the event business shall be indoors and at most 20 percent of the area of the property dedicated to the event business may be outdoors, exclusive of parking.
- l. Parking. A parking and traffic circulation plan shall be provided demonstrating adequate parking being provided on site to accommodate all traffic associated with the event business subject to the following:
- i. No parking in rights-of-way or roadway easements shall be permitted.
  - ii. Parking may be provided on a different parcel subject to evidence of an agreement with that property for the use.
  - iii. Adequate internal circulation shall be provided to ensure that traffic does not cause a significant adverse impact to local roadways.
  - iv. The parking and traffic circulation plan shall also provide for fire and emergency ingress and egress.
  - v. Events that take place between October 1st and April 30th shall have parking provided with an all-weather surface consisting of gravel, asphalt, or concrete.
  - vi. Events that take place between May 1st and September 30th shall either have parking provided with an all-weather surface consisting of gravel, asphalt, or concrete or provided by an earthen or organic surface maintained to minimize fire hazards.
  - vii. The property owner shall obtain all necessary permits for access and egress, as well as provide a traffic control plan if required by Marion County public works.
  - viii. The use will not require new driveway access to the street unless approved by public works director. The property owner shall obtain all necessary driveway access permits from the roadway authority to bring the new or existing access into conformance with county standards.
- m. Minimum Setbacks. New structures and outdoor areas associated with the event business, including generators and other ancillary uses, but not including parking, shall be set back a minimum of 50 feet from public rights-of-way and adjoining parcels with an existing residence within 50 feet of the site of the event business or approved for a residence within 50 feet of the site of the event business, or zoned acreage residential.
- n. Fencing. Property lines adjacent to a property with an existing residence within 50 feet of the site of the event business or approved for a residence within 50 feet of the site of the event business, or zoned acreage residential shall be provided with a solid fence, wall, or hedge. A 15-foot-wide vegetative buffer consisting of trees, which will attain at least eight feet in height within five years, and shrubs, which will provide a complete visual sight buffer within five years, may be substituted for the fence, wall, or hedge.
- o. Lighting. Parking lots shall have lighting capable of providing adequate illumination for security and safety. All light sources shall be constructed, down shielded and used so as not to illuminate directly on or create glare visible from adjacent properties or public rights-of-way.
- p. Noise. The event business shall comply with Chapter 8.45 MCC related to noise except that no amplified sound or use of a generator shall occur outside of a building before the hour of 7:00 a.m. or after the hour of 10:00 p.m.
- q. Signs. In addition to the signs permitted in Chapter 17.191 MCC:

- i. One unlighted sign not exceeding 32 square feet related to the event business may be placed on a fence or structure subject to the height, setback, and illumination standards in Chapter 17.191 MCC.
- ii. Three unlighted temporary signs not exceeding 32 square feet each may be placed on the property or nearby properties subject to the height, setback, and illumination standards in Chapter 17.191 MCC.
- iii. Any temporary sign shall be removed no more than 24 hours after an event.
- r. Water Source. If a well is used in conjunction with the business, the property owner shall consult with Marion County health and human services to determine if compliance with a state public water system is required. Any identified public water systems must comply with drinking water quality standards as administered by the Oregon Health Authority Drinking Water Services. The property owner also shall obtain any necessary permits from the Oregon Department of Water Resources. Evidence that required permits were obtained shall be provided to Marion County planning.
- s. On-Site Wastewater. The property owner shall obtain all necessary permits for on-site wastewater disposal. In the event that portable restroom facilities, including hand-sanitizing or hand-washing stations, are used, these shall be screened from adjacent lots and rights-of-way by sight-obscuring fences or plantings and be located a minimum of 50 feet from the property lines of all adjoining properties.
- t. Kitchen. Any kitchen shall obtain necessary permits from Marion County building inspection and from Marion County health and human services. Evidence that required permits were obtained shall be provided to Marion County planning.
- u. Alcohol. If alcohol is served, the property owner shall obtain all necessary permits, or ensure that all necessary permits have been obtained from the Oregon Liquor and Cannabis Commission.
- v. Other Uses. The event business shall not unreasonably interfere with other uses permitted in the zone in which the property is located. The property owner shall provide evidence that all contracts include the requirement that the customer has signed and agreed to the following statement:

This event business is situated in or near a farm or forest zone or area in Marion County, Oregon, where the intent is to encourage, and minimize conflicts with, farm and forest use. Specifically, residents, property owners, and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws that ordinarily and necessarily produce noise, dust, smoke and other impacts. I do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of using this venue. I acknowledge the need to avoid activities that conflict with nearby farm and forest uses and practices, signatories will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937.

- w. Dispatch of Employees. The property, dwelling, or other buildings shall not be used for assembly or dispatch of employees to other locations.
- x. Sales. Retail and wholesale sales that do not involve customers coming to the property, such as internet, telephone, or mail order off-site sales, and incidental sales related to the home occupation services being provided are allowed. No other sales are permitted as, or in conjunction with, a home occupation.
- y. Alteration of Property. No other alteration of land shall occur other than that approved in conjunction with an approval for an event business subject to the following:
  - i. On days when events are not occurring, the property shall not take on characteristics of an event business, aside from structures and parking areas approved as part of this permit.
  - ii. When events are not taking place, any equipment, furniture, or other items related to the event business shall be stored indoors.

z. Transfer of Property. Any approval is only for the property owner at the time of application. If the property is subsequently sold or transferred to another person or entity, the new property owner must indicate review and acceptance of the conditions of the land use approval prior to operating the business.

aa. Annual Submittal. Event business approvals must be renewed every year subject to the property owner providing the following information:

i. Evidence of the annual renewal of permits required by other agencies and departments.

ii. A log of events held the prior calendar year.

iii. Any revisions to the site plan or parking and traffic circulation plan or both. Such revisions may be subject to review and approval by the planning director and public works director for consistency with the home occupation event business approval.

iv. Evidence that the property continues to be subject to special assessment for farm use.

D. Commercial Activities in Conjunction with Farm Use.

1. The commercial activity must be primarily a customer or supplier of farm uses.

2. The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.

3. The agricultural and commercial activities must occur together in the local community.

4. The products and services provided must be essential to the practice of agriculture.

E. Forest Products Processing Facility. A portable or temporary facility for the primary processing of forest products is subject to the following criteria and limitations:

1. The use shall not seriously interfere with accepted farming practices.

2. The use shall be compatible with farm uses described in ORS 215.203(2).

3. The use may be approved for a maximum one-year period, which is renewable.

4. The primary processing of forest products, as used in this section, means the use of a chipper, stud mill, or other similar facility for 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.

F. Power Generation Facility. A power generation facility shall not preclude more than:

1. Twelve acres from use as a commercial agricultural enterprise on high-value farmland unless an exception is taken pursuant to OAR Chapter 660, Division 004.

2. Twenty acres from use as a commercial agricultural enterprise on farmland that is not high-value unless an exception is taken pursuant to ORS 197.732 and OAR Chapter 660, Division 004.

G. Private Parks and Campgrounds. Private parks, playgrounds, hunting and fishing preserves, and campground expansions shall meet the following criteria:

1. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 004.

2. It shall be devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes, and is established on a site or is contiguous to lands with park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.
3. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.
4. A camping site shall only be occupied by a tent, travel trailer or recreational vehicle. Private campgrounds may provide yurts for overnight camping subject to the following:
  - a. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include yurts;
  - b. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
5. Separate sewer, water or electric service hook-ups shall not be provided to individual campsites.
6. It shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
7. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

H. Other Uses.

1. 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 totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
2. 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 an urban growth boundary.

As used in this subsection:

- a. "Living history museum" means a facility designed to depict and interpret the everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and
- b. "Local historical society" means the local historical society recognized by the county board of commissioners and organized under ORS Chapter 65.

I. The following criteria apply to those uses identified in MCC 17.136.050:

1. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved within three miles of an urban growth boundary unless an exception is approved pursuant to OAR Chapter 660, Division 004.
2. Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract. For the purposes of this subsection, "tract" means a tract as defined in MCC 17.136.140(F) in existence on May 5, 2010.
3. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, but existing enclosed structures within three miles of an urban growth boundary may not be expanded

beyond the limits of this subsection. [Ord. 1456 § 4 (Exh. B), 2023; Ord. 1447 § 4 (Exh. B), 2022; Ord. 1330 § 4 (Exh. A), 2013; Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.060.]

**17.136.070 Non-farm dwelling requirements.**

The following regulations shall apply to non-farm dwellings:

**A. Special Setbacks.**

1. Dwellings. A special dwelling setback of 200 feet from any abutting parcel in farm use or timber production is required.
2. Accessory Buildings. A special setback of 100 feet is required for buildings accessory to a dwelling from any abutting parcel in farm use or timber production.
3. Adjustments. The special setbacks in subsections (A)(1) and (2) of this section may be reduced if it is determined, concurrently with any land use application or as provided in Chapter 17.116 MCC, that a lesser setback will meet the following review criteria for alternative sites:
  - a. The site will have the least impact on nearby or adjoining forest or agricultural lands.
  - b. The site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.
  - c. The amount of agricultural and forestlands used to site access roads, service corridors, the dwelling and structures is minimized.
  - d. The risks associated with wildfire are minimized.
4. The special setback in subsection (A)(1) of this section shall not be applied in a manner that prohibits dwellings approved pursuant to ORS 195.300 through 195.336 nor should the special setback in subsection (A)(1) of this section prohibit a claimant's application for homesites under ORS 195.300 through 195.336.

**B. Fire Hazard Reduction.** As a condition of approval for any non-farm dwelling located closer than 200 feet to timber, the owner shall be required to maintain a primary and secondary fuel-free break area in accordance with the provision in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.

**C.** Prior to issuance of any residential building permit for an approved non-farm dwelling under MCC 17.136.050(A), evidence shall be provided that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm or forest use; and that the additional tax or penalty has been imposed, if any is applicable, as provided by ORS 308A.113 or 308A.724 or 321.359(1)(b), 321.842(1)(A) and 321.716. A parcel that has been disqualified under this section shall not requalify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel. [Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.070.]

**17.136.080 Existing dwellings and other structures.**

For the purpose of regulating dwellings and structures at the time the EFU zone is applied, the following regulations shall apply:

- A. Legally established dwellings existing when the EFU zone is applied shall be considered in conformance with the EFU zone and may be repaired, altered, enlarged or replaced pursuant to MCC 17.136.020(D) or 17.136.030(D).
- B. Legally established structures accessory to a dwelling, farm or forest use, or other authorized use existing when the EFU zone is applied shall be considered in conformance with the EFU zone and may be repaired, altered, or enlarged unless conditions applied to the use require that changes to the structure be reviewed.

C. Notwithstanding MCC 17.114.070, if a legally established non-resource use exists in the EFU zone and is unintentionally destroyed by fire, other casualty or natural disaster, the use may be reestablished to its previous nature and extent, but the reestablishment shall satisfy other building codes, ordinance and permit requirements. Efforts to reestablish the use shall commence within one year of destruction of the use or structure. [Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.080.]

**17.136.090 Minimum parcel size, divisions of land, and property line adjustments.**

The following regulations apply when property line adjustments and partitioning of land within an EFU zone subject to the provisions of Chapter 17.172 MCC are proposed:

**A. Minimum Parcel Size for Newly Created Parcels.**

1. Farm Parcels. The minimal parcel size for new farm parcels shall be calculated as follows:

- a. All parcels wholly or in part within 500 feet of the subject parcel shall be identified.
- b. The average (mean) size of all parcels larger than 40 acres identified in subsection (A)(1)(a) of this section shall be determined.
- c. The acreage size calculated in subsection (A)(1)(b) of this section, rounded to the nearest 10 acres, is the minimum parcel size unless such parcel size is less than 80 acres, in which case the minimum parcel size is 80 acres.

2. Non-Farm Parcels. A new non-farm parcel created pursuant to subsection (B) of this section shall only be as large as necessary to accommodate the use and any buffer area needed to ensure compatibility with adjacent farm uses.

**B. Requirements for Creation of New Non-Farm Parcels.**

1. A new non-farm parcel may be created for uses listed in MCC 17.136.040(C) and (K) and MCC 17.136.050, except the residential uses in MCC 17.136.050(A) and (B) or a home occupation.

2. The criteria in MCC 17.136.060 applicable to the use shall apply to the parcel.

3. A non-farm parcel shall not be approved before the non-farm use is approved.

4. A division of land for non-farm use shall not be approved unless any additional tax imposed for the change has been paid, or payment of any tax imposed is made a condition of approval.

5. A division of land may be permitted 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 MCC 17.136.050(L).

b. For a historic property that meets the definition in ORS 358.480 and is listed on the National Register of Historic Places.

c. Parcels created under this section must meet the following criteria:

- i. The new parcel containing the dwelling must be a minimum of one acre in size.
- ii. The proposal shall not involve a unit of land containing a farm-relative dwelling previously authorized under the Marion County Code or previous ordinance.
- iii. The new parcel shall not be larger than the minimum size necessary for the use, taking into consideration septic system, septic repair area, water source, the dwelling, and accessory buildings.

- iv. The new parcel shall be adequately sized so that the existing dwelling meets the special setbacks from parcels in farm and forest use as described in MCC 17.136.070 if it was able to meet the special setbacks previously.
6. If the land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels subject to the following criteria:
- a. A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
  - b. A parcel created pursuant to this subsection that does not contain a dwelling:
    - i. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
    - ii. May not be considered in approving or denying an application for siting any other dwelling;
    - iii. May not be considered in approving a redesignation or rezoning of forest lands or farmlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
  - c. May not be smaller than 25 acres unless the purpose of the land division is:
    - i. To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or
    - ii. To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.
7. A division of land smaller than the minimum lot or parcel size described in subsections (A) and (B) of this section may be approved to establish a religious organization including cemeteries in conjunction with the religious organization if they meet the following requirements:
- a. The religious organization has been approved under MCC 17.136.040(C);
  - b. The newly created lot or parcel is not larger than five acres; and
  - c. The remaining lot or parcel, not including the religious organization, meets the minimum lot or parcel size described in subsections (A) and (B) of this section either by itself or after it is consolidated with another lot or parcel.
8. A portion of a lot or parcel that has been included within an urban growth boundary and redesignated for urban uses under the applicable acknowledged comprehensive plan may be divided off from the portion of the lot or parcel that remains outside the urban growth boundary and zoned for resource use even if the resource use portion is smaller than the minimum lot or parcel size established under ORS 215.780, subject to the following:
- a. The partition must occur along the urban growth boundary; and
  - b. If the parcel contains a dwelling, the parcel must be large enough to support continued residential use;
  - c. If the parcel does not contain a dwelling, the parcel:
    - i. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
    - ii. May not be considered in approving or denying an application for siting any other dwelling; and

iii. May not be considered in approving a redesignation or rezoning of forestlands under the acknowledged comprehensive plan and land use regulations, except for a redesignation or rezoning to allow a public park, open space or other natural resource use.

9. Land that is divided under this section for utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height, may not later be rezoned by the county for retail, commercial, industrial or other non-resource use, except as provided under the statewide land use planning goals or under ORS 197.732.

C. Property Line Adjustments.

1. When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to subsection (A)(1) of this section, the same number of lots or parcels shall be as large or larger than the minimum parcel size after the adjustment. When all lots or parcels subject to the proposed adjustment are as large or larger than the minimum parcel size, no lot or parcel shall be reduced below the applicable minimum parcel size. If all lots or parcels are smaller than the minimum parcel size before the property line adjustment, the minimum parcel size pursuant to this section does not apply to those lots or parcels.

2. If the minimum parcel size in subsection (A)(1) of this section is larger than 80 acres, and a lot or parcel subject to property line adjustment is smaller than the minimum parcel size but larger than 80 acres, the lot or parcel shall not be reduced in size through property line adjustment to less than 80 acres.

3. Any property line adjustment shall result in a configuration of lots or parcels that are at least as suitable for commercial agriculture as were the parcels prior to the adjustment.

4. A property line adjustment may not be used to:

- a. Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;
- b. Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;
- c. Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard; or
- d. Adjust a property line that resulted from a subdivision or partition authorized by a Measure 49 waiver so that any lawfully established unit of land affected by the property line adjustment is larger than the size granted by the waiver.

5. Any property line adjustment that results in an existing dwelling being located on a different parcel shall not be subject to the standards in MCC 17.136.030(A) so long as the adjustment:

- a. Does not increase any adverse impacts on the continued practice of commercial agriculture on the resulting parcels;
- b. Does not increase the potential number of dwellings on the resulting parcels; and
- c. Does not allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard. [Ord. 1454 § 4 (Exh. B), 2023; Ord. 1369 § 4 (Exh. B), 2016; Ord. 1330 § 4 (Exh. A), 2013;

Ord. 1326 § 4 (Exh. A), 2012; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.090.]

**17.136.100 Development requirements.**

The following standards apply to development in an EFU zone:

**A. Maximum Height.**

1. Dwellings: 35 feet.
2. Farm-related structures on farm parcels: none.
3. Nonresidential and non-farm structures: 35 feet unless they are in conjunction with conditional uses allowed in MCC 17.136.050, and a greater height is requested and approved as part of the conditional use permit.

**B. Minimum Setbacks.** Except as required in MCC 17.136.070(A), the following setback requirements shall be implemented for all new structures other than farm-exempt buildings, signs and fences:

1. Rear Yard. A minimum of 20 feet.
2. Side Yard. A minimum of 20 feet, except for lots or parcels of one-half acre or smaller created prior to January 1, 1994, in which case the side yard setback shall be five feet.
3. Front Yard. A minimum of 20 feet. When by ordinance a greater setback or a front yard of greater depth is required than specified in this section, then such greater setback line or front yard depth shall apply (see Chapter 17.112 MCC).

**C. Declaratory Statement.** For all dwellings, and other uses deemed appropriate, the property owner shall be required to sign and allow the entering of the following declaratory statement into the chain of title of the lot(s) or parcel(s):

The property herein described is situated in or near a farm or forest zone or area in Marion County, Oregon, where the intent is to encourage, and minimize conflicts with, farm and forest use. Specifically, residents, property owners and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws that ordinarily and necessarily produce noise, dust, smoke and other impacts. The grantors, including their heirs, assigns and lessees do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling, structure or use in this area, and acknowledge the need to avoid activities that conflict with nearby farm and forest uses and practices, grantors will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937.

[Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.100.]

**17.136.110 Contiguous ownership.**

**A.** After June 29, 1994, it shall be a condition of approval that a new deed be recorded consolidating all contiguous lands in the same ownership when such contiguous lots or parcels are included in the application and must be considered in order for the application to meet the applicable criteria and standards. Consolidation shall be accomplished prior to exercising the rights granted in the land use decision and obtaining building permits, or concurrent with filing of a partitioning plat or property line adjustment survey.

**B.** Where a land use action prior to June 29, 1994, required that contiguous lots or parcels be considered a single lot or parcel, they shall continue to be considered a single lot or parcel for land use purposes. [Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.110.]

**17.136.120 Permit expiration dates.**

A. Notwithstanding other provisions of this title, a discretionary decision, except for a land division, approving a proposed development in the EFU zone expires two years from the date of the final decision if the development action is not initiated and all required conditions are met in that period. The director may grant an extension period of up to 12 months if:

1. An applicant makes a written request for an extension of the development approval period.
2. The request is submitted to the county prior to expiration of the approval period.
3. The applicant states the reasons that prevented the applicant from beginning or continuing development within the approval period.
4. The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.

B. Approval of an extension granted under this section is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

C. Additional one-year extensions may be authorized where applicable criteria for the decision have not changed.

D. If a permit is approved for a proposed residential development in the EFU zone, the permit shall be valid for four years. For the purposes of this subsection, “residential development” only includes the dwellings provided for under MCC 17.136.020(D), 17.136.030(D) and 17.136.050(A).

E. The first extension of a permit consistent with subsection (D) of this section and with subsections (A)(1) through (4) of this section and where applicable criteria for the decision have not changed shall be valid for two years.

F. Up to five additional extensions of the permit consistent with subsection (D) of this section and with subsections (A)(1) through (4) of this section and where applicable criteria for the decision have not changed shall be valid for one year each. [Ord. 1454 § 4 (Exh. B), 2023; Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.120.]

**17.136.130 Consideration of soil classification changes for non-farm dwellings.**

For purposes of approving an application for a dwelling not in conjunction with farm use under MCC 17.136.050(A), the soil class, soil rating, or other soil designation of a specific lot or parcel may be changed if the property owner submits a soil assessment prepared by a professional soil classifier that has been reviewed and approved by the Department of Land Conservation and Development as meeting the requirements in OAR 660-033-0045. [Ord. 1369 § 4 (Exh. B), 2016; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.130.]

**17.136.140 Definition of terms used in this chapter.**

The following terms apply to this chapter and have no relevance to the same terms used in other chapters of this title unless specifically stated:

A. **Filming Activities.** On-site filming and activities accessory to on-site filming include filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming. Production of advertisements, documentaries, feature films, television services and other film production that rely on the rural qualities of an EFU zone in more than an incidental way. It does not include facilities for marketing, editing and other such activities that are allowed only as a home occupation or construction of new structures that require a building permit.

B. “Commercial dairy farm” means a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by MCC 17.136.030(A)(1) or (2).

C. “Golf course” means an area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial

hazards. A “golf course” means a nine- or 18-hole regulation golf course, or golf tournament, consistent with the following:

1. 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.
2. A regulation nine-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.
3. 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 and conforms to the following:
  - a. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course include parking, maintenance buildings, cart storage and repair, practice range or driving range, clubhouse, restrooms, lockers and showers, food and beverage service, pro shop, and a practice or beginners course.
  - b. Accessory uses to a golf course do not include sporting facilities unrelated to golf such as tennis courts, swimming pools, or weight rooms, wholesale or retail operations oriented to the non-golfing public, or housing.
  - c. A use is accessory to a golf course only when limited in size and orientation to serve the needs of persons and their guests who patronize the golf course to golf.
  - d. Commercial activities such as food and beverage service and pro shop are accessory to a golf course only when located in the clubhouse.
  - e. Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designated for or include structures for banquets, public gatherings or public entertainment.

D. “High-value farmland” means a tract composed predominantly of:

1. Soils rated Class I or II, prime, or unique, either irrigated or not irrigated;
2. The following Class III soils: Chehalem (CeC), Concord (Co), Hullt (HuD), Jory (JoD), Nekia (NeC, NeD, NkC), Salkum (SkD), Silverton (SuD), and Woodburn (WuD);
3. The following Class IV soils: Bashaw (Ba), Camas (Ca), Courtney (Cu), Dayton (Da), and Jory (JoE).

E. Seasonal Farm Worker. Any person who, for an agreed remuneration or rate of pay, performs temporary labor for another to work in production of farm products or planting, cultivating or harvesting of seasonal agricultural crops or in forestation or reforestation of lands, including but not limited to the planting, transplanting, tubing, pre-commercial thinning and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash and other related activities.

F. Tract. One or more contiguous lots or parcels under the same ownership. [Ord. 1326 § 4 (Exh. A), 2012; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.140.]

## Chapter 17.171

### P (PUBLIC) ZONE Revised 7/23

#### Sections:

- 17.171.010 Purpose.
- 17.171.020 Uses.
- 17.171.030 Conditional uses. Revised 7/23
- 17.171.040 Scale of commercial uses.
- 17.171.050 Prohibited and lawfully established existing uses.
- 17.171.060 Property development standards.

#### **17.171.010 Purpose.**

The purpose and intent of the P (public) zone is to provide regulations governing the development of lands appropriate for specific public and semi-public uses and to ensure their compatibility with adjacent uses. It is intended that this zone be applied to individual parcels shown to be an appropriate location for a certain public or semi-public use. If the use existing at the time the P zone is applied is discontinued or if a proposed use is not established, it is the intent that the land be rezoned to conform to surrounding zoning or be devoted to permitted uses. It is not intended that a property zoned public for one type of use be allowed to change without demonstrating that the proposed conditional use will be compatible with adjacent uses and the property is better suited to the proposed use than alternative locations. [Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1191 § 4, 2004; Ord. 1139 § 5, 2001; Ord. 1131 § 5, 2000; Ord. 1118 § 5, 2000; Ord. 1055 § 4, 1997; Ord. 579 § 5, 1980. RZ Ord. § 171.010.]

#### **17.171.020 Uses.**

Within any P (public) zone, no building, structure or premises shall be used, arranged, or designed to be used, erected, structurally altered or enlarged except for the following purposes:

- A. Farm use, but not including a medical marijuana processor (see MCC 17.110.376), medical marijuana producer (see MCC 17.110.378), or a medical marijuana dispensary (see MCC 17.110.374);
- B. Forest use;
- C. Dwellings (including mobile homes) and other structures customarily provided in conjunction with farm or forest use subject to the criteria in MCC 17.139.030;
- D. Utility facilities necessary for public service except public power generation;
- E. Wireless communications facilities, including attached, subject to the following development standards:
  - 1. Notwithstanding other height limitations in this title omni-directional (whip) antennas not exceeding 20 feet in height and directional/parabolic antennas not exceeding seven feet in diameter or width and 15 feet in height may be attached to or located on existing structures;
  - 2. Antennas and associated equipment shall be surfaced in a nonreflective color to match the structure on which they are located. An equipment enclosure may be set back from the edge of a roof by a distance at least equal to its height in lieu of screening;
  - 3. Equipment enclosures shall be located within the building on which they are located wherever possible; otherwise, equipment enclosures shall be fenced by a six-foot-high fence, wall or hedge;
  - 4. Antennas shall not be illuminated except as required by the Oregon State Aeronautics Division or the Federal Aviation Administration;
  - 5. A wireless communications facility, attached, and equipment enclosure shall be removed by the facility owner or property owner within six months of the date it ceases to be operational;

6. Notwithstanding other height limitations in this code all lattice, monopole, guyed or other freestanding support structures shall be limited to a total height, including antennas, of 150 feet above natural grade;

*F. Repealed by Ord. 1397;*

G. Fire and emergency services stations and police substations; training facilities, administrative offices and living quarters for fire, emergency, and police services are permitted in conjunction with these uses, not to exceed 20 full-time persons and 200 day-use visitors. [Ord. 1397 § 4 (Exh. B), 2019; Ord. 1372 § 4 (Exh. A), 2016; Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1191 § 4, 2004; Ord. 1139 § 5, 2001; Ord. 1131 § 5, 2000; Ord. 1118 § 5, 2000; Ord. 1055 § 4, 1997; Ord. 579 § 5, 1980. RZ Ord. § 171.020.]

**17.171.030 Conditional uses.** Revised 7/23

When authorized under the procedure provided for conditional uses in this title, the following uses will be permitted in a P zone:

A. Airport and airport-related commercial and industrial uses;

B. Public ball park, exposition, fairground, museum, stock show and related commercial uses subject to MCC 17.171.040;

C. Cemeteries, crematoriums and mausoleums;

D. Dwelling for the caretaker or watchman; housing for the staff required for an approved conditional use;

E. Golf courses, public parks and playgrounds, recreational resorts and retreats, related camping and related commercial uses subject to MCC 17.171.040;

F. Religious organizations and related conference and residence facilities;

G. Schools, elementary and secondary (as defined in Chapter 17.110 MCC);

H. Military training facilities and armory;

I. Public institutions for detention or correction;

J. Residential facilities, institutions and schools for the handicapped or mentally retarded;

K. Public service buildings, structures and uses (e.g., field offices, outdoor storage of equipment, reservoir, water tower, pump station, sewage treatment plant, solid waste disposal site, power generation), except fire, police and emergency service stations;

L. Fire and emergency services stations and police substations; training facilities, administrative offices and living quarters for fire, emergency, and police services exceeding 20 full-time persons and 200 day-use visitors;

M. In the community of Brooks-Hopmore, educational institutions as defined in MCC 17.110.210 and including those in SIC 822. [Ord. 1454 § 4 (Exh. B), 2023; Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1191 § 4, 2004; Ord. 1139 § 5, 2001; Ord. 1131 § 5, 2000; Ord. 1118 § 5, 2000; Ord. 1055 § 4, 1997; Ord. 974 § 4, 1994; Ord. 925 § 6, 1992; Ord. 579 § 5, 1980. RZ Ord. § 171.030.]

**17.171.040 Scale of commercial uses.**

A. New commercial uses in conjunction with public uses may be established up to a maximum of 3,500 square feet of floor area.

B. Lawfully established commercial uses existing as of the date of adoption of the ordinance codified in this title may be expanded up to 3,500 square feet of floor area, or an additional 25 percent of the floor area that existed as of the date of adoption of the ordinance codified in this title, whichever is greater.

C. Airport-related uses located at the Aurora Airport are not subject to the size limitations in subsections (A) and (B) of this section.

D. Except as established in subsection (B) of this section, for a commercial use to exceed the square foot limitations requires taking an exception to Goal 14. Such exception shall be processed as an amendment to the Marion County Comprehensive Plan. [Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1191 § 4, 2004. RZ Ord. § 171.040.]

**17.171.050 Prohibited and lawfully established existing uses.**

A. The following uses are prohibited:

1. Uses of structures and land not specifically permitted in the public zone.
2. New residential dwellings, except when accessory to a primary use. However, a dwelling that legally existed at the time of adoption of the ordinance codified in this title shall not be a nonconforming use, and may be remodeled, expanded, or replaced.

B. Lawfully established commercial and industrial uses that existed prior to zoning or established through the applicable land use process on or before the date of the ordinance codified in this title, not otherwise listed in the zone, are allowed outright and shall not be classified as nonconforming uses.

C. All other lawfully established, existing uses and structures not specifically permitted in the public zone shall be considered nonconforming uses subject to the provisions of Chapter 17.114 MCC. [Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1191 § 4, 2004. RZ Ord. § 171.050.]

**17.171.060 Property development standards.**

A. Height. No building or structure in a P zone shall exceed six stories or 70 feet; provided, that buildings or structures shall be set back from every street and lot line one foot for each foot of height of the building in excess of 35 feet in addition to all other yard and setback requirements herein specified.

B. Front Yard. Front yard shall be a minimum of 20 feet. No parking shall be permitted within the minimum front yard area.

C. Side Yards. Where the side of a lot in a P zone abuts upon the side of a lot in any R zone, there shall be a minimum side yard of 10 feet. Otherwise there shall be no minimum side yard setback. Where the side of a lot abuts upon a street there shall be a minimum side yard of 20 feet wherein no parking shall be permitted.

D. Rear Yard. In a P zone there shall be a rear yard that shall have a minimum depth of 30 feet.

E. Lot Area and Coverage. The minimum requirements in P zones for dwellings shall be one acre except 6,000 square feet inside an unincorporated community boundary where public sewer and water service is provided. No main building, including dwellings, shall occupy more than 30 percent of the lot area.

F. Open Storage.

1. All yard areas, exclusive of those required to be landscaped as provided in subsection (G) of this section, may be used for materials and equipment storage areas related to a use permitted in the P zone, provided such area is screened so it cannot be seen from public roads, or from dwellings on property in other zones.
2. The surface of open storage areas, including automobile and truck parking areas shall be paved or graveled and maintained at all times in a dust-free condition.

G. Landscaping. The area within 20 feet of a street shall be landscaped. As a condition of approval for a conditional use, additional landscaping may be required if necessary to make the use compatible with the area.

H. Performance Standards. No land or structure shall be used or occupied unless maintained and operated in continuing compliance with all applicable standards adopted by the Oregon Department of Environmental Quality.

I. Sewage Disposal. Demonstrate that the development will not exceed the existing carrying capacity of the local sewage disposal system or has an on-site sewage disposal site approved by Marion County or the Department of Environmental Quality.

J. Traffic Analysis. Demonstrate that the development will be consistent with the identified function, capacity, and level of service of transportation facilities serving the site. A transportation impact analysis, approved by the Marion County department of public works, may be required prior to building permit approval. [Ord. 1271 § 5, 2008; Ord. 1227 § 4, 2006; Ord. 1191 § 4, 2004. RZ Ord. § 171.060.]

## Chapter 17.177

### AIRPORT OVERLAY ZONE

#### Sections:

- 17.177.010 Purpose.
- 17.177.020 Definitions.
- 17.177.030 Airport districts.
- 17.177.040 Procedure.
- 17.177.050 Nonconforming uses.
- 17.177.060 Marking and lighting.
- 17.177.070 Variances.

#### **17.177.010 Purpose.**

The airport overlay zone is intended to minimize potential dangers from, and conflicts with, the use of aircraft at public airports based on the adopted master plans for each airport. It is to be used in conjunction with the underlying zone. If any conflict in regulation or procedure occurs with the underlying zoning districts, the more restrictive provisions shall govern. This section is intended to comply with Federal Aviation Agency Regulation FAR-77 and all other applicable federal and state laws regulating hazards to air navigation. [Ord. 602 § 5, 1981. RZ Ord. § 177.010.]

#### **17.177.020 Definitions.**

A. "Airport" means a public airport as defined in MCC 17.110.040.

B. "Airport elevation" means the highest point of an airport's usable landing area measured in feet from mean sea level. This elevation above mean sea level shall be shown on the official zoning map.

C. "Airport surfaces" means the specific dimensions, slopes and elevations of the airport surfaces shall be delineated on the official zoning map.

1. "Primary surface" means the surface of the runway and adjacent land on each side of the runway centerline and 200 feet beyond the ends of the runway. The length of this surface is determined by using the existing runway length or the runway length identified in an adopted state airport master plan, if longer. The width is the same as the end of the approach surface that is closest to the runway.

2. Approach Surface. This surface begins at the end of the primary surface. From its initial width, that is the same as the width of the primary surface, it extends upward and outward on both sides of the projected centerline of the runway with a specified slope and terminates where it intersects the horizontal surface.

3. "Horizontal surface" is a horizontal plane which surrounds the airport 150 feet above the airport elevation. The interior portion of this surface terminates where it intersects with the transitional and approach surfaces. Its outer edge terminates where it intersects with the conical surface.

4. "Transitional surface" means an imaginary plane that extends upward and outward from the sides of the primary surface and approach surface to the horizontal surface.

5. "Conical surface" means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance of 4,000 feet.

D. "Hazard to air navigation" means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

E. "Height" is the highest point of any structure as further defined in MCC 17.110.260. The official zone map identifies the maximum height permitted for any obstruction calculated from the airport elevation as defined in subsection (B) of this section and from mean sea level.

F. "Obstruction" is any structure, tree or other object, including a mobile object, which extends above airport surfaces as defined in subsection (C) of this section.

G. "Runway" is a defined area on the airport prepared for landing and takeoff of aircraft along its length.

H. "Tree" means any natural vegetation. [Ord. 602 § 5, 1981. RZ Ord. § 177.020.]

#### **17.177.030 Airport districts.**

In order to carry out the provisions of this airport overlay zone, three airport development districts are provided within the airport overlay zone. These three districts are shown on the official zoning map showing the height limits adopted at the time the airport overlay zone is applied.

A. Airport Development District. This district consists of those lands, waters and airspace area at or below the primary, transitional and approach surfaces described in MCC 17.177.020(C).

1. Use Limitations. Any use, accessory use, buildings and structures otherwise allowed in the underlying zone shall be permitted provided the following requirements are satisfied:

- a. No obstruction or object shall be permitted if it extends above the transitional and approach surfaces as defined in MCC 17.177.020(C).
- b. Roadways, parking areas and storage yards shall be located in such a manner that vehicle lights will not result in glare in the eyes of the pilots, or in any other way impair visibility in the vicinity of the runway approach.
- c. Sanitary landfills, sewage lagoons or sewage sludge disposal shall not be permitted closer than 10,000 feet to the airport runway.
- d. No game preserve or game reservation shall be permitted if the animals or birds have the potential to become a hazard to air navigation.
- e. No structure or use intended for public assembly shall be allowed except by a conditional use permit.

B. Horizontal Surface District. This district consists of the land, water and airspace underneath the horizontal surface as described in MCC 17.177.020(C).

1. Use Limitations. Any use, accessory use, building and structure allowed in the underlying zone shall be permitted provided the following requirements are satisfied:

- a. No obstruction shall penetrate the horizontal surface as defined in MCC 17.177.020(C).
- b. Sanitary landfills, sewage lagoons or sewage sludge disposal shall not be permitted closer than 10,000 feet to the airport runway.

C. Conical Surface District. This district consists of the land, water and airspace underneath the conical surface as described in MCC 17.177.020(C).

1. Use Limitations. Any use and accessory uses, buildings and structures allowed in the underlying zone shall be permitted; provided, that no obstruction penetrates the conical surface as defined in MCC 17.177.020(C). [Ord. 602 § 5, 1981. RZ Ord. § 177.030.]

#### **17.177.040 Procedure.**

A. An applicant seeking a building permit involving any use or structure regulated by the airport overlay zone shall provide the following information in addition to any other information required in the permit application:

1. Property boundary lines as they relate to the airport approach and the end of the runway;
2. Location and height of all existing and proposed buildings, structures, utility lines and roads.

B. Proposed buildings or structures shall be approved by the building inspector if it is determined that they will not extend above the airport surfaces as defined in MCC 17.177.020(C).

C. An applicant seeking rezoning, a conditional use permit or a variance involving any use, building or structure regulated by the underlying zone or the airport overlay zone shall be reviewed in accordance with the applicable procedure in this title. During this review process, the State Aeronautics Division shall be notified of the proposal and any public hearing, be given an opportunity to comment and be notified of the decision. [Ord. 602 § 5, 1981. RZ Ord. § 177.040.]

**17.177.050 Nonconforming uses.**

The regulations prescribed by the airport overlay zone shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of the ordinance codified in this title, or otherwise interfere with the continuance of the nonconforming use except as provided in MCC 17.110.405. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, otherwise permitted, the construction or alteration of which was begun prior to the effective date of the ordinance codified in this title. [Ord. 602 § 5, 1981. RZ Ord. § 177.050.]

**17.177.060 Marking and lighting.**

The owner of any existing nonconforming structure or tree shall permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Oregon Department of Transportation to indicate to the operators of aircraft the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the airport owner. [Ord. 602 § 5, 1981. RZ Ord. § 177.060.]

**17.177.070 Variances.**

The provisions of this overlay zone may be varied subject to the procedures and criteria for considering variances set forth in Chapter 17.122 MCC. Variances may be allowed where it is found that the proposal will not create a hazard to air navigation, and will be in accordance with the spirit and intent of this overlay zone. [Ord. 602 § 5, 1981. RZ Ord. § 177.070.]