

LAND USE RECONNAISSANCE REPORT

French Prairie Bridge Project



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Prepared for the City of Wilsonville



Prepared By



OBEC Consulting Engineers
5000 Meadows Road, Suite 420
Lake Oswego, OR 97035
503.620.6103

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Summary

The City of Wilsonville proposes a bicycle, pedestrian, and emergency vehicle bridge over the Willamette River between the Interstate 5 Boone Bridge and the Portland & Western Railroad Bridge. On the north side of the Willamette River, the proposed French Prairie Bridge may require City of Wilsonville land use approval under the Willamette River Greenway provisions of the City's Planning and Land Development Ordinance. Bridge improvements, such as a pier, located within the Greenway overlay zone would trigger the requirement. Ancillary improvements located within the zone, such as new access to the water or an intensification of an existing access, could also trigger the requirement.

On the south side of the Willamette River, regardless of location, the proposed bridge is expected to require a conditional use permit from Clackamas County under the Willamette River Greenway provision of the County's Zoning and Development Ordinance. The bridge will also require a floodplain development permit. The bridge or connecting ramp and path that extend south or west of NE Butteville Road into land zoned Exclusive Farm Use (EFU) also will likely require a conditional use permit under the EFU District provisions of the Ordinance. Depending on the extent of expected use of the bridge by emergency vehicles, the County could determine that project improvements on EFU land make them subject to state statutory standards that would preclude land use approval, if there is a reasonable alternative that does not impact EFU land. The extent of emergency vehicle use of the bridge has not yet been determined.

Introduction

For each the City of Wilsonville and Clackamas County, this report identifies the zoning in the Area of Project Impact (API), the required land use approvals from each jurisdiction for the proposed French Prairie Bridge, the standards that must be met, and what the process is to obtain each approval. The report is based on provisions of the City's and County's zoning codes and consultations with City and County staff. The official title of Wilsonville's zoning code is the Planning and Land Development Ordinance. The official title of the Clackamas County zoning code is the Zoning and Development Ordinance. This report refers to both as the zoning code.

City of Wilsonville

Figure 1 shows the zoning in the API. The zoning at all locations of the bridge alignments to be considered on the north side of the Willamette River is Residential Agricultural Holding (RA-H). All or portions of bridge improvements would be located within the boundaries of the City's Significant Resource Overlay Zone (SROZ), as Figure 1 indicates. Portions of the bridge also would be within the City's Willamette River Greenway boundary.

Under Wilsonville's zoning code, the bridge would be subject to the following requirements.

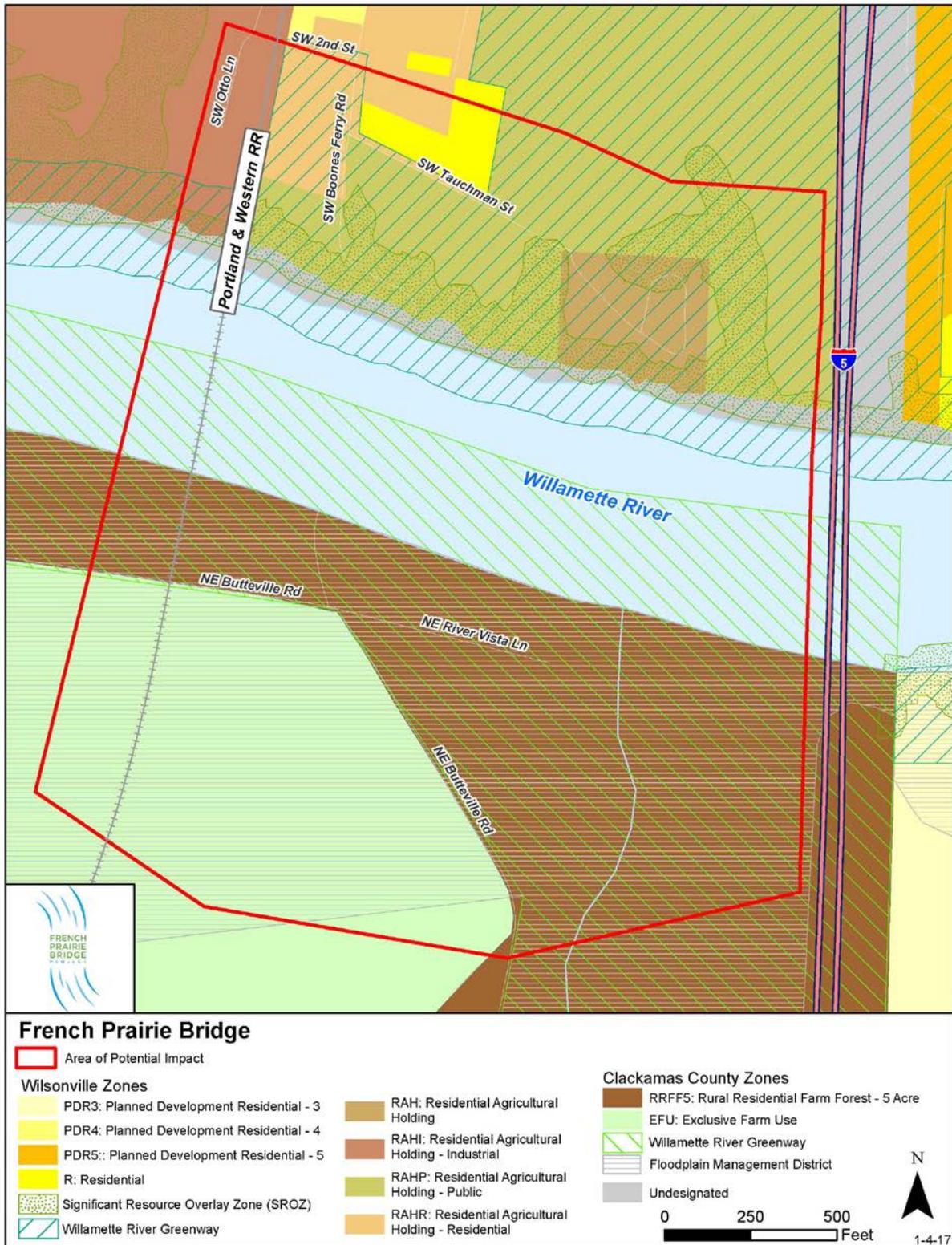
Zoning Code Provisions Applicable to the Bridge Project

Section 4.120, Residential Agricultural - Holding Zone, and Section 4.139.00, Significant Resource Overlay Zone

According to City of Wilsonville planning staff, land use approval of the bridge would be required only under the Willamette River Greenway provisions of the zoning code.¹ Under Section 4.120.02.G of the RA-H zone regulations, the bridge would be a use permitted outright

¹ E-mail from Chris Neamtzu, Planning Director, September 12, 2016.

Figure 1. Area of Project Impact Zoning



as a “similar recreational use” “of a noncommercial nature.” Section 4.120.02.G lists as uses permitted outright “public parks, playgrounds, recreational and community buildings and grounds, public golf courses, tennis courts, and similar recreational uses, all of a noncommercial nature. . .” Similarly, planning staff indicates that, in the SROZ regulations, subsection 08 of Section

4.139.04, Uses and Activities Exempt From These Regulations, would exempt the bridge. It exempts “The construction of new roads, pedestrian or bike paths into the SROZ in order to provide access to the sensitive area or across the sensitive area, provided the location of the crossing is consistent with the intent of the Wilsonville Comprehensive Plan.” Wilsonville’s Comprehensive Plan includes the bridge. It is possible that improvements proposed in conjunction with the bridge would fall outside these exemptions, but this will not be known until a bridge design is selected and the components of a bridge project decided. Appendices A and B contain the zoning code sections on the RA-H zone and SROZ overlay zone.

While the bridge will not require land use approval (unless, as described below, it is subject to the Willamette River Greenway sections of the zoning code), there will be extensive opportunities for public input on the bridge’s location and design. The City’s planning and preliminary design process for the bridge, of which this report is part, includes a major public involvement program. In addition, the community planning process to update the master plan for Boones Ferry Park will afford opportunities for public engagement on integrating the bridge into the park.

Sections 4.500 – 4.515, Willamette River Greenway

Whether a bridge project would require City approval under the Willamette River Greenway provisions of the zoning code will depend on the selected bridge location and design and any ancillary improvements included in the bridge project. Willamette River Greenway approval will be required under the following circumstances:

1. The bridge includes improvements on the ground, such as a pier, within the Greenway boundary. City planning staff indicate that City approval of the bridge under the Willamette River Greenway provisions of the zoning code may not be required if the bridge spans the Greenway and does not include improvements on the ground within the Greenway, such as a pier.²
2. The project includes new ancillary improvements within the boundary, such as new river access at a location other than the existing access.
3. The project includes ancillary improvements, such as improvements to the existing river access from the end of SW Boones Ferry Road, that are considered an intensification of the existing use.

Section 4.506. General - Uses Permitted Outright, states:

The following are outright permitted uses within the Willamette River Greenway Boundary:

* * *

B. Activities to protect, conserve, enhance and maintain public recreational, scenic, historical, and natural uses on public and private lands, except that changes of use,

² Ibid.

intensification of use or development shall require Conditional Use Permit review as provided by this Code.

* * *

While a bridge would enhance public recreational uses, locating bridge improvements, such as a pier, within the Greenway boundary would be a change in use. Similarly, a new river access would be a change in use and improvements to an existing river access could be considered an intensification of use.

If bridge improvements are located within the Greenway boundary and/or if ancillary improvements are new or considered to be an intensification of an existing use, Subsection B of Section 4.508, Conditional Use Permit – Uses Permitted Conditionally, will require City issuance of a conditional use permit. Section 4.508 requires a conditional use permit for “all uses which are classified as intensification of use, change of use or development . . .” Section 4.001.49 of the zoning code states that “a change of use”:

within the Willamette River Greenway means making a different use of the land or water than that which existed on December 6, 1975. It includes a change which requires construction, alterations of the land, water or other areas outside of the existing buildings or structures and which substantially alters or affects the land or water.

Section 4.510.01, Conditional Use Permit – Findings In Support of Granting, contains the standards for granting a conditional use permit for development in the Willamette River. It states:

A Greenway Conditional Use Permit may be granted by the Development Review Board upon making the findings required in Section 4.184 (Conditional Use Permits) and the following additional findings:

- A. That to the greatest extent possible, the maximum possible landscape area, open space or vegetation between the activity and the river are provided,
- B. That to the greatest extent possible, necessary public access in accordance with the Comprehensive Plan will be provided to and along the River by appropriate legal means.
- C. That the change of use, intensification of use, or development complies with this Code, all other applicable City Ordinances, the Comprehensive Plan, and the Oregon State Parks and Recreation Department Greenway Plan.

Section 4.184.A, Authorization to Grant or Deny Conditional Uses, states:

A conditional use listed in this ordinance shall be permitted, altered, or denied in accordance with the standards and procedures of this Section. In judging whether a conditional use permit shall be approved, or determining appropriate conditions of approval, the Development Review Board shall weigh the proposal’s positive and negative features that would result from authorizing the particular development at a location proposed, and to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

1. The proposal will be consistent with the provisions of the Comprehensive Plan and the requirements of Chapter 4 of the Wilsonville Code and other applicable policies of the City.

2. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features.
3. All required public facilities and services exist, or will be provided, to adequately meet the needs of the proposed development. 4. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone.

Section 4.514, Conditional Use Permit - Use Management Standards, contains additional requirements applicable to development within the Willamette River Greenway. It states:

01. The natural scenic views, historical character and recreational qualities of the Willamette River shall be protected by preservation and enhancement of the vegetative fringe along the river bank.
02. A plan to remove any tree or trees shall be reviewed by the Development Review Board under the procedures of Section 4.600, et seq. Based on the standards and procedures of Section 4.620.10, mandatory mitigation shall be required as a condition of approval for any conditional use permit granted under this Section.
03. Developments shall be directed away from the river to the greatest possible degree; provided, however, lands committed to urban uses within the Greenway shall be permitted to continue as urban uses, including port, industrial, commercial and residential uses, uses pertaining to navigational requirements, water and land access needs and related facilities.
04. All development after the effective date of this ordinance, except water dependent and water related uses, shall be set back a minimum of 75 feet upland from the top of each bank.
05. Fish, riparian and wildlife corridors leading into the river channel shall remain open.
06. All development, change of use or intensification of use shall demonstrate, to the maximum extent possible, maintenance of public safety and protection of public and private property, especially from vandalism and trespass.

Appendix C contains the Willamette River Greenway sections of the Wilsonville zoning code.

Approval Process

Section 4.008, Application Procedures, contains approval process requirements. All approvals require a pre-application conference with City planning staff to review applicable provisions of the zoning code and Wilsonville Comprehensive Plan. Once the application is submitted, planning staff will review it for completeness. Under Section 4.031, the decision-making body for conditional use permits is the City's Development Review Board, which will conduct one or more public hearings on the application. Section 4.012 requires published and posted notice in advance of the hearings. Board decisions may be appealed to the City Council and Council decisions may be appealed to the Oregon Land Use Board of Appeals.

Clackamas County

As Figure 1 shows, on the south side of the river, land north and east of NE Butteville Road is zoned Rural Residential Farm Forest 5-Acre (RRFF-5) and land south and west of NE Butteville Road is zoned EFU. With bridge alignments on the west side of or near the center of the API, the bridge is expected to be entirely within the RRFF-5 zone and the ramp and path connecting the bridge to NE Butteville Road would be on EFU land. With bridge alignments on the east side of the API, the bridge and the connecting ramps and paths would be entirely within the RRFF-5 zone. Depending on alignment, all or portions of the bridge and connecting ramps and paths will be within the County's Willamette River Greenway boundary. Regardless of alignment, the bridge and connecting ramps and paths will be within the County's Floodplain Overlay Zone.

Zoning Code Provisions Applicable to the Bridge

Section 316, Rural Residential Farm Forest 5-Acre District

While the proposed bridge and connecting ramps and trails are not permitted uses under the zoning code regulations for the RRFF-5 zone,³ the County Comprehensive Plan allows them outright. Policy 5.O.12 states:

Streets, alleys, bikeways, pedestrian facilities, multi-use paths, trails and transit stops are allowed uses in all rural zoning districts with the exception of Agricultural and Forest Districts in which they are conditionally allowed by ORS 215.213, 215.283 or OAR Chapter 660, Division 6 (Forest Lands).⁴

The Comprehensive Plan supersedes the zoning code.⁵ As described below, Section 1007, Roads and Connectivity, will apply.

Section 401, Exclusive Farm Use District

Based on consultations with the Clackamas County Planning and Zoning Division,⁶ there are three possible ways Section 401 will apply to the project, if it includes improvements on EFU land. Which of the ways will depend on how the City of Wilsonville characterizes the project when it prepares to file for land use approval and on Planning and Zoning Division agreement. The description of the three ways here refers to a ramp and path, because project improvements on EFU land are expected to be the ramp and path that connect the bridge to NE Butteville Road.

The most likely way Section 401 will apply to a ramp and path, if located on EFU land, will be to require a conditional use permit. Table 401-1, Permitted Uses in the EFU District, of Section 401 includes as a conditional use "transportation improvements on rural lands, subject to OAR 660-012-0065."⁷ Many transportation improvements on rural lands⁸ require exceptions to Statewide Planning Goal 3, Agricultural Lands, and other, related Statewide Planning Goals. OAR 660-012-0065 identifies transportation improvements on rural lands that do not require exceptions to

³ Table 316-1, Permitted Uses in the Rural Residential and Future Urban Residential Zoning Districts, does not include bridges or other transportation as allowed uses in RRFF-5 zones. Section 316.03 states, "Uses not listed are prohibited."

⁴ Clackamas County Comprehensive Plan, p. 5-1.

⁵ Analysis from Clackamas County Planning and Zoning Division received November 2, 2016.

⁶ E-mails from the Clackamas County Planning and Zoning Division dated November 14, 2016, and November 23, 2016.

⁷ OAR is the abbreviation for Oregon Administrative Rule.

⁸ The API in Clackamas County is outside the Portland metropolitan urban growth boundary, making it rural land.

Goal 3 or the other Goals, although it imposes approval requirements on some improvement types. OAR 660-012-0065(3) states:

The following transportation improvements are consistent with Goals 3, 4, 11, and 14 subject to the requirements of this rule:

* * *

(h) Bikeways, footpaths and recreation trails not otherwise allowed as a modification or part of an existing road;

* * *

If the County treats the ramp and path as “transportation improvements on rural lands, subject to OAR 660-012-0065” within the meaning of Table 401-1 and as within OAR 660-012-0065(3)(h), Section 1203, Conditional Uses, of the zoning code will apply to them. Section 1203.03, General Approval Criteria, states:

A conditional use requires review as a Type III application pursuant to Section 1307, Procedures, and shall be subject to the following standards and criteria:

- A. The use is listed as a conditional use in the zoning district in which the subject property is located.
- B. The characteristics of the subject property are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features.
- C. The proposed use complies with Subsection 1007.09, and safety of the transportation system is adequate to serve the proposed use.
- D. The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses allowed in the zoning district(s) in which surrounding properties are located.
- E. The proposed use is consistent with the applicable goals and policies of the Comprehensive Plan.
- F. The proposed use complies with any applicable requirements of the zoning district and any overlay zoning district(s) in which the subject property is located, Section 800, Special Use Requirements, and Section 1000, Development Standards.

Section 1007.09 is addressed below. EFU zone requirements include only those referenced above. Section 800, Special Use Requirements, does not contain requirements applicable to the proposed bridge. Under Section 1001.01, Applicability, Section 1000 in general does not apply to the proposed bridge. Whether some provisions of Section 1000 apply is unclear and would have to be identified by consultations with County staff in advance of the preparation of an application for land use approval.

The second possible way Section 401 could apply to a ramp and path would depend on the extent of use of the bridge, ramp, and path by emergency vehicles. They could fall within OAR 660-012-0065(3)(o), which would trigger additional requirements. OAR 660-012-0065(3)(o) reads:

Transportation facilities, services and improvements other than those listed in this rule that serve local travel needs. The travel capacity and performance standards of facilities and

improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the acknowledged comprehensive plan or to provide adequate emergency access.

If the County classifies the bridge as falling within OAR 660-012-0065(3)(o), requirements over and above the conditional use permit requirements listed above will apply. OAR 660-12-0065(5) states:

For transportation uses or improvements listed in subsections (3)(d) to (g) and (o) of this rule within an exclusive farm use (EFU) or forest zone, a jurisdiction shall, in addition to demonstrating compliance with the requirements of ORS 215.296:

- (a) Identify reasonable build design alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The jurisdiction need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer;
- (b) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands; and
- (c) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

If a reasonable alternative would not impact land devoted to farm use, the County would not be allowed to approve a bridge alignment on EFU land.

ORS 215.296 would require the County to find that the improvements would not:

- (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

To determine whether to classify the ramp and path as falling within OAR 660-012-0065(3)(o), the County is likely to need to know the policies that will specify the circumstances under which emergency vehicles may use the bridge, the forecasted frequency of use by emergency vehicles, and the basis of the forecast. It may require other information.

The third possible way Section 401 could apply to a ramp and path is the least likely. The County Planning and Zoning Division does not rule it out, although it says whether the ramp and path will qualify will depend on specifically what is proposed. A possible Table 401-1 category reads:

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

Projects in this category do not require land use approval. Another possible Table 401-1 category reads, "reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels." Projects in this category require a Type II land use approval, in contrast to issuance of a

conditional use permit. The section below describes how the approval processes differ. The City of Wilsonville should not pursue this approach without consulting legal counsel.

Section 705, Willamette River Greenway

Under 705.03, Area of Application, of the County zoning code, the proposed bridge will require a Willamette River Greenway permit. The standards in subsection A through E of Section 705.04, Standards for Intensification, Change of Use, or Development Within the Willamette River Greenway, will apply. Appendix D contains Section 705.

Section 1007, Roads and Connectivity

Section 1007 applies to the proposed bridge, but a separate land use permit under Section 1007 will not be required.⁹ Section 1007.02, Applicability, states:

Section 1007 applies to the design of new and reconstructed transportation improvements in public rights-of-way, private roads, and accessways required through development permit approvals that are subject to Section 1007.

Section 1007.03.A states:

The location, alignment, design, grade, width, and capacity of all roads shall be planned, coordinated, and controlled by the Department of Transportation and Development and shall conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards, the Comprehensive Plan shall control.

Chapter 5 of the County's Comprehensive Plan is the Transportation System Plan. Chapter 10 contains community and design plans, none of which apply to the API.

The standards in Section 1007.06, Pedestrian and Bicycle Facilities, will apply to the improvements constructed as part of the bridge project. Appendix E contains all of Section 1007, including Section 1007.06.

Section 1007.09, Transportation Facilities Concurrency, addresses the adequacy of public infrastructure to support residential, commercial, and industrial development. It does not apply to the bridge.¹⁰

Section 703, Flood Plain Management District

Both the bridge and connecting ramps and paths will require a floodplain development permit under Section 703 of the zoning code, contained in Appendix F. A no-rise certification will be required for bridge improvements in the floodway along the river. The bridge, ramps, and paths will have to meet the standards in Section 703.10, General Standards.

Approval Process

Section 1307, Procedures, contains County land use approval process requirements. Appendix G contains a copy. Under Section 1307.04, Review Procedure Types, issuance of a conditional use permit, which, as discussed above, is likely be required if improvements are located within the EFU zone, must comply with the Type III procedure. The procedure includes a pre-application

⁹ Analysis from Clackamas County, op cit.

¹⁰ Ibid.

conference, notice, a hearing, decision by a hearings officer, and no county-level appeal.¹¹ Issuance of each a Willamette River Greenway permit and a floodplain development permit is subject to a Type II procedure, for which a pre-application conference is not required and the planning director makes the decision. The decisions may be appealed to a hearings officer. Subsection C of Section 1307.06, Review of Multiple Applications, would allow the applicant to consolidate the application processes for a Willamette River Greenway permit, floodplain development permit, and conditional use permit. Otherwise, the County would process the applications separately.

¹¹ Appeals would be to the State of Oregon's Land Use Board of Appeals.

APPENDIX A

**Wilsonville Zoning Code Section 4.120, Residential Agricultural - Holding
Zone Regulations**

adjoining properties, provided that those properties are considered to be part of the total development under consideration as a unit.

- (.08) Wetland Mitigation and other mitigation for lost or damaged resources. The Development Review Board may, after considering the testimony of experts in the field, allow for the replacement of resource areas with newly created or enhanced resource areas. The Board may specify the ratio of lost to created and/or enhanced areas after making findings based on information in the record. As much as possible, mitigation areas shall replicate the beneficial values of the lost or damaged resource areas.
- (.09) Habitat-Friendly Development Practices. To the extent practicable, development and construction activities of any lot shall consider the use of habitat-friendly development practices, which include:
- A. Minimizing grading, removal of native vegetation, disturbance and removal of native soils, and impervious area;
 - B. Minimizing adverse hydrological impacts on water resources, such as using the practices described in Part (a) of Table NR-2 in Section 4.139.03, unless their use is prohibited by an applicable and required state or federal permit, such as a permit required under the federal Clean Water Act, 33 U.S.C. §§1251 et seq., or the federal Safe Drinking Water Act, 42 U.S.C. §§300f et seq., and including conditions or plans required by such permit;
 - C. Minimizing impacts on wildlife corridors and fish passage, such as by using the practices described in Part (b) of Table NR-2 in Section 4.139.03; and
 - D. Using the practices described in Part (c) of Table NR-2 in Section 4.139.03.
[Section 4.118(.09) added by Ord. # 674 11/16/09]

Section 4.120. Zones. RA-H Residential Agricultural - Holding Zone.

- (.01) Purpose. It is the purpose of this zone to serve as a holding zone to preserve the future urban level development potential as undeveloped property designated for more intensive development. This zone has been applied to all urbanizable properties within the city which are planned for development and which have not previously received development approval in accordance with the Comprehensive Plan.
- (.02) Uses Permitted Outright:
- A. One single-family dwelling, with not more than one accessory dwelling unit per lot. Where the Comprehensive Plan calls for future non-residential zoning of the site, the building permit for any proposed residential development shall not be granted until a statement has been recorded applying to the title of the subject property, notifying any potential buyer that future development in the area is expected to be non-residential.
 - B. Except for existing lots of record of less than two acres, recorded prior to the effective date of this Code, partitioning or subdivision of properties designated for development shall only be considered in conjunction with or following a zone

change in conformance with the Comprehensive Plan. Said zoning shall confirm the adequate provision of public facilities and the protection of future urban development potentials.

- C. If the proposed development is for a less intensive interim density consisting of large lots, a pre-plat and Site Plan review shall be required that provides for future development of the property in accordance with the uses and densities shown in the Comprehensive Plan. Said plat shall be filed on the City's Lien Docket as an obligation toward the property, together with an agreement of non-remonstrance towards the formation of any local improvement district which may serve the subject site.
 - D. For properties designated in the City's Comprehensive Plan for nonresidential use, the intensity of use shall be restricted to activities which do not require construction of a permanent structure and which will not tend to restrict, obstruct, or adversely affect the future development of the property for its designated use. Except, however, that the development of a single-family dwelling shall be permitted as specified in subsection (.02), above.
 - E. Temporary structures or uses, subject to the procedures for temporary uses set forth in Section 4.163.
 - F. Agriculture, horticulture, greenhouses, nurseries (provided that any commercial sales of products shall require the approval of a conditional use permit), timber growing, grazing, and the small scale raising of livestock and animals.
 - G. Public parks, playgrounds, recreational and community buildings and grounds, public golf courses, tennis courts, and similar recreational uses, all of a non-commercial nature. Any principal building or public swimming pool shall be located not less than forty-five (45) feet from any other lot in a residential or RA-H district.
 - H. Accessory Uses Permitted:
 - 1. Accessory uses, buildings and structures customarily incidental to any of the aforesaid principal uses permitted located on the same lot therewith.
 - 2. Home occupations.
 - 3. Signs, subject to the provisions of Sections 4.156.01 through 4.156.11.
[Amended by Ord. No. 704, 6/18/12]
- (.03) Uses Permitted Subject to receiving approval of a Conditional Use Permit:
- A. Private parks, municipal and government buildings, public utilities, public information centers, semi-public buildings of a non-commercial nature, churches, attached family dwelling units limited to two (2) family maximum, public, private, and parochial schools as provided in Section 4.184 when approved by the Development Review Board at a Public Hearing as provided in Section 4.013.
 - B. Roadside stands when located on the same property as the principal uses, selling only those products that are produced on the same property on which the stand is located, or on adjacent property.

(.04) Dimensional Standards:

- A. Minimum Lot Size: 30,000 square feet.
- B. Minimum Front and Rear Yard Setbacks: Thirty (30) feet. Minimum Side Yard Setback: Ten (10) feet.
 - 1. Legal, non-conforming RA-H lots in the Old Town Overlay Zone shall have the following setbacks:
 - a. Front: Ten (10) feet for single family dwellings, for all other uses: none;
 - b. Rear: Fifteen (15) feet;
 - c. Side: Five (5) feet.
 - 2. Minimum setback for residential garage or carport: At least five (5) feet behind the front of the nearest residential unit on the property. In no case shall the front of a garage or carport be located less than twenty (20) feet behind a sidewalk or a public right-of-way providing access to that garage or carport. Except, however, in the case of an alley where garages or carports are located within five (5) feet of the property line adjoining the alley.
[Amended by Ord. 682, 9/9/10]
- C. Minimum Street Frontage: Seventy-five (75) feet. A reduced street frontage may be approved, based on a finding that the proposed lot frontage will not hinder the future development of the site to densities proposed in the Comprehensive Plan.
- D. Maximum Height: thirty-five (35) feet.
- E. Accessory buildings and uses shall conform to front and side yard setback requirements. If the accessory buildings and uses do not exceed 120 square feet or ten (10) feet in height, and they are detached and located behind the rear-most line of the main buildings, the side and rear yard setbacks may be reduced to three (3) feet.

(.05) Off-Street Parking Requirements: As provided in Section 4.155.

(.06) Signs: As provided in Sections 4.156.01 through 4.156.11.
[Amended by Ord. No. 704, 6/18/12]

(.07) Corner Vision: As provided in Section 4.177.

(.08) Prohibited Uses:

- A. Uses of structures and land not specifically listed as permitted or conditionally permitted in the zone, or substantially similar to those uses, are prohibited in all RA-H Zones.
- B. The use of a trailer, travel trailer, or mobile coach as a residence.
- C. Service stations for petroleum products.

(.09) Block and access standards:

- 1. Maximum block perimeter: 1,800 feet.
- 2. Maximum spacing between streets or private drives for local access: 530 feet, unless waived by the Development Review Board upon finding that barriers

such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent street extensions meeting this standard. [Amended by Ordinance No. 538, 2/21/02; Ord. 682, 9/9/10.]

3. Maximum block length without pedestrian and bicycle crossing: 330 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent pedestrian and bicycle facility extensions meeting this standard.

Section 4.122. Residential Zone.

- (.01) Purpose: The purpose of this zone is to provide for standards and a simplified review process for small-scale urban low and medium density residential development. Developments in the 'R' zone are not intended to be Planned Developments.
- (.02) Residential Densities: Residential densities shall be governed by the density range designated by the City of Wilsonville Comprehensive Plan.
- (.03) Lot Size Qualifications:
 - A. The owner or the owner's authorized agent shall not hold or cause to be held any interest in any adjacent property with the intent to avoid PDR regulations.
 - B. The lot or any part thereof shall not be an identified area of special concern as defined in the Comprehensive Plan.
 - C. The development area must be two (2) acres or less in size. Development of larger properties shall be reviewed through planned development procedures.
 - D. Not more than thirty percent (30%) of the lot shall be covered by buildings.
- (.04) Principal Uses Permitted:
 - A. Single-Family Dwelling Units.
 - B. Attached-Family Dwelling Units.
 - C. Apartments.
 - D. Public parks, playgrounds, recreational and community buildings and grounds, tennis courts, and similar recreational uses, all of a non-commercial nature. Any principal building or public swimming pool shall be located not less than forty-five (45) feet from any other lot in a residential or RA-H zone.
 - E. Manufactured homes. [Note: Section 4.115 Standards Applying to Manufactured Housing in All Zones Where Manufactured Housing is Permitted deleted per by Ord. 538, 2/21/02.]
- (.05) Accessory Uses Permitted to Single Family Dwellings:
 - A. Accessory uses, buildings and structures customarily incidental to any of the aforesaid principal permitted uses, located on the same lot therewith.
 - B. Home occupations.

APPENDIX B

**Wilsonville Zoning Code Section 4.139.00, Significant Resource Overlay
Zone Regulations**

Section 4.139.00 Significant Resource Overlay Zone (SROZ) Ordinance

Definitions:

1. Area of Limited Conflicting Uses: An Area of Limited Conflicting Uses is either:
 - A. An area located between the riparian corridor boundary, riparian impact area or the Urban Growth Management Functional Plan (UGMFP) Metro Title 3 Water Quality Resource Area boundary, whichever is furthest away from the wetland or stream, and the outside edge of the SROZ; or
 - B. An isolated significant wildlife habitat (upland forest) resource site.
2. Bankful Stage: The stage or elevation at which water overflows the natural banks of streams or other waters of the state and begins to inundate upland areas. In the absence of physical evidence, the two-year recurrence interval flood elevation may be used to approximate the bankful stage. [Added by Ord. # 674 11/16/09]
3. Emergency: Any human-caused or natural event or circumstances causing or threatening loss of life, injury to person or property, and includes, but is not limited to fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of hazardous material, contamination, utility or transportation disruptions, and disease. [Added by Ord. # 674 11/16/09]
4. Encroachment Area: An area within the Area of Limited Conflicting Uses where development may be permitted.
5. Impact Area: The area adjacent to the outer boundary of a Significant Resource within which development or other alteration activities may be permitted through the review of a Significant Resource Impact Report (SRIR) or where an SRIR has been waived in accordance with this ordinance. The impact area is 25 feet wide unless otherwise specified in this ordinance or by the decision making body.
6. Riparian Corridor: Is a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary. The “riparian area” is the area adjacent to a river, lake, stream, consisting of lands that include the area of transition from aquatic ecosystem to a terrestrial ecosystem. The Riparian Corridor is diagrammatically defined in Section 4.139.00.
7. Riparian Corridor Cross Sections: Riparian corridor significance for the City of Wilsonville is based on assessment of several factors:
 - a. The presence of habitat used by species listed as threatened or endangered by the Endangered Species Act. The resource is considered significant if ESA-listed salmonid fish species utilize portions of the resource area.
 - b. The protection of ESA listed species habitat both on - or off-site. The resource is considered significant if it provides functions that protect the habitat of ESA-listed species, either on- or off-site. Riparian corridors can protect water quality parameters such as temperature, suspended sediment and contaminants of downstream waters that are ESA-listed species habitat.

- c. The inclusion of other significant Goal 5 resource areas. Riparian corridor resources that contain significant wetlands and/or wildlife habitat are considered significant.
- d. The provision of habitat continuity for wildlife. Riparian corridor resources that provide a link or continuity for wildlife movement between significant wildlife habitat areas are considered significant.
- e. Headwater areas, including intermittent streams, can be important for fish and wildlife resources. These areas can provide good quality water, protection of water quality, insect and organic materials, and other factors for habitat areas downstream.

Generalized riparian corridor types are shown on the following pages.

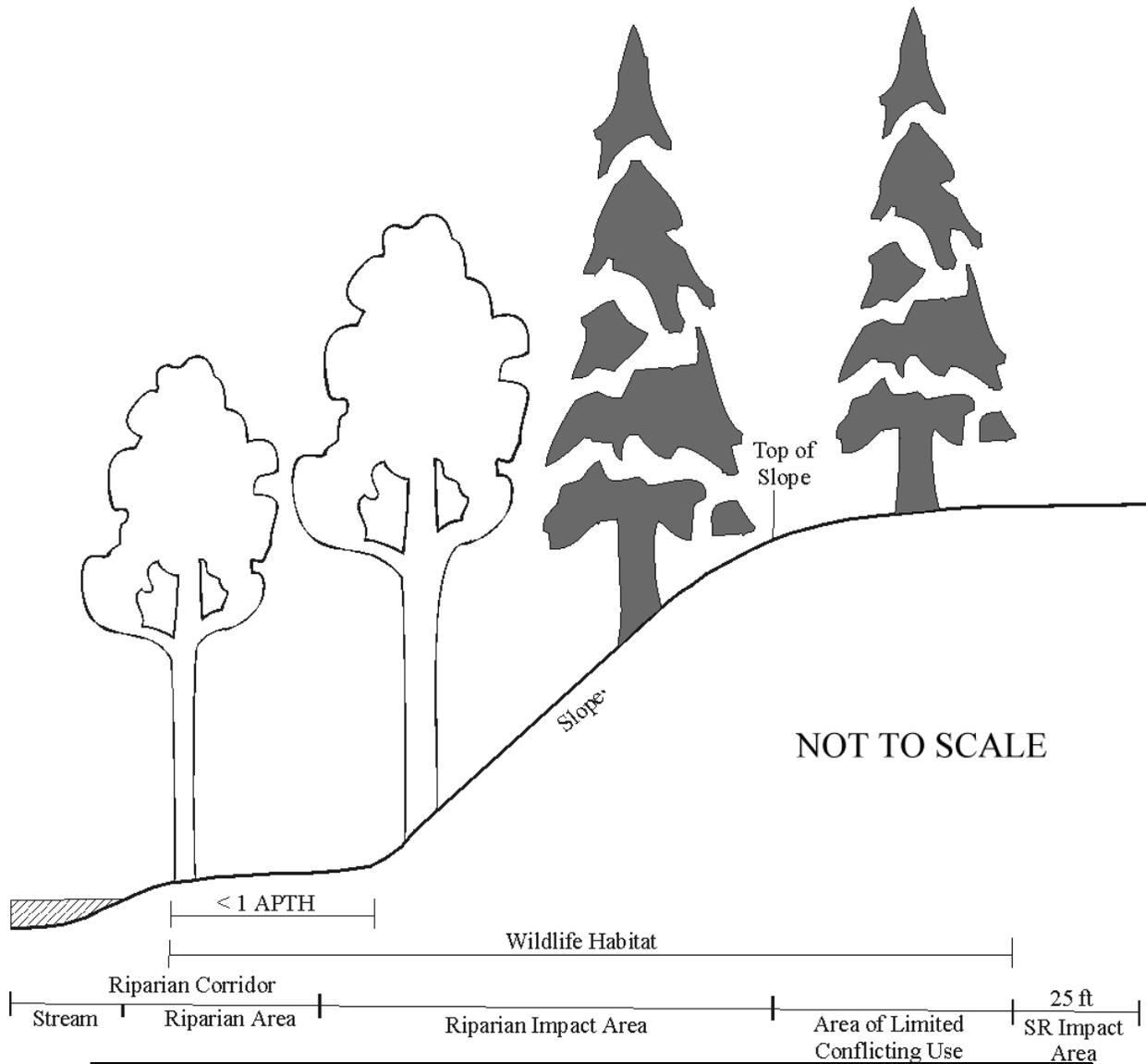


Figure NR - 1: Riparian Corridor Type NR -1 (stream-riparian ecosystem)

Riparian area adjacent to the stream is less than one APTH wide, and has an adjacent slope. The adjacent slope is designated as riparian impact area, based on the potential for activities on the slope to have direct impacts on riparian area functions.

Notes for all riparian figures: (1) The “area of limited conflicting use” and “SR Impact Area” are regulatory areas defined in the proposed City of Wilsonville Significant Resource Overlay Zone (4.139.00). The SR Impact Area is always 25 feet wide from the edge of the significant resource (SR).

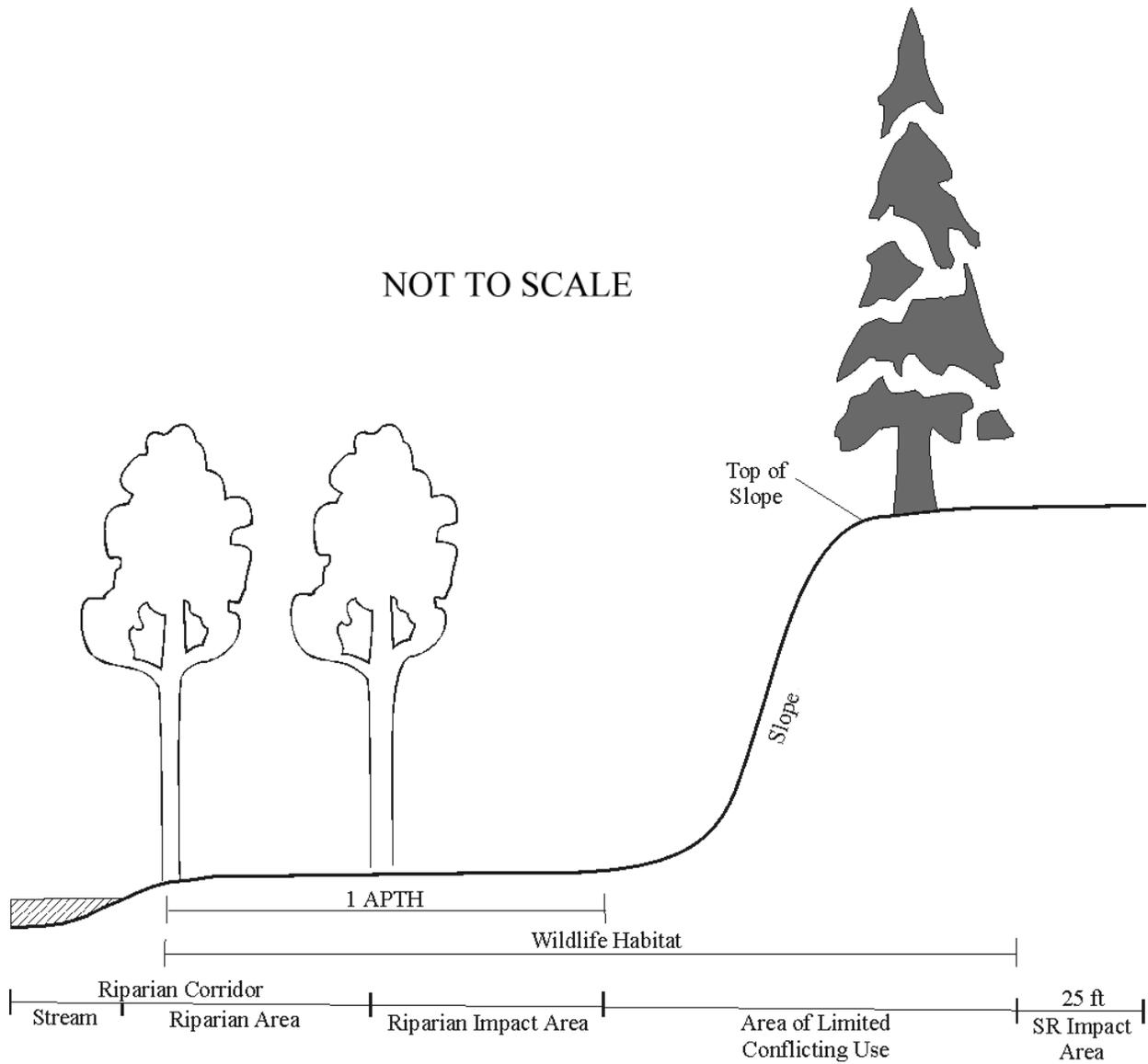


Figure NR - 2: Riparian Corridor Type NR - 2 (stream-riparian ecosystem)

Riparian area adjacent to the stream is less than the width of the streamside terrace or bench, and the base of the adjacent slope is a distance greater than one APTH from the stream bank. If the riparian area is less wide than the distance of one APTH, then the remaining APTH distance is the riparian impact area.

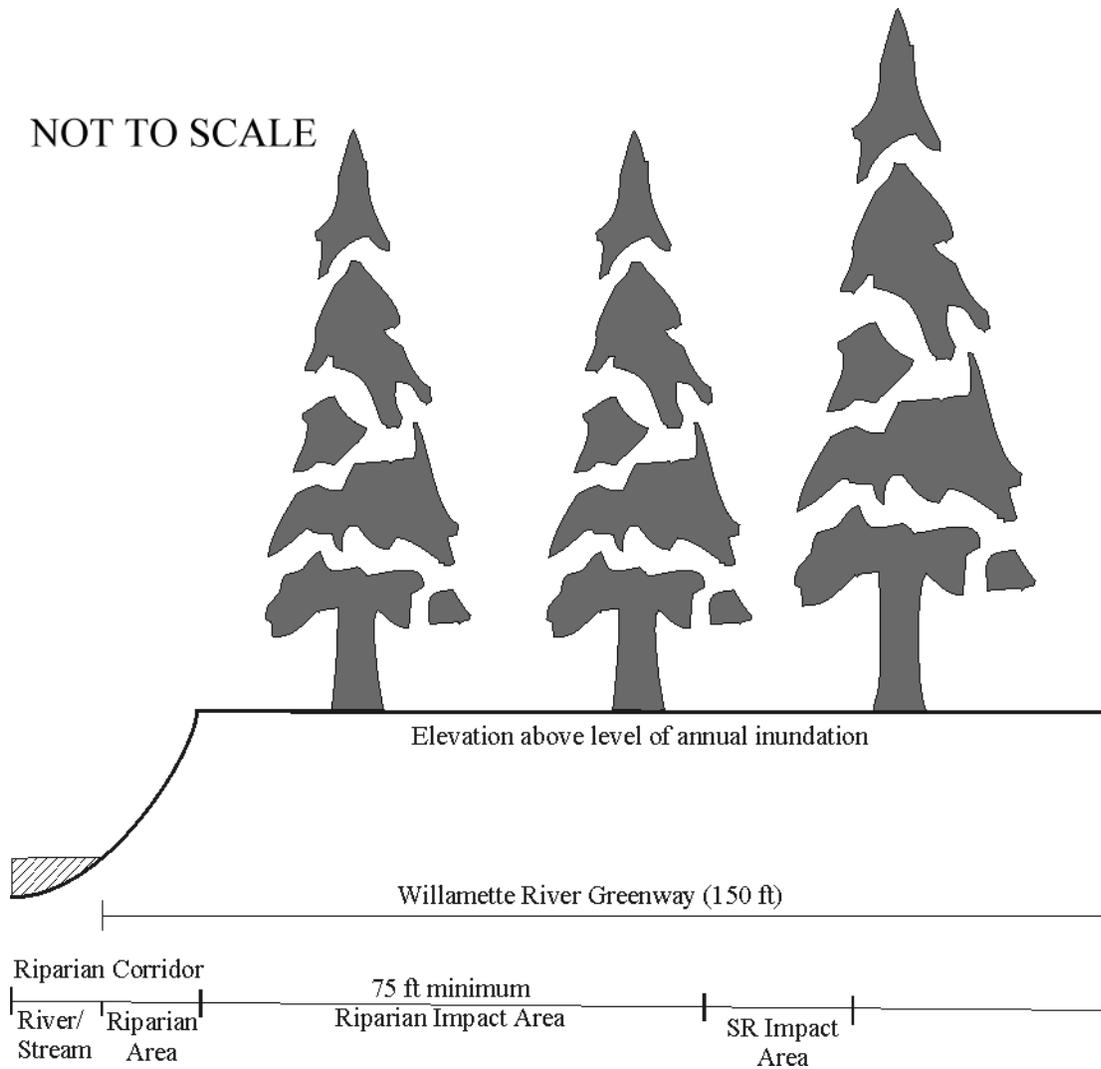


Figure NR-5: Riparian Corridor Type NR - 5 (River-Floodplain Ecosystem: Willamette River)

Riparian area is confined to a portion of the river bank where the adjacent land is not inundated annually (i.e. not an operational floodplain). The riparian impact area is a minimum 75 feet wide from the top of the stream bank.

For any areas along the Willamette River that have an operational floodplain (i.e. flooded annually), the riparian area is the extent of the operational floodplain.

8. Riparian Impact Area: An area within which human activities could have adverse impacts on functions of adjacent riparian corridor resources.
9. Significant Resource Impact Report (SRIR): A report that delineates specific resource boundaries and analyzes the impacts of development on significant natural resources. It outlines measures to prevent negative impacts, and also provides mitigation and enhancement plans.
10. Significant Resource Overlay Zone (SROZ): The delineated outer boundary of a significant natural resource that includes: a significant Goal 5 natural resource, lands protected under Metro's Urban Growth Management Functional Plan Title 3 (Water Quality Resource Areas), riparian corridors, and significant wildlife habitat.
11. Starting Point for Measurement: Is the edge of the defined channel (bankful stage) for streams/streams, delineated wetland boundary, delineated spring boundary, and/or average high water for lakes or ponds, whichever offers greatest resource protection. Intermittent springs located more than 15 feet from streams/streams or wetlands shall not serve as a starting point for measurement. [Amended by Ord. # 674 11/16/09]

Table NR – 1: Metro Water Quality Resource Area Slope Calculations

Protected Water Feature Type (See definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Vegetated Corridor (Setback)
Primary Protected Water Features ¹	<25%	-Edge of bankful stage or 2-year storm level; -Delineated edge of Title 3 wetland	50 feet
Primary Protected Water Features ¹	≥25% for 150 feet or more ⁵	-Edge of bankful stage or 2-year storm level; -Delineated edge of Title 3 wetland	200 feet
Primary Protected Water Features ¹	≥25% for less than 150 feet ⁵	Edge of bankful stage or 2-year storm level; -Delineated edge of Title 3 wetland	Distance from starting point of measurement to top of ravine (break in ≥25% slope) ³ , plus 50 feet ⁴
Secondary Protected Water Features ²	<25%	Edge of bankful stage or 2-year storm level; - Delineated edge of Title 3 wetland	15 feet
Secondary Protected Water Features ²	≥25% ⁵	Edge of bankful stage or 2-year storm level; -Delineated edge of Title 3 wetland	50 feet

[Amended by Ord. # 674 11/16/09]

¹Primary Protected Water Features include: all perennial streams and streams draining greater than 100 acres, Title 3 wetlands, natural lakes and spring.

²Secondary Protected Water Features include intermittent streams draining 50-100 acres.

³Where the protected Water Feature is confined by a ravine or gully, the top of ravine is the break in the ≥25% slope

⁴A maximum reduction of 25 feet may be permitted in the width of vegetated corridor beyond the slope break if a geotechnical report demonstrates that slope is stable. To establish the width of the vegetated corridor, slope should be measured in 25-foot increments away from the water feature until slope is less than 25% (top of ravine).

⁵Vegetated corridors in excess of 50-feet from primary protected features, or in excess of 15-feet from secondary protected features, apply on steep slopes only in the *uphill* direction from the protected water feature.

Section 4.139.01 SROZ - Purpose

The Significant Resource Overlay Zone (SROZ) is intended to be used with any underlying base zone as shown on the City of Wilsonville Zoning Map. The purpose of the Significant Resource Overlay Zone is to implement the goals and policies of the Comprehensive Plan relating to natural resources, open space, environment, flood hazard, and the Willamette River Greenway. In addition, the purposes of these regulations are to achieve compliance with the requirements of the Metro Urban Growth Management Functional Plan (UGMFP) relating to Title 3 Water Quality Resource Areas, and Title 13 Habitat Conservation Areas, and that portion of Statewide Planning Goal 5 relating to significant natural resources. It is not the intent of this ordinance to prevent development where the impacts to significant resources can be minimized or mitigated. [Amended by Ord. # 674 11/16/09]

Section 4.139.02 Where These Regulations Apply

The regulations of this Section apply to the portion of any lot or development site, which is within a Significant Resource Overlay Zone and its associated “Impact Areas”. The text provisions of the Significant Resource Overlay Zone ordinance take precedence over the Significant Resource Overlay Zone maps. The Significant Resource Overlay Zone is described by boundary lines shown on the City of Wilsonville Significant Resource Overlay Zone Map. For the purpose of implementing the provisions of this Section, the Wilsonville Significant Resource Overlay Zone Map is used to determine whether a Significant Resource Impact Report (SRIR) is required. Through the development of an SRIR, a more specific determination can be made of possible impacts on the significant resources.

Unless otherwise exempted by these regulations, any development proposed to be located within the Significant Resource Overlay Zone and/or Impact Area must comply with these regulations. Where the provisions of this Section conflict with other provisions of the City of Wilsonville Planning and Land Development Ordinance, the more restrictive shall apply.

The SROZ represents the area within the outer boundary of all inventoried significant natural resources. The Significant Resource Overlay Zone includes all land identified and protected under Metro’s UGMFP Title 3 Water Quality Resource Areas and Title 13 Habitat Conservation Areas, as currently configured, significant wetlands, riparian corridors, and significant wildlife habitat that is inventoried and mapped on the Wilsonville Significant Resource Overlay Zone Map. [Amended by Ord. # 674 11/16/09]

Section 4.139.03 Administration

- (.01) Resources. The text provisions of this section shall be used to determine whether applications may be approved within the Significant Resource Overlay Zone. The following maps and documents may be used as references for identifying areas subject to the requirements of this Section:
 - A. Metro’s UGMFP Title 3 Water Quality Resource Area maps.
 - B. The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM)

- C. The Wilsonville Local Wetland Inventory (LWI) (1998)
 - D. The Wilsonville Riparian Corridor Inventory (RCI) (1998)
 - E. Locally adopted studies or maps
 - F. City of Wilsonville slope analysis maps
 - G. Clackamas and Washington County soils surveys
 - H. Metro's UGMFP Title 13 Habitat Conservation Area Map [Added by Ord. # 674 11/16/09]
- (.02) Impact Area. The "Impact Area" is the area adjacent to the outer boundary of a Significant Resource within which development or other alteration activities may be permitted through the review of an SRIR (Significant Resource Impact Report). Where it can be clearly determined by the Planning Director that development is only in the Impact Area and there is no impact to the Significant Resource, development may be permitted without SRIR review. The impact area is 25 feet wide unless otherwise specified in this ordinance or by the decision making body. Designation of an Impact Area is required by Statewide Planning Goal 5. The primary purpose of the Impact Area is to ensure that development does not encroach into the SROZ.
- (.03) Significant Resource Impact Report (SRIR). For proposed non-exempt development within the SROZ, the applicant shall submit a Significant Resource Impact Report (SRIR) as part of any application for a development permit.
- (.04) Prohibited Activities. New structures, development and construction activities shall not be permitted within the SROZ if they will negatively impact significant natural resources. Gardens, lawns, application of chemicals, uncontained areas of hazardous materials as defined by DEQ, domestic animal waste, dumping of materials of any kind, or other activities shall not be permitted within the SROZ if they will negatively impact water quality.
- Unauthorized land clearing or grading of a site to alter site conditions is not allowed, and may result in the maximum requirement of mitigation/enhancement regardless of pre-existing conditions.
- (.05) Habitat-Friendly Development Practices. To the extent practicable, development and construction activities that encroach within the Significant Resource Overlay Zone and/or Impact Area shall be designed, located and constructed to:
- A. Minimize grading, removal of native vegetation, disturbance and removal of native soils, and impervious area;
 - B. Minimize adverse hydrological impacts on water resources, such as using the practices described in Part (a) of Table NR-2, unless their use is prohibited by an applicable and required state or federal permit, such as a permit required under the federal Clean Water Act, 33 U.S.C. §§1251 et seq., or the federal Safe Drinking Water Act, 42 U.S.C. §§300f et seq., and including conditions or plans required by such permit;

- C. Minimize impacts on wildlife corridors and fish passage, such as by using the practices described in Part (b) of Table NR-2; and
- D. Consider using the practices described in Part (c) of Table NR-2.
[Section 4.139.03(.05) added by Ord. # 674 11/16/09]

Table NR-2: Habitat-Friendly Development Practices

Part (A) Design and Construction Practices to Minimize Hydrologic Impacts

1. Amend disturbed soils to original or higher level of porosity to regain infiltration and stormwater storage capacity.
2. Use pervious paving materials for residential driveways, parking lots and walkways.
3. Incorporate stormwater management in road right-of ways.
4. Landscape with rain gardens to provide on-lot detention, filtering of rainwater and groundwater re-charge.
5. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics.
6. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens.
7. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering.
8. Use multi-functional open drainage systems in lieu of more conventional curb and gutter systems.
9. Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants.
10. Apply a treatment train approach to provide multiple opportunities for storm water treatment and reduce the possibility of system failure.
11. Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area.
12. Reduce impervious impacts of residential driveways by narrowing widths and moving access to the rear of the site.
13. Use shared driveways.
14. Reduce width of residential streets, depending on traffic and parking needs.
15. Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs.
16. Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects, and allow them to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site.
16. Minimize car spaces and stall dimensions, reduce parking ratios, and use shared parking facilities and structured parking.
17. Minimize the number of stream crossings and place crossing perpendicular to stream channel, if possible.
18. Allow narrow street right-of-ways through stream corridors whenever possible to reduce adverse impacts of transportation corridors.

Part (B) Design and Construction Practices to Minimize Impacts on Wildlife Corridors and Fish Passage

1. Carefully integrate fencing into the landscape to guide animals toward animal crossings under, over, or around transportation corridors.
2. Use bridge crossings rather than culverts, wherever possible.
3. If culverts are utilized, install slab, arch or box type culverts, preferably using bottomless designs that more closely mimic stream bottom habitat.

4. Design stream crossings for fish passage with shelves and other design features to facilitate terrestrial wildlife passage.

5. Extend vegetative cover through the wildlife crossing in the migratory route, along with sheltering areas.

Part (C) Miscellaneous Other Habitat Friendly Design and Construction Practices

1. Use native vegetation throughout the development.

2. Locate landscaping adjacent to SROZ.

3. Reduce light spill-off into SROZ areas from development.

4. Preserve and maintain existing trees and tree canopy coverage, and plant trees, where appropriate, to maximize future tree canopy coverage.

[Added by Ord. # 674 11/16/09]

Section 4.139.04 Uses and Activities Exempt from These Regulations

A request for exemption shall be consistent with the submittal requirements listed under Section 4.139.06(.01)(B – I), as applicable to the exempt use and activity. [Added by Ord. # 674 11/16/09]

- (.01) Emergency procedures or emergency activities undertaken which are necessary for the protection of public health, safety, and welfare. Measures to remove or abate hazards and nuisances. Areas within the SROZ that are disturbed because of emergency procedures or activities should be repaired and mitigated.
- (.02) Maintenance and repair of buildings, structures, yards, gardens or other activities or uses that were in existence prior to the effective date of these regulations.
- (.03) Alterations of buildings or accessory structures which do not increase building coverage.
- (.04) The following agricultural activities lawfully in existence as of the effective date of this ordinance:
 - A. Mowing of hay, grass or grain crops.
 - B. Tilling, disking, planting, seeding, harvesting and related activities for pasture, tree crops, commercial woodlots, food crops or business crops, provided that no additional lands within the SROZ are converted to these uses after the effective date of this ordinance.
- (.05) Operation, maintenance, and repair of irrigation and drainage ditches, constructed ponds, wastewater facilities, stormwater detention or retention facilities, and water facilities consistent with the Stormwater Master Plan or the Comprehensive Plan.
- (.06) Maintenance and repair of streets and utility services within rights-of way, easements, access drives or other previously improved areas. [Amended by Ord. 682, 9/9/10]
- (.07) Normal and routine maintenance and repair of any public improvement or public recreational area regardless of its location.
- (.08) The construction of new roads, pedestrian or bike paths into the SROZ in order to provide access to the sensitive area or across the sensitive area, provided the location of the crossing is consistent with the intent of the Wilsonville Comprehensive Plan. Roads and paths shall be constructed so as to minimize and repair disturbance to existing vegetation and slope stability.
- (.09) Maintenance and repair of existing railroad tracks and related improvements.
- (.10) The removal of invasive vegetation such as Himalayan Blackberry, English Ivy, Poison Oak, Scots (Scotch) Broom or as defined as invasive in the Metro Native Plant List.
- (.11) The planting or propagation of any plant identified as native on the Metro Native Plant List. See Wilsonville Planning Division to obtain a copy of this list.

- (.12) Grading for the purpose of enhancing the Significant Resource as approved by the City.
- (.13) Enhancement of the riparian corridor or wetlands for water quality or quantity benefits, fish, or wildlife habitat as approved by the City and other appropriate regulatory authorities.
- (.14) Flood control activities pursuant to the Stormwater Master Plan, save and except those stormwater facilities subject to Class II Administrative Review, as determined by the Planning Director, to ensure such facilities meet applicable standards under federal, state and local laws, rules and regulations.
- (.15) Developments that propose a minor encroachment into the Significant Resource Overlay Zone. The purpose of this adjustment would be to allow for minor encroachments of impervious surfaces such as accessory buildings, eave overhangs, building appurtenances, building access and exiting requirements or other similar feature. The total adjustment shall not exceed 120 square feet in cumulative area.
- (.16) The expansion of an existing single family dwelling not exceeding 600 square feet in area. The expansion of an existing single family dwelling or structures that are accessory to a single family dwelling inside the SROZ, provided that the following criteria have been satisfied. An SRIR is not required to evaluate and reach a decision on the issuance of a permit to expand a single-family residence under this paragraph.
 - A. The expansion of a single family structure or improvement (including decks and patios) shall not be located any closer to the stream or wetland area than the existing structure or improvement; and
 - B. The coverage of all structures within the SROZ on the subject parcel shall not be increased by more than 600 square feet, based on the coverage in existence prior to the effective date of this ordinance; and,
 - C. The applicant must obtain the approval of an erosion and sediment control plan from the City's Building and Environmental Services Divisions; and,
 - D. No part of the expansion is located within the Metro UGMFP Title 3 Water Quality Area.
- (.17) New Single-Family Dwelling. The construction of a new single family dwelling is exempt unless the building encroaches into the Impact Area and/or the SROZ.
 - A. If the proposed building encroaches only into the Impact Area then an abbreviated SRIR may be required as specified in Section 4.139.05, unless it can be clearly determined by the Planning Director that the development proposal will have no impact on the Significant Resource. The primary purpose of the Impact Area is to insure that development does not encroach into the SROZ. Development otherwise in compliance with the Planning and Land Development Ordinance may be authorized within the Impact Area.
 - B. If the proposed building encroaches into the SROZ, then a complete or abbreviated SRIR report is required.

- (.18) Private or public service connection laterals and service utility extensions.
- (.19) A Stage II development permit or other development permits issued by the City and approved prior to the effective date of this ordinance.
- (.20) The installation of public streets and utilities specifically mapped within a municipal utility master plan, the Transportation Systems Plan or a capital improvement plan.
- (.21) Structures which are non conforming to the standards of this Section may be re-built in the event of damage due to fire or other natural hazard subject to Sections 4.189 – 4.192 of the Planning and Land Development Ordinance, provided that the structure is placed within the same foundation lines (See Figure NR-6.). An SRIR is not required to evaluate and reach a decision on the issuance of a permit to replace a structure subject to this paragraph.

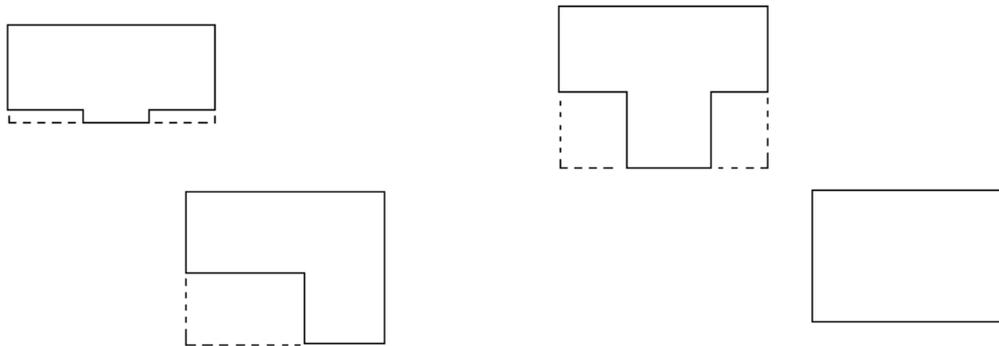


Figure NR-6. Building Line Examples

- (.22) Any impacts to resource functions from the above excepted activities, such as gravel construction pads, erosion/sediment control materials or damaged vegetation, shall be mitigated using appropriate repair or restoration/enhancement techniques.

Section 4.139.05 Significant Resource Overlay Zone Map Verification

The map verification requirements described in this Section shall be met at the time an applicant requests a building permit, grading permit, tree removal permit, land division approval, or other land use decision. Map verification shall not be used to dispute whether the mapped Significant Resource Overlay Zone boundary is a significant natural resource. Map refinements are subject to the requirements of Section 4.139.10(.01)(D).

- (.01) In order to confirm the location of the Significant Resource Overlay Zone, map verification shall be required or allowed as follows:
 - A. Development that is proposed to be either in the Significant Resource Overlay Zone or less than 100 feet outside of the boundary of the Significant Resource Overlay Zone, as shown on the Significant Resource Overlay Zone Map.

- B. A lot or parcel that:
1. Either contains the Significant Resource Overlay Zone, or any part of which is less than 100 feet outside the boundary of the Significant Resource Overlay Zone, as shown on the Significant Resource Overlay Zone Map; and
 2. Is the subject of a land use application for a partition, subdivision, or any land use application that the approval of which would authorize new development on the subject lot or parcel.
- (.02) An application for Significant Resource Overlay Zone Map Verification may be submitted even if one is not required pursuant to Section 4.139.05(.01).
- (.03) If a lot or parcel or parcel is subject to Section 4.139.05(.01), an application for Significant Resource Overlay Zone Map Verification shall be filed concurrently with the other land use applications referenced in Section 4.139.05(.01)(B)(2) unless a previously approved Significant Resource Overlay Zone Map Verification for the subject property remains valid.
- (.04) An applicant for Significant Resource Overlay Zone Map Verification shall use one or more of the following methods to verify the Significant Resource Overlay Zone boundary:
- A. The applicant may concur with the accuracy of the Significant Resource Overlay Zone Map of the subject property;
 - B. The applicant may demonstrate a mapping error was made in the creation of the Significant Resource Overlay Zone Map;
 - C. The applicant may demonstrate that the subject property was developed lawfully prior to June 7, 2001.
- (.05) The Planning Director shall determine the location of any Significant Resource Overlay Zone on the subject property by considering information submitted by the applicant, information collected during any site visit that may be made to the subject property, information generated by Significant Resource Overlay Zone Map Verification that has occurred on adjacent properties, and any other relevant information that has been provided.
- (.06) For applications filed pursuant to Section 4.139.05(.04)(A) and (C), a Significant Resource Overlay Zone Map Verification shall be consistent with the submittal requirements listed under Section 4.139.06(.01)(B-H).
- (.07) For applications filed pursuant to Section 4.139.05(.04)(B), a Significant Resource Overlay Zone Map Verification shall be consistent with the submittal requirements listed under Section 4.139.06(.02)(D)(1).
[Section 4.139.05 added by Ord. # 674 11/16/09]

Section 4.139.06 Significant Resource Impact Report (SRIR) and Review Criteria

A Significant Resource Impact Report (SRIR) is a report that delineates specific resource boundaries and analyzes the impacts of development within mapped significant resource areas

based upon the requirements of this Section. An SRIR is only required for non-exempt development that is located within the Significant Resource Overlay Zone and/or its associated 25 foot Impact Area.

The Significant Resource Overlay Zone Map identifies areas that have been classified as significant natural resources. The preparation of the Significant Resource Overlay Zone Map did not include specific field observations of every individual property. These maps are designed to be specific enough to determine whether further environmental review of a development proposal is necessary. If any portion of the development or alteration of the land (except those exempted by this Section) is located within the Significant Resource Overlay Zone boundary or the identified Impact Area, then an SRIR is required before any development permit can be issued. Where it can be clearly determined by the Planning Director that development is only in the Impact Area and there is no impact to the Significant Resource, development may be permitted without SRIR review.

The Planning Director may consult with a professional with appropriate expertise to evaluate an applicant's SRIR prepared under this Section or may rely on appropriate staff expertise, in order to properly evaluate the report's conclusions.

- (.01) Abbreviated SRIR Requirements. It is the intent of this subsection to provide a user-friendly process for the applicant. Only the materials necessary for the application review are required. At the discretion of the Planning Director, an abbreviated SRIR may be submitted for certain small-scale developments such as single family dwellings, additions to single family dwellings, minor additions and accessory structures. The following requirements shall be prepared and submitted as part of the abbreviated SRIR evaluation:
 - A. A Site Development Permit Application must be submitted in compliance with the Planning and Land Development Ordinance;
 - B. Outline of any existing features including, but not limited to, structures, decks, areas previously disturbed and existing utility locations*;
 - C. Location of any wetlands or water bodies on the site and the location of the stream centerline and top-of-bank;
 - D. Within the area proposed to be disturbed, the location, size and species of all trees that are more than six (6) inches in diameter at breast height (DBH). Trees outside the area proposed to be disturbed may be individually shown or shown as drip line with an indication of species type or types;
 - E. The location of the SROZ and Impact Area boundaries*;
 - F. A minimum of three slope cross-section measurements transecting the site, equally spaced at no more than 100-foot increments. The measurements should be made perpendicular to the stream*;
 - G. A map that delineates the Metro UGMFP Title 3 Water Quality Resource Area boundary (using Metro Title 3 field observed standards)*;
 - H. Current photos of site conditions shall be provided to supplement the above information*.

- I. A narrative describing the possible and probable impacts to natural resources and a plan to mitigate for such impacts*.

*Indicates information that City Staff may have readily available to assist an applicant.

- (.02) Application Requirements for a Standard SRIR. The following requirements must be prepared and submitted as part of the SRIR evaluation for any development not included in paragraph A above:
 - A. A Site Development Permit Application must be submitted in compliance with the Planning and Land Development Ordinance.
 - B. The SRIR shall be conducted and prepared by a natural resource professional knowledgeable and qualified to complete such a report.
 - C. The qualifications of the person or persons preparing each element of the analysis shall be included with the SRIR.
 - D. The SRIR shall include the following:
 1. Physical Analysis. The analysis shall include, at a minimum:
 - a. Soil types;
 - b. Geology;
 - c. Hydrology of the site;
 - d. Outline of any existing features including, but not limited to, structures, decks, areas previously disturbed, and existing utility locations;
 - e. Location of any wetlands or water bodies on the site and the location of the stream centerline and top-of-bank.
 - f. Within the area proposed to be disturbed, the location, size and species of all trees that are more than six (6) inches DBH. Trees outside the area proposed to be disturbed may be individually shown or shown as drip line with an indication of species type or types;
 - g. A property survey together with topography shown by contour lines prepared at two-foot vertical intervals. Five-foot vertical intervals may be allowed for steep sloped areas. The survey shall be prepared by an Oregon Registered Land Surveyor or Civil Engineer.
 - h. The location of the SROZ and Impact Area boundaries;
 - i. A minimum of three slope cross-section measurements transecting the site, equally spaced at no more than 100-foot increments. The measurements should be made perpendicular to the stream;
 - j. A map that delineates the Metro UGMFP Title 3 Water Quality Resource Area boundary (using Metro Title 3 field observed standards);
 - k. A map that delineates the Goal 5 safe harbor boundary (using the standards found within the Oregon Administrative Rule OAR 660-23(1996));
 - l. The existing site significant resource conditions shall be determined and identified by a natural resource professional; and

- m. Current photos of site conditions shall be provided to supplement the above information.
2. The analysis shall include development recommendations including grading procedures, soil erosion control measures, slope stabilization measures, and methods of mitigating hydrologic impacts. For projects that affect possible wetlands, a copy of the Local Wetland Inventory (LWI) map pertaining to the site shall be provided. Notice of the proposal shall be given to the Oregon Division of State Lands and the Army Corp of Engineers.
3. Ecological Analysis. The Ecological Analysis shall include a map, using the Physical Analysis map as a base, showing the delineated boundaries and coverage of wetlands, riparian corridors, and wildlife habitat resources identified on the site.
 - a. Wetland boundaries shall be delineated using the method currently accepted by the Oregon Division of State Lands and the US Army Corps of Engineers. Riparian boundaries shall be delineated using the riparian corridor descriptions in this ordinance. Boundaries of mapped Goal 5 wildlife habitat shall be verified by field observation.
 - b. The analysis shall include an inventory that lists and describes the native and ornamental dominant and sub-dominant groundcover, shrub and tree species occurring on the site and wildlife observed during at least one site visit (specify date). The report shall also include recommended measures for minimizing the adverse impacts of the proposed development on unique and/or significant features of the ecosystem. The analysis shall include a report that discusses the ecological functions and values of the SROZ area, discussing each parameter listed below. The discussion shall be based on actual field observations and data obtained by a natural resource professional.
 - c. Wetlands (based on evaluation criteria in the Oregon Freshwater Wetlands Assessment Methodology (OFWAM), Oregon Division of State Lands)
 - i. wildlife habitat diversity
 - ii. fish habitat
 - iii. water quality protection
 - iv. hydrologic control
 - d. Wildlife Habitat (includes riparian corridors and upland forested areas)¹
 - i. wildlife habitat diversity
 - ii. water quality protection
 - iii. ecological integrity
 - iv. connectivity
 - v. uniqueness
 - e. Riparian Corridors 1

¹Based on criteria developed for the City of Wilsonville by Fishman Environmental Services, in the *Natural Resources Inventory and Goal 5/Title 3/ESA Compliance and Protection Plan: Inventory Update, 1999-2000*

Stream-riparian ecosystems:

- i. Presence and abundance of Large Woody Debris (LWD) in and adjacent to stream
 - ii. Tree/shrub canopy stream shade production (water temperature and aquatic plant growth control)
 - iii. Erosion and sediment control by riparian vegetation
 - iv. Water quality protection by riparian vegetation
 - v. River-floodplain ecosystem (Willamette River)
 - vi. Presence of functional floodplain (inundated annually)
 - vii. Type and condition of functional floodplain vegetation
 - viii. Use of river-floodplain by ESA-listed species
 - ix. Role as wildlife corridor connecting significant wildlife habitat areas
4. Mitigation and Enhancement Proposal. The applicant must propose a Significant Resource mitigation and enhancement plan as part of the SRIR. The mitigation and enhancement shall increase the natural values and quality of the remaining Significant Resource lands located on the site or other location as approved by the City. The mitigation and enhancement proposal shall conform to the mitigation standards identified in this Section.
 5. Waiver of Documentation: The Planning Director may waive the requirement that an SRIR be prepared where the required information has already been made available to the City, or may waive certain provisions where the Director determines that the information is not necessary to review the application. Such waivers may be appropriate for small-scale developments and shall be processed under Administrative Review. Where such waivers are granted by the Planning Director, the Director shall clearly indicate the reasons for doing so in the record, citing the relevant information relied upon in reaching the decision.

(.03) SRIR Review Criteria. In addition to the normal Site Development Permit Application requirements as stated in the Planning and Land Development Ordinance, the following standards shall apply to the issuance of permits requiring an SRIR. The SRIR must demonstrate how these standards are met in a manner that meets the purposes of this Section.

- A. Except as specifically authorized by this code, development shall be permitted only within the Area of Limited Conflicting Use (see definition) found within the SROZ;
- B. Except as specifically authorized by this code, no development is permitted within Metro's Urban Growth Management Functional Plan Title 3 Water Quality Resource Areas boundary;
- C. No more than five (5) percent of the Area of Limited Conflicting Use (see definition) located on a property may be impacted by a development proposal. On properties that are large enough to include Areas of Limited Conflicting Use on both sides of a waterway, no more than five (5) percent of the Area of Limited Conflicting Use on each side of the riparian corridor may be impacted by a

development proposal. This condition is cumulative to any successive development proposals on the subject property such that the total impact on the property shall not exceed five (5) percent;

- D. Mitigation of the area to be impacted shall be consistent with Section 4.139.06 of this code and shall occur in accordance with the provisions of this Section;
- E. The impact on the Significant Resource is minimized by limiting the degree or magnitude of the action, by using appropriate technology or by taking affirmative steps to avoid, reduce or mitigate impacts;
- F. The impacts to the Significant Resources will be rectified by restoring, rehabilitating, or creating enhanced resource values within the “replacement area” (see definitions) on the site or, where mitigation is not practical on-site, mitigation may occur in another location approved by the City;
- G. Non-structural fill used within the SROZ area shall primarily consist of natural materials similar to the soil types found on the site;
- H. The amount of fill used shall be the minimum required to practically achieve the project purpose;
- I. Other than measures taken to minimize turbidity during construction, stream turbidity shall not be significantly increased by any proposed development or alteration of the site;
- J. Appropriate federal and state permits shall be obtained prior to the initiation of any activities regulated by the U.S. Army Corps of Engineers and the Oregon Division of State Lands in any jurisdictional wetlands or water of the United States or State of Oregon, respectively.

Section 4.139.07 Mitigation Standards

The following mitigation standards apply to significant wildlife habitat resource areas for encroachments within the Area of Limited Conflicting Uses, and shall be followed by those proposing such encroachments. Wetland mitigation shall be conducted as per permit conditions from the US Army Corps of Engineers and Oregon Division of State Lands. While impacts are generally not allowed in the riparian corridor resource area, permitted impacts shall be mitigated by: using these mitigation standards if the impacts are to wildlife habitat values; and using state and federal processes if the impacts are to wetland resources in the riparian corridor. Mitigation is not required for trees lost to a natural event such as wind or floods.

- (.01) The applicant shall review the appropriate Goal 5 Inventory Summary Sheets for wildlife habitat (i.e. upland) contained in the *City of Wilsonville Natural Resource Inventory and Goal 5/Title 3/ESA Compliance and Protection Plan* (“Compliance and Protection Plan”- May 2000) to determine the resource function ratings at the time the inventory was conducted.
- (.02) The applicant shall prepare a Mitigation Plan document containing the following elements:

- A. The Mitigation Plan shall contain an assessment of the existing natural resource function ratings at the time of the proposed encroachment for the site compared to the function ratings recorded in the Compliance and Protection Plan.
- B. The Mitigation Plan shall contain an assessment of the anticipated adverse impacts to significant wildlife habitat resources. The impact assessment shall discuss impacts by resource functions (as listed in the Compliance and Protection Plan, May 2000) for each resource type, and shall map the area of impact (square feet or acres) for each function.
- C. The Mitigation Plan shall present a proposed mitigation action designed to replace the lost or impacted resource functions described in Subsection B, above. The mitigation plan shall be designed to replace lost or impacted functions by enhancement of existing resources on, or off the impact site, or creation of new resource areas.
- D. For mitigation projects based on resource function enhancement, the area ratios presented in Table NR - 2 shall be applied. These ratios are based on the resource function ratings at the time of the proposed action, as described in Subsection A, above. The mitigation action shall be conducted on the appropriate size area as determined by the ratios in Table NR - 2.
- E. The Mitigation Plan shall include a planting plan containing the following elements:
 - 1. Required Plants and Plant Densities. All trees, shrubs and ground cover shall be native vegetation. An applicant shall comply with Section 4.139.06(.02)(E)(1)(a) or (b), whichever results in more tree plantings, except where the disturbance area is one acre or more, the applicant shall comply with Section 4.139.06(.02)(E)(1)(b).
 - a. The mitigation requirement shall be calculated based on the number and size of trees that are removed from the site. Trees that are removed from the site shall be replaced as shown in Table NR – 3. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs.

Table NR – 3: Tree Replacement Requirements	
Size of Tree to be Removed (inches in diameter at breast height)	Number of Trees and Shrubs to be Planted
6 to 12	2 trees and 3 shrubs
over 12 to 18	3 trees and 6 shrubs
over 18 to 24	5 trees and 12 shrubs
over 24 to 30	7 trees and 18 shrubs
over 30	10 trees and 30 shrubs

- b. The mitigation requirement shall be calculated based on the size of the disturbance within the Significant Resource Overlay Zone. Native trees

and shrubs shall be planted at a rate of five (5) trees and twenty-five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five (5) trees and twenty-five (25) shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals 0.66, and 0.66 times five equals 3.3, so three (3) trees shall be planted, and 0.66 times twenty-five (25) equals 16.5, so seventeen (17) shrubs shall be planted). Bare ground shall be planted or seeded with native grasses or herbs.

2. Plant Size. Replacement trees and shrubs shall be at least one-gallon in size and shall be at least twelve (12) inches in height.
3. Plant Spacing. Trees shall be planted between eight (8) and twelve (12) feet on center, and shrubs shall be planted between four (4) and five (5) feet on center, or clustered in single species groups of no more than four (4) plants, with each cluster planted between eight (8) and ten (10) feet on center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.
4. Plant Diversity. Shrubs shall consist of at least two (2) different species. If five (5) trees or more are planted, then no more than fifty (50) percent of the trees may be of the same genus.
5. Invasive Vegetation. Invasive non-native or noxious vegetation shall be removed within the mitigation area prior to planting, and shall be removed or controlled for five (5) years following the date that the mitigation planting is completed.
6. Mulching and Browse Protection. Mulch shall be applied around new plantings at a minimum of three inches in depth and eighteen inches in diameter. Browse protection shall be installed on trees and shrubs. Mulching and browse protection shall be maintained during the two-year plant establishment period.
7. Tree and Shrub Survival. Trees and shrubs that die shall be replaced in kind to the extent necessary to ensure that a minimum of eighty (80) percent of the trees and shrubs initially required shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

[Section 4.139.07(.02)(E.) added by Ord. # 674 11/16/09]

- (.03) Proposals for mitigation action where new natural resource functions and values are created (i.e. creating wetland or wildlife habitat where it does not presently exist) will be reviewed and may be approved by the Development Review Board or Planning Director if it is determined that the proposed action will create natural resource functions and values that are equal to or greater than those lost by the proposed impact activity.
- (.04) Mitigation actions shall be implemented prior to or at the same time as the impact activity is conducted.

- (.05) Mitigation plans shall have clearly stated goals and measurable performance standards.
- (.06) All mitigation plans shall contain a monitoring and maintenance plan to be conducted for a period of five years following mitigation implementation. The applicant shall be responsible for ongoing maintenance and management activities, and shall submit an annual report to the Planning Director documenting such activities, and reporting progress towards the mitigation goals. The report shall contain, at a minimum, photographs from established photo points, quantitative measure of success criteria, including plant survival and vigor if these are appropriate data. The Year 1 annual report shall be submitted one year following mitigation action implementation. The final annual report (Year 5 report) shall document successful satisfaction of mitigation goals, as per the stated performance standards. If the ownership of the mitigation site property changes, the new owners will have the continued responsibilities established by this section.
- (.07) The Mitigation Plan document shall be prepared by a natural resource professional.
- (.08) Prior to any site clearing, grading or construction, the SROZ area shall be staked, and fenced per approved plan. During construction, the SROZ area shall remain fenced and undisturbed except as allowed by an approved development permit.
- (.09) For any development which creates multiple parcels intended for separate ownership, the City shall require that the SROZ areas on the site be encumbered with a conservation easement or tract.
- (.10) The City may require a conservation easement over the SROZ that would prevent the owner from activities and uses inconsistent with the purpose of this Section and any easements therein. The purpose of the conservation easement is to conserve and protect resources as well as to prohibit certain activities that are inconsistent with the purposes of this section. Such conservation easements do not exclude the installation of utilities.
- (.11) At the Planning Directors discretion, mitigation requirements may be modified based on minimization of impacts at the impact activity site. Where such modifications are granted by the Planning Director, the Director shall clearly indicate the reasons for doing so in the record, citing the relevant information relied upon in reaching the decision.
- (.12) The Director may study the possibility of a payment-in-lieu-of system for natural resource impact mitigation. This process would involve the public acquisition and management of natural resource properties partially funded by these payments.

TABLE NR – 4: NATURAL RESOURCE ENHANCEMENT MITIGATION RATIOS

Existing Function* Rating at Impact Site	Existing Function* Rating at Mitigation Site	Proposed Function* Rating at Mitigation Site	Area Ratio (Mitigation:Impact)
L	L	M	2:1
L	L	H	1 ½ : 1
L	M	H	2 : 1
M	L	M	3 : 1
M	L	H	2 : 1
M	M	H	2 ½ : 1
H	L	M	4 : 1
H	L	H	3 : 1
H	M	H	2 ½ : 1
H	H	H+	5 : 1

* mitigation function (i.e water quality, ecological integrity) shall be the same as impacted function
+ improve on a H rating

NOTE: These mitigation ratios were created by specifically for the Natural Resources Plan by Fishman Environmental Services.

Examples for using Table NR - 4 – the Doe Property

The Doe property (fictitious) was rated as a significant wildlife habitat site in the 2000 Compliance and Protection Plan report with the following function ratings: wildlife habitat, L (low plant diversity); water quality protection, M (adjacent to the Willamette River); ecological integrity, L (a planted woodland); connectivity, M (adjacent to larger forest unit); and uniqueness, L (no sensitive species or unique natural features). In 2015, the function ratings were determined to be the same, except for wildlife habitat, which increased to M and ecological integrity, which rated M, both due to an increase in native plant species diversity and a reduction in Himalayan blackberry resulting from good stewardship practices by the Doe family. A project proposed by the Does would remove 0.2 acre of trees, shrubs and ground cover plants in the Area of Limited Conflicting Uses having an impact on wildlife habitat function. The Does propose to mitigate for the impact by enhancing another area of their property that has continuing invasive plant problems. By removing blackberry, instituting a 5-year blackberry control program, and planting/maintaining native shrubs, they will improve the mitigation site ratings for wildlife habitat and ecological integrity from L to M. Using Table NR - 2, they determine that a 3:1 ratio will be required, and they plan to enhance 0.6 acres of the mitigation site.

Calculation summary: existing function rating at impact site = M
existing function rating at mitigation site = L
proposed function rating at mitigation site = M
Table NR - 4 required ration = 3:1
Impact area X 3 = 0.2 acre X 3 = 0.6 acre.
Note: both impacted functions are mitigated by the same action.

Calculation summary:
Wildlife Habitat function:
existing function rating at impact site = H
existing rating at mitigation site = H
proposed function rating at mitigation site = H+
Table NR - 4 required ratio = 5:1
Impact area X 5 = 0.04 acre X 5 = 0.2 acre
Water Quality Protection function:
existing function rating at impact site = H
existing rating at mitigation site = M
proposed function rating at mitigation site = H
Table NR - 4 required ratio = 2½:1
Impact area X 2½ = 0.04 acre X 2½ = 0.1 acre

Section 4.139.08 Activities Requiring a Class I Administrative Review Process

- (.01) Class I Procedure for Amending the Significant Resource Overlay Zone Boundary. The Director may authorize an adjustment to the SROZ by a maximum of 2% (two percent) of the Area of Limited Conflicting Use. On properties that are large enough to include Areas of Limited Conflicting Use on both sides of a waterway or wetland, no more than 2% of the Area of Limited Conflicting Use on each side of the riparian corridor may be adjusted, provided the applicant demonstrates that the following standards are met:
- A. The proposed adjustment is located in an Area of Limited Conflicting Use as determined through a site assessment and SRIR;
 - B. The area within the Significant Resource Overlay Zone is not reduced to less than the requirements of Metro’s UGMFP Title 3 Water Quality Resource Areas for the site;
 - C. The adjustment shall be located in the outermost 10% of the significant resource area as it runs near or parallel to a riparian corridor. Where no riparian corridor exists on the site, the adjustment shall be made in a manner which protects the highest resource values on the site;
 - D. The conclusions of the SRIR confirm that the area where the project is proposed does not significantly contribute to the protection of the remaining Significant Resource for water quality, storm water control and wildlife habitat;

- E. The line to be adjusted has not been previously adjusted from the boundary location originally adopted as part of this Section; and
 - F. The land proposed to be removed through the use of this adjustment process do not contain more than three healthy trees, as determined by an arborist, that are greater than 6 inches DBH.
 - G. Any change to the SROZ boundary authorized through this Section shall be noted on the official zoning map of the City.
- (.02) Applications that do not meet all of the above criteria shall be processed as a Class II Administrative Review.

Section 4.139.09 Activities Requiring a Class II Administrative Review Process

- (.01) The review of any action requiring an SRIR except:
- A. Activities and uses exempt under this Section;
 - B. Adjustments permitted as a Class I Administrative Review.
 - C. Adjustments permitted as part of a Development Review Board public hearing process.
- (.02) Single family dwelling or the expansion of a single family dwelling on lots with limited buildable land. Single family dwelling or the expansion of a single family dwelling which meet all of the following requirements:
- A. The lot was legally created and has less than 5,000 square feet of buildable land located outside the SROZ; and
 - B. No more than one single family house is permitted on the property and no more than 3,000 square feet of land is to be developed by impervious improvements within the SROZ; and
 - C. The single-family structure shall be sited in a location, which reduces the impacts to the Significant Resources.
 - D. An Abbreviated SRIR is required to be submitted.
- (.03) The expansion of an existing single family dwelling or structures that are accessory to a single-family dwelling located inside Metro’s UGMFP Title 3 Water Quality Resource Areas.
- A. The expansion of a single family structure or improvement is located no closer to the stream or wetland area than the existing structures, roadways, driveways or accessory uses and development; and
 - B. The coverage of all structures shall not be increased by more than 600 square feet, based on the coverage in existence as of the effective date of this ordinance; and
 - C. The applicant must obtain the approval of an erosion and sediment control plan from the City’s Building and Environmental Services Divisions.
 - D. In determining appropriate conditions of approval, the applicant shall:

1. Demonstrate that no reasonably feasible alternative design or method of development exists that would have a lesser impact on the Water Quality Resource Area than the one proposed; and
2. If no such reasonably feasible alternative design or method of development exists, the project shall be conditioned to limit its disturbance and impact on the Water Quality Resource to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement or rehabilitation; and
3. Provide mitigation consistent with Section 4.139.06 to ensure that impacts to the functions and values of the Water Quality Resource Area will be mitigated or restored to the extent practicable.

Section 4.139.10 Development Review Board (DRB) Process

The following actions require review through a Development Review Board quasi-judicial process. Nothing contained herein shall be deemed to require a hearing body to approve a request for a permit under this Section.

(.01) Exceptions. The following exceptions may be authorized through a Development Review Board quasi-judicial review procedure.

- A. Unbuildable Lot. For existing non-developed lots that are demonstrated to be unbuildable by the provisions of this Section, the SROZ shall be reduced or removed to assure the lot will be buildable by allowing up to 3,000 square feet of land to be developed by impervious improvements for residential use, or 5,000 square feet of impervious improvements for non-residential uses, while still providing for the maximum protection of the significant resources, if not in conflict with any other requirements of the Planning and Land Development Ordinance. This section shall not apply to lots created after the effective date of this ordinance.
- B. Large Lot Exception. An exception under this paragraph is authorized and may allow impact into wetlands, riparian corridors and wildlife habitat areas, and shall not be limited to locations solely within the Area of Limited Conflicting Use. Mitigation is required, and for wetland impacts, state and federal permit requirements shall be followed. An exception to the standards of this Section may be authorized where the following conditions apply:
 1. The lot is greater than one acre in size; and
 2. At least 85 percent of the lot is located within the SROZ based on surveyed resource and property line boundaries; and
 3. No more than 10 percent of the area located within the SROZ on the property may be excepted and used for development purposes; and
 4. Through the review of an SRIR, it is determined that a reduction of the SROZ does not reduce the values listed on the City of Wilsonville Natural Resource Function Rating Matrix for the resource site; and
 5. The proposal is sited in a location that avoids or minimizes impacts to the significant resource to the greatest extent possible.

6. For purposes of this subsection, “lot” refers to an existing legally created lot of record as of the date of the adoption of the SROZ.
- C. Public. If the application of this Section would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this Section. The hearing body shall use the SRIR review criteria identified within this section.
 - D. Map Refinement process. The applicant may propose to amend the SROZ boundary through a Development Review Board quasi-judicial zone change where more detailed information is provided, such as a state approved wetland delineation. The criteria for amending the SROZ are as follows:
 1. Any map refinement must be evaluated by considering the riparian corridor types contained in this ordinance.
 2. Other supporting documents to be considered in evaluating a proposal to refine a map include, but are not limited to:
 - a. Natural Resources Inventories (LWI/RCI);
 - b. The Economic, Social, Environmental and Energy (ESEE) Analysis;
 - c. Metro Functional Plans;
 - d. Wilsonville Comprehensive Plan;
 - e. State approved wetland delineations;
 - f. Detailed slope analysis
 3. An SRIR must be prepared by the applicant in conformance with the provisions of this Section.
 4. The Hearing Body (including City Council) may amend the Significant Resource Overlay Zone (in or out) upon making a determination that the land area in question is or is not a significant resource. The criteria for determining that land is significant shall be based on finding that the site area has at least one rating of “high” using the function criteria listed in the Natural Resource Function Rating Matrices.
- (.02) Adding Wetlands. Except for water quality or storm water detention facilities, the City shall initiate amendments to the Significant Resource Overlay Zone maps to add wetlands when the City receives significant evidence that a wetland meets any one of the following criteria:
- A. The wetland is fed by surface flows, sheet flows or precipitation, and has evidence of flooding during the growing season, and has 60 percent or greater vegetated cover, and is over one-half acre in size; or the wetland qualifies as having intact water quality function under the 1996 Oregon Freshwater Wetland Assessment Methodology; or
 - B. The wetland is in the Metro Title 3 Flood Management Area as corrected by the most current FEMA Flood Insurance Rate Maps, and has evidence of flooding during the growing season, and is five acres or more in size, and has a restricted outlet or no outlet; or the wetland qualifies as having intact hydrologic control

function under the 1996 Oregon Freshwater Wetland Assessment Methodology;
or

- C. The wetland or a portion of the wetland is within a horizontal distance of less than one - fourth mile from a water body which meets the Department of Environmental Quality definition of water quality limited water body in OAR Chapter 340, Division 41 (1996).
 - D. Created or restored wetlands that meet the requirements of Section 4.139.10(.02) shall be added to the Significant Resource Overlay Zone. [Added by Ord. # 674 11/16/09]
- (.03) Development of structures, additions and improvements that relate to uses other than single family residential.
- (.04) Variiances. A variance may be taken to any of the provisions of this Section per the standards of Section 4.196 of the Planning and Land Development Ordinance.

Section 4.139.11 Special Provisions

- (.01) Reduced front, rear and side yard setback. Applications on properties containing the SROZ may reduce the front, rear and side yard setback for developments or additions to protect the significant resource, as approved by the Development Review Board.
- (.02) Density Transfer. For residential development proposals on lands which contain the SROZ, a transfer of density shall be permitted within the development proposal site. The following formula shall be used to calculate the density that shall be permitted for allowed residential use on the property:
- A. Step 1. Calculate Expected Maximum Density. The Expected Maximum Density (EMD) is calculated by multiplying the acreage of the property by the maximum density permitted in the Wilsonville Comprehensive Plan.
 - B. Step 2. The density that shall be permitted on the property shall be equal to the EMD obtained in Step 1, provided:
 - 1. The density credit can only be transferred to that portion of the development site that is not located within the designated Significant Resource; and
 - 2. 50% of the maximum number of dwelling units that are within the SROZ are allowed to be transferred to the buildable portion of the proposed development site provided that the standards for outdoor living area, landscaping, building height and parking shall still be met. Applicants proposing a density transfer must demonstrate compatibility between adjacent properties as well as satisfy the setback requirements of the zone in which the development is proposed or meet Section 4.139.10 A. above; and
 - 3. The types of residential uses and other applicable standards permitted in the zone shall remain the same; and
 - 4. Land area within the Significant Resource Overlay Zone may be used to satisfy the requirements for outdoor recreation/open space area consistent with

Section 4.140. Planned Development Regulations.

the provisions found in Section 4.113 of the Planning and Land Development Ordinance.

- (.03) Alteration of constructed drainageways. Alteration of constructed drainageways may be allowed provided that such alterations do not adversely impact stream flows, flood storage capacity and in stream water quality and provide more efficient use of the land as well as provide improved habitat value through mitigation, enhancement and/or restoration. Such alterations must be evaluated through an SRIR and approved by the City Engineer and Development Review Board.

Section 4.140. Planned Development Regulations.

(.01) Purpose.

- A. The provisions of Section 4.140 shall be known as the Planned Development Regulations. The purposes of these regulations are to encourage the development of tracts of land sufficiently large to allow for comprehensive master planning, and to provide flexibility in the application of certain regulations in a manner consistent with the intent of the Comprehensive Plan and general provisions of the zoning regulations and to encourage a harmonious variety of uses through mixed use design within specific developments thereby promoting the economy of shared public services and facilities and a variety of complimentary activities consistent with the land use designation on the Comprehensive Plan and the creation of an attractive, healthful, efficient and stable environment for living, shopping or working.
- B. It is the further purpose of the following Section:
1. To take advantage of advances in technology, architectural design, and functional land use design;
 2. To recognize the problems of population density, distribution and circulation and to allow a deviation from rigid established patterns of land uses, but controlled by defined policies and objectives detailed in the comprehensive plan;
 3. To produce a comprehensive development equal to or better than that resulting from traditional lot land use development.
 4. To permit flexibility of design in the placement and uses of buildings and open spaces, circulation facilities and off-street parking areas, and to more efficiently utilize potentials of sites characterized by special features of geography, topography, size or shape or characterized by problems of flood hazard, severe soil limitations, or other hazards;
 5. To permit flexibility in the height of buildings while maintaining a ratio of site area to dwelling units that is consistent with the densities established by the Comprehensive Plan and the intent of the Plan to provide open space, outdoor living area and buffering of low-density development.

APPENDIX C

**Wilsonville Zoning Code Sections 4.500 – 4.515, Willamette River
Greenway**

WILLAMETTE RIVER GREENWAY

Section 4.500. General Purpose.

The general purposes of this Section are to protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Section 4.504. General - Greenway Boundaries.

The Willamette River Greenway Boundaries in the City shall be the same as the Oregon State Parks and Recreation Department Willamette River Greenway Boundaries, and shall be defined on the City of Wilsonville Zoning and Comprehensive Plan Maps. The boundary is generally 150 feet from the ordinary low water line unless otherwise defined by the Map and this Section. Given that the Greenway Boundary does not always parallel the banks of the River, contact should be made with the City's Planning Department to verify boundary locations.

Section 4.506. General - Uses Permitted Outright.

- (.01) The following are outright permitted uses within the Willamette River Greenway Boundary:
 - A. The placing, by a public agency, of signs, markers, aids, etc. to serve the public.
 - B. Activities to protect, conserve, enhance and maintain public recreational, scenic, historical, and natural uses on public and private lands, except that changes of use, intensification of use or development shall require Conditional Use Permit review as provided by this Code.
 - C. Agriculture as defined in ORS 215.203(2).
 - D. Reasonable emergency procedures necessary for the safety or protection of property.
 - E. Maintenance and repair usual and necessary for the continuance of an existing use not defined as intensification of use or change of use.
 - F. Uses legally existing on December 6, 1975.

Section 4.508. Conditional Use Permit - Uses Permitted Conditionally.

- (.01) The following uses may be allowed within the Willamette River Greenway Boundaries subject to a Conditional Use Permit by the Development Review Board:
 - A. All uses permitted in the underlying zone which are not listed as permitted uses in Section 4.506.
 - B. All uses which are classified as intensification of use, change of use or development, other than tree removal, which shall be governed by the provisions of Section 4.600.

Section 4.510. Conditional Use Permit - Findings In Support of Granting.

- (.01) A Greenway Conditional Use Permit may be granted by the Development Review Board upon making the findings required in Section 4.184 (Conditional Use Permits) and the following additional findings:
 - A. That to the greatest extent possible, the maximum possible landscape area, open space or vegetation between the activity and the river are provided,
 - B. That to the greatest extent possible, necessary public access in accordance with the Comprehensive Plan will be provided to and along the River by appropriate legal means.
 - C. That the change of use, intensification of use, or development complies with this Code, all other applicable City Ordinances, the Comprehensive Plan, and the Oregon State Parks and Recreation Department Greenway Plan.

Section 4.512. Conditional Use Permit - Application Procedures.

- (.01) All Conditional Use Permits shall be applied for and reviewed by the Development Review Board in accordance with Section 4.184.
- (.02) Within five (5) days of receipt of a complete application by the City, a copy of the application shall be forwarded to the Oregon State Parks and Recreation Department by Certified Mail, with a return receipt requested. Notice of the action taken by the City on the application shall also be submitted to the Oregon State Parks and Recreation Department within five (5) days of the action.

Section 4.514. Conditional Use Permit - Use Management Standards.

- (.01) The natural scenic views, historical character and recreational qualities of the Willamette River shall be protected by preservation and enhancement of the vegetative fringe along the river bank.
- (.02) A plan to remove any tree or trees shall be reviewed by the Development Review Board under the procedures of Section 4.600, et seq. Based on the standards and procedures of Section 4.620.10, mandatory mitigation shall be required as a condition of approval for any conditional use permit granted under this Section.
- (.03) Developments shall be directed away from the river to the greatest possible degree; provided, however, lands committed to urban uses within the Greenway shall be permitted to continue as urban uses, including port, industrial, commercial and residential uses, uses pertaining to navigational requirements, water and land access needs and related facilities.
- (.04) All development after the effective date of this ordinance, except water dependent and water related uses, shall be set back a minimum of 75 feet upland from the top of each bank.
- (.05) Fish, riparian and wildlife corridors leading into the river channel shall remain open.

Section 4.514. Conditional Use Permit - Use Management Standards.

- (.06) All development, change of use or intensification of use shall demonstrate, to the maximum extent possible, maintenance of public safety and protection of public and private property, especially from vandalism and trespass.

[Chapter Amended Ord. No. 210, 5/3/82]

[Chapter Amended Ord. No. 516, 5/7/01]

APPENDIX D

Clackamas County Zoning Code Section 705, Willamette River Greenway

705 WILLAMETTE RIVER GREENWAY (WRG)

705.01 PURPOSE

Section 705 is adopted to:

- A. Protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River;
- B. Maintain the integrity of the Willamette River by minimizing erosion, promoting bank stability, and maintaining and enhancing water quality and fish and wildlife habitats; and
- C. Implement the Willamette River Design Plan set forth in Chapter 3 of the Comprehensive Plan.

705.02 DEFINITIONS

Unless specifically defined in Subsection 705.02, words or phrases used in Section 705 shall be interpreted to give them the same meaning as they have in common usage and to give Section 705 its most reasonable application.

- A. Change of Use: Making a different use of the land or water which requires construction, alterations of the land, water, or other areas outside of existing structures and which substantially alters or affects the land or water.
- B. Develop: To bring about growth or availability; to construct or alter a structure; to conduct a mining operation; to make a physical change in the use or appearance of land; to divide land into parcels; to create or terminate rights of access.
- C. Development: The act, process, or result of developing.
- D. Intensification: Any addition or action which increases or expands the area or amount of an existing use, or the level of activity, including remodeling the exterior of a structure if the remodeling substantially alters the appearance of the structure.
- E. Water-Dependent Use: A use or activity that can be carried out only on, or adjacent to water areas because the use requires access to the water body for water borne transportation, recreation, energy production, or source of water.

705.03 AREA OF APPLICATION

Section 705 applies to development, change of use, or intensification of use on lands and water within the Willamette River Greenway, except:

- A. A change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated;
- B. Landscaping, driveway construction, modifications of existing structures, and the construction or placement of subsidiary structures or facilities which are usual and necessary to the use and enjoyment of existing improvements;
- C. Changes, modifications, and other practices customarily related to those farm uses described in Section 401;
- D. Gravel removal from the bed of the Willamette River when conducted under a permit from the State of Oregon, and when compatible with the purposes stated in Subsection 705.01;
- E. Customary dredging and channel maintenance;
- F. The placing, by a public agency, of signs, workers, or aids to serve the public;
- G. Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands;
- H. Acquisition and maintenance of scenic easements by the Oregon Parks and Recreation Department; and
- I. The partial harvest of timber beyond the vegetative fringes in areas not covered by a scenic easement when the harvest is consistent with an approved plan under the Oregon Forest Practices Act (OFPA). If such activity is not covered by the OFPA, it shall be reviewed as a Type II application pursuant to Section 1307, to ensure consistency with the purposes stated in Subsection 705.01. Commercial forest activities and harvesting practices shall provide for vegetation buffers and the intended shading, soil stabilizing, and water filtering effects required by the OFPA.

705.04 STANDARDS FOR INTENSIFICATION, CHANGE OF USE, OR DEVELOPMENT WITHIN THE WILLAMETTE RIVER GREENWAY

All intensification, change of use, or development shall require a Willamette River Greenway (WRG) permit. A WRG permit requires review as a Type II application pursuant to Section 1307 and shall be subject to the following standards and criteria:

- A. The request is consistent with the purposes stated in Subsection 705.01.
- B. Where necessary, public access has been provided by appropriate legal means to and along the river.
- C. The request will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river. The depth of this area need not exceed 150 feet.

- D. The request will result in the preservation of a buffer or filter strip of natural vegetation along the river bank. The depth of this vegetative buffer or filter strip need not exceed 150 feet, and shall be determined by consideration of the following:
1. The character of the use or development;
 2. The width of the river;
 3. Steepness of the terrain;
 4. Type and stability of the soil; and
 5. The type and density of the existing vegetation.
- E. Structures shall observe a minimum setback between 100 and 150 feet from the mean low water level. The setback shall be determined by evaluation of the criteria stated in Subsection 705.04. Residential lots of record and water-dependent uses unable to meet this requirement shall be exempt from this setback.
- F. The maximum height of a dwelling or a structure accessory to a dwelling shall be 35 feet.
- G. Private noncommercial docks and boathouses shall be subject to the following standards, in addition to the other standards in Subsection 705.04:
1. General Provisions:
 - a. Private noncommercial docks, boathouses, and pilings shall either be dark natural wood colors, or painted dark earth tones (dark brown or green).
 - b. The square footage of docks and boathouses is measured as the length times the width of the outer edge of the structure.
 - c. The length-to-width ratio of a private noncommercial dock shall not exceed 3:1.
 - d. Only one dock and boathouse is allowed per riverfront lot of record.
 2. Oregon City Falls to Multnomah County line:
 - a. Private noncommercial docks shall not exceed 400 square feet.
 - b. Private boathouses are prohibited.
 3. Oregon City Falls to Marion County line:
 - a. Private noncommercial docks shall not exceed 700 square feet.

- b. Private noncommercial boathouses shall not exceed 500 square feet.
 - c. Private noncommercial boathouses shall not exceed 12 feet in height, measured from the platform of the dock to the roof peak.
4. All docks located on state-owned submerged and/or submersible land must be leased or registered with the Oregon Division of State Lands, according to state law.

705.05 PROHIBITED USES

The following uses are prohibited in the Willamette River Greenway (WRG):

- A. Low head hydroelectric dam facilities, which adversely impact fisheries or the scenic and water quality of the river; and
- B. Private noncommercial docks and moorages in the limited use rural portions of the WRG identified on Comprehensive Plan Map III-1e, *Willamette River Greenway Design Plan*.

705.06 SUBMITTAL REQUIREMENTS

In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a Willamette River Greenway permit shall include:

- A. A site plan showing existing vegetation and development, and locations of proposed development or activity;
- B. Elevations of any proposed structures;
- C. Exterior materials list for any proposed structures, including type and colors of siding and roofing; and
- D. Cross section of any area within the vegetative buffer or filter strip where grading, filling, or excavating will occur.

705.07 APPROVAL PERIOD AND TIME EXTENSION

- A. Approval of a WRG permit is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

1. “Implemented” means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved WRG permit, “implemented” means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A “major development permit” is:
 - a. A building or manufactured dwelling placement permit for a new primary structure that was part of the WRG permit approval; or
 - b. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the WRG permit approval.
- B. If the approval of a WRG permit is not implemented within the initial approval period established by Subsection 705.07(B), a two-year time extension may be approved pursuant to Section 1310.

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-248, 10/13/14]

APPENDIX E

Clackamas County Zoning Code Section 1007, Roads and Connectivity

1007 ROADS AND CONNECTIVITY

1007.01 PURPOSE

Section 1007 is adopted to:

- A. Provide for safe, efficient, convenient, and economical movement of vehicles, freight, transit, bicycles, and pedestrians on a balanced and sustainable transportation system network;
- B. Implement the provisions of Chapters 5 and 10 of the Comprehensive Plan pertaining to the design and construction of necessary transportation system improvements required in conjunction with new development;
- C. Protect public safety through functional, efficiently designed improvements addressing the impact of new development upon the roadway system;
- D. Support sustainable development by efficient utilization of land and resources;
- E. Facilitate and encourage the use of non-auto modes of transportation, such as transit, walking, and bicycling;
- F. Provide a highly interconnected transportation system with suitable access and route choices for pedestrians, bicyclists, and drivers;
- G. Support improved public health by providing safe and attractive pedestrian and bicycle facilities;
- H. Reduce vehicle miles traveled;
- I. Create walkable centers, corridors, and neighborhoods with pedestrian, bicycle, and vehicular connections within and between destinations;
- J. Reduce impacts from the transportation system on vegetation, natural features, neighborhoods, and public facilities; and
- K. Recognize and support the importance of streets and streetscapes as an ubiquitous aspect of the public realm in our landscape, and build streets that support and enhance community interaction.

1007.02 APPLICABILITY

Section 1007 applies to the design of new and reconstructed transportation improvements in public rights-of-way, private roads, and accessways required through development permit approvals that are subject to Section 1007.

1007.03 GENERAL PROVISIONS

- A. The location, alignment, design, grade, width, and capacity of all roads shall be planned, coordinated, and controlled by the Department of Transportation and Development and shall conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards, the Comprehensive Plan shall control.
- B. Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, two- and three-family dwellings, condominiums, single-family dwellings, and commercial, industrial, and institutional uses, as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.
- C. New developments shall have access points connecting with existing private, public, county, or state roads.
 - 1. Intersection spacing and access control shall be based on Subsection 3.08.110(E) of the Metro Code (*Regional Transportation Functional Plan*); Chapters 5 and 10 of the Comprehensive Plan; and the Clackamas County Roadway Standards.
 - 2. For development on any portion of a contiguous site identified on Comprehensive Plan Map 5-6, *Potentially Buildable Residential Sites > 5 Acres in UGB*, the applicant shall provide a conceptual map of new streets for the entire site. The map shall identify street connections to adjacent areas to promote a logical, direct, and connected system of streets; demonstrate opportunities to extend and connect new streets to existing streets, and provide direct public right-of-way routes. Closed-end street designs shall be limited to circumstances in which barriers prevent full street extensions. Closed-end streets shall not exceed 200 feet in length and shall serve no more than 25 dwelling units. Subsequent development on the site shall conform to the conceptual street map, unless a new map is approved pursuant to Subsection 1007.03(C)(2).
 - 3. Access control shall be implemented pursuant to Chapter 5 of the Comprehensive Plan and the Clackamas County Roadway Standards considering best spacing for pedestrian access, traffic safety, and similar factors as deemed appropriate by the Department of Transportation and Development.

4. Approaches to public and county roads shall be designed to accommodate safe and efficient flow of traffic and turn control where necessary to minimize hazards for other vehicles, pedestrians, and bicyclists.
 5. Joint access and circulation drives utilizing reciprocal easements shall be utilized as deemed necessary by the Department of Transportation and Development. In the NC District, joint street access for adjacent commercial developments shall be required.
 6. Access to state highways shall require a road approach permit issued by the Oregon Department of Transportation pursuant to Oregon Revised Statutes Chapter 374.
 7. In the SCMU District, driveways shall be spaced no closer to one another than 35 feet, measured from the outer edge of the curb cut, unless compliance with this standard would preclude adequate access to the subject property as a result of existing off-site development or compliance with the Clackamas County Roadway Standards.
- D. Street alignments, intersections, and centerline deflection angles shall be designed according to the standards set forth in Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards.
 - E. All roads shall be designed and constructed to adequately and safely accommodate vehicles, pedestrians, and bicycles according to Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards. Development-related roadway adequacy and safety impacts to roadways shall be evaluated pursuant to the Clackamas County Roadway Standards and also to Oregon Department of Transportation standards for state highways.
 - F. Roadways shall be designed to accommodate transit services where transit service is existing or planned and to provide for the separation of motor vehicles, bicycle, and pedestrian traffic, and other modes as appropriate.
 - G. The needs of all modes of transportation shall be balanced to provide for safe and efficient flow of traffic. Where practical, pedestrian crossing lengths shall be minimized and the road system shall be designed to provide frequent pedestrian connections.

1007.04 PUBLIC AND PRIVATE ROADWAYS

- A. All roadways shall be developed according to the classifications, guidelines, tables, figures, and maps in Chapters 5 and 10 of the Comprehensive Plan and the provisions of the Clackamas County Roadway Standards.

1. Development along streets with specific design standards specified in Chapter 10 of the Comprehensive Plan shall improve those streets as shown in Chapter 10.
2. Development along streets identified as Regional or Community Boulevards on Comprehensive Plan Map 5-5, *Metro Regional Street Design Classifications*, shall provide pedestrian, bicycle, transit, and visual amenities in the public right-of-way. Such amenities may include, but are not limited to, the following: street trees, landscaping, kiosks, outdoor lighting, outdoor seating, bike racks, bus shelters, other transit amenities, pedestrian spaces and access to the boulevard, landscaped medians, noise and pollution control measures, other environmentally sensitive uses, aesthetically designed lights, bridges, signs, and turn bays as appropriate rather than continuous turn lanes.
3. Development adjacent to scenic roads identified on Comprehensive Plan Map 5-1, *Scenic Roads*, shall conform to the following design standards, as deemed appropriate by the Department of Transportation and Development:
 - a. Road shoulders shall be improved to accommodate pedestrian and bicycle traffic; and
 - b. Turnouts shall be provided at viewpoints or for recreational needs.
4. In centers, corridors, and station communities, as identified on Comprehensive Plan Map IV-8, *Urban Growth Concept*, roads shall be designed to minimize the length of street crossings and to maximize connectivity for pedestrians as deemed appropriate by the Department of Transportation and Development. Other streetscape design elements in these areas include:
 - a. On-street parking;
 - b. Street trees;
 - c. Street lighting;
 - d. Pedestrian amenities; and
 - e. Truck routes shall be specified for deliveries to local businesses.
5. In centers, corridors, and station communities, as identified on Comprehensive Plan Map IV-8, on local streets within the Portland Metropolitan Urban Growth Boundary (UGB), and in unincorporated communities, when conflicts exist between the dimensional requirements for vehicles and those for pedestrians, pedestrians shall be afforded additional consideration in order to increase safety and walkability. In industrial areas, the needs of vehicles shall take precedence.

6. In the NC, OA, VCS, and VO Districts, landscaping, crosswalks, additional lighting, signalization, or similar improvements may be required to create safe and inviting places for pedestrians to cross streets.
- B. The layout of new public and county roads shall provide for the continuation of roads within and between the development and adjoining developments when deemed necessary and feasible by the Department of Transportation and Development.
1. When public access to adjoining property is required, this access shall be improved and dedicated to the County.
 2. Street stubs shall be provided to allow for future access to adjacent undeveloped property as deemed necessary by the Department of Transportation and Development.
 3. These standards may be deviated from when the County finds that safe and efficient alternate designs would better accommodate:
 - a. Sustainable development features such as “Green Streets” as described in Metro’s *Green Streets: Innovative Solutions for Stormwater and Street Crossings (2002)*, which shall be allowed within the UGB and in unincorporated communities;
 - b. Sustainable surface water management solutions such as low infiltration planters and basins, swales, ponds, rain gardens, trees, porous pavement, and minimal disruption to natural drainage systems;
 - c. Preservation of existing significant trees and native vegetation;
 - d. Preservation of natural terrain and other natural landscape features;
 - e. Achievement of maximum solar benefit for new development through orientation and block sizing;
 - f. Existing forest or agricultural uses;
 - g. Existing development;
 - h. Scenic qualities;
 - i. Planned unit developments;
 - j. Local access streets less than 200 feet in length which are not extendible; and
 - k. Interior vehicular circulation for multifamily, commercial, institutional, and industrial developments.

- C. New county and public roads terminating in cul-de-sacs or other dead-end turnarounds are prohibited except where natural features (such as topography, streams, or wetlands), parks, dedicated open space, or existing development preclude road connections to adjacent properties, existing street stubs, or existing roads.
- D. Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. In addition:
 - 1. No planting, signing, or fencing shall be permitted which restricts motorists' vision; and
 - 2. Curbside parking may be restricted along streets with visibility problems for motorists, pedestrians, and/or bicyclists as deemed appropriate by the Department of Transportation and Development.
- E. New developments, subdivisions, and partitions may be required to dedicate land for right-of-way purposes and/or make road frontage improvements to existing rights-of-way as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.
- F. Road frontage improvements within the UGB and in Mt. Hood urban villages shall include:
 - 1. Surfacing, curbing, or concrete gutters as specified in Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards;
 - 2. Pedestrian, bikeway, accessway, and trail facilities as specified in Subsection 1007.06;
 - 3. Transit amenities as specified in Subsection 1007.07; and
 - 4. Street trees as specified in Subsection 1007.08.
- G. Within public and county rights-of-way, the following uses may be permitted, subject to compliance with the Clackamas County Roadway Standards:
 - 1. Solar energy systems owned and operated by a public entity or utility;
 - 2. Electric vehicle charging stations owned and operated by a public entity or utility; and
 - 3. On-street parking within the UGB.

1007.05 PRIVATE ROADS AND ACCESS DRIVES

- A. Private roads and access drives shall be developed according to classifications and guidelines listed in Section 1007, Comprehensive Plan Figures 5-1 through 5-3, *Typical Roadway Cross Sections*, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards, except:
1. When easements or “flag-pole” strips are used to provide vehicular access to lots or parcels, the minimum width shall be 20 feet, unless a narrower width is approved by the Department of Transportation and Development and the applicable fire district’s Fire Marshal;
 2. Where the number of lots served exceeds three, a wider width may be required as deemed appropriate or necessary by the Department of Transportation and Development consistent with other provisions of Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards;
 3. Access easements or “flag-pole” strips may be used for utility purposes in addition to vehicular access;
 4. The standards listed above may be deviated from when deemed appropriate by the Department of Transportation and Development to accommodate one-half streets or private common access drives and roads within developed urban areas providing access to not more than seven lots; and
 5. The intersection of private roads or access drives with a public or county road and intersections of two private roads or access drives shall comply with the sight distance and clear zone standards pursuant to Subsection 1007.04(D).

1007.06 PEDESTRIAN AND BICYCLE FACILITIES

- A. General Standards: Pedestrian and bicycle facilities shall be developed according to the classifications and guidelines listed in Section 1007, Comprehensive Plan Figures 5-1 through 5-3, *Typical Roadway Cross Sections*, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.
- B. Pedestrian and Bicycle Facility Design: Pedestrian and bicycle facilities shall be designed to:
1. Minimize conflicts among automobiles, trucks, pedestrians, and bicyclists;
 2. Provide safe, convenient, and an appropriate level of access to various parts of the development and to locations such as schools, employment centers, shopping areas, adjacent developments, recreation areas and open space, and transit corridors;

3. Allow for unobstructed movements and access for transportation of disadvantaged persons; and
 4. Be consistent with Chapters 5 and 10 of the Comprehensive Plan; Comprehensive Plan Maps 5-2a, *Planned Bikeway Network, Urban*, 5-2b, *Planned Bikeway Network, Rural*, and 5-3, *Essential Pedestrian Network*; North Clackamas Parks and Recreation District's (NCPRD) Park and Recreation Master Plan; and Metro's Regional Trails and Greenways Map.
- C. Requirements for Pedestrian and Bicycle Facility Construction: Within the Portland Metropolitan Urban Growth Boundary (UGB), sidewalks, pedestrian pathways, and accessways shall be constructed as required in Subsection 1007.06 for subdivisions, partitions, multifamily dwellings, three-family dwellings, attached single-family dwellings where three or more dwelling units are attached to one another, and commercial, industrial, or institutional developments, except that for structural additions to existing commercial, industrial, or institutional buildings, development of such facilities shall be required only if the addition exceeds 10 percent of the assessed value of the existing structure, or 999 square feet.
- D. Requirement for Sidewalk Construction: Within the UGB, sidewalks shall be constructed, as required in Subsection 1007.06(F), for two-family dwellings, detached single-family dwellings, attached single-family dwellings where two dwelling units are attached to one another, and manufactured dwellings outside a manufactured dwelling park.
- E. Sidewalks or Pedestrian Pathways in Unincorporated Communities: In an unincorporated community, either a sidewalk or a pedestrian pathway shall be constructed on arterial or collector street frontage(s) of a lot upon which a subdivision, partition, multifamily dwelling, three-family dwelling, attached single-family dwelling where three or more dwelling units are attached to one another, or a commercial, industrial, or institutional development is proposed.
- F. Sidewalk Location: Sidewalks required by Subsection 1007.06(C) or (D) shall be constructed on:
1. Both sides of a new or reconstructed road, except that sidewalks may be constructed on only one side of the road if:
 - a. The road is not a through road;
 - b. The road is 350 feet or less in length and cannot be extended; or
 - c. In consideration of the factors listed in Subsection 1007.04(B)(3).

2. The street frontage(s) of a lot upon which a subdivision, partition, multifamily dwelling, three-family dwelling, attached single-family dwelling where three or more dwelling units are attached to one another, or a commercial, industrial, or institutional development is proposed; and
 3. Local or collector road street frontage(s) of a lot upon which a two-family dwelling, a detached single-family dwelling, an attached single-family dwelling where two dwelling units are attached to one another, or a manufactured dwelling is proposed. This requirement shall be imposed as a condition on the issuance of a conditional use permit, building permit, or manufactured dwelling placement permit, but
 - a. The requirement shall be waived if the dwelling is a replacement for one destroyed by an unplanned fire or natural disaster; and
 - b. The sidewalk requirement shall apply to no more than two street frontages for a single lot.
- G. Pedestrian Pathways: Within the UGB, a pedestrian pathway may be constructed as an alternative to a sidewalk on a local or collector road when it is recommended by the Department of Transportation and Development; the surface water management regulatory authority approves the design; and at least one of the following criteria is met:
1. The site has topographic or natural feature constraints that make standard sidewalk construction unusually problematic;
 2. No sidewalk exists adjacent to the site;
 3. Redevelopment potential along the road is limited; or
 4. The road is identified for a pedestrian pathway by the River Forest Neighborhood Plan adopted by the City of Lake Oswego.
- H. Sidewalk and Pedestrian Pathway Width: Sidewalks and pedestrian pathways shall be constructed to the minimum widths shown in Table 1007-1, *Minimum Sidewalk and Pedestrian Pathway Width*, and be consistent with applicable requirements of Chapters 5 and 10 of the Comprehensive Plan.

Table 1007-1: Minimum Sidewalk and Pedestrian Pathway Width

Street Type	Residential Sidewalk	Commercial or Institutional Sidewalk	Industrial Sidewalk
Local	5 feet	7 feet	5 feet
Connector	5 feet	7 feet	5 feet
Collector	5 feet	8 feet	5 feet
Arterial	6 feet	8 feet	6 feet

1. The entire required width of sidewalks and pedestrian pathways shall be unobstructed.
2. Sidewalks and pedestrian pathways at transit stops shall be a minimum of eight feet wide for a distance of 20 feet centered on the transit shelter or transit stop sign.
3. A sidewalk set back from the curb by at least five feet may be one foot narrower (but not less than five feet) than the standard listed above. This five-foot separation strip shall be landscaped and shall be maintained by the adjacent property owner. The landscape strip may contain fixed objects provided that sight distance and roadside clear zone standards are satisfied pursuant to the Clackamas County Roadway Standards.
4. Uses located in the Campus Industrial, Light Industrial, General Industrial, or Business Park District and containing over 5,000 square feet of office space shall comply with the requirements for Commercial and Institutional uses.
 - I. Accessways: Accessways shall comply with the following standards:
 1. Accessways shall be required where necessary to provide direct routes to destinations not otherwise provided by the road system and where topography permits. Developments shall not be required to provide right-of-way for accessways off-site to meet this requirement. If right-of-way is available off-site, the developer may be required to improve an accessway off-site up to 150 feet in length.

2. Accessways shall provide safe, convenient access to facilities generating substantial pedestrian or bicycle trips, such as an existing or planned transit stop, school, park, church, daycare center, library, commercial area, or community center. Facilities such as these shall be accessible from dead-end streets, loops, or mid-block locations. Where required, accessways shall be constructed at intervals of no more than 330 feet, unless they are prevented by barriers such as topography, railroads, freeways, pre-existing development, or environmental constraints such as streams and wetlands.
 3. An accessway shall include at least a 15-foot-wide right-of-way and an eight-foot-wide hard surface. For safety, accessways should be as straight as practicable and visible from an adjacent use if practicable. Removable bollards or other large objects may be used to bar motor vehicular access.
 4. So that they may be safely used at night, accessways shall be illuminated by street lights or luminaires on shorter poles. Separate lighting shall not be required if existing lighting adequately illuminates the accessway.
 5. Fences are not required, but the height of a fence along an accessway shall not exceed six feet.
 6. Ownership and maintenance responsibility for accessways shall be resolved during the development review and approval process.
- J. Accessways in Sunnyside Village: The following standards apply in Sunnyside Village, as identified on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan Land Use Plan Map*, hereinafter referred to as Sunnyside Village. Where these standards conflict with Subsection 1007.06(I), Subsection 1007.06(J) shall take precedence.
1. A system of interconnecting accessways shall be provided from subdivisions and multifamily developments to commercial facilities and public amenities such as existing or planned transit stop or facility, school, park, church, daycare facility, children's play area, outdoor activity areas, plazas, library, or similar facility and to a dead-end street, loop, or mid-block where the block is longer than 600 feet.
 - a. An accessway shall include at least 15 feet of right-of-way and a 10-foot-wide paved surface.
 - b. Accessways shall be illuminated so that they may be safely used at night.
 - c. The maximum height of a fence along an accessway shall not exceed four feet.
 - d. Bollards or other similar types of treatment may be required in order to prevent cars from entering the accessway.

- e. The designated east-west pedestrian accessway shall include a minimum 10-foot-wide concrete surface within a 10-foot-wide right-of-way, easement, or other legal form satisfactory to the County. Planting areas adjacent to the easement with street trees should be provided along at least one side of this accessway. However, alternatives to this standard may be considered through design review pursuant to Section 1102. If the accessway is within a parking area, it shall be lined by parking lot trees planted at a maximum of 30 feet on center along both sides.

K. Bikeways: Bikeways shall be required as follows:

1. Shoulder bikeways, bike lanes, bike paths, or cycle tracks shall be included in the reconstruction or new construction of any street if a bikeway is indicated in Chapters 5 and 10 of the Comprehensive Plan and on Comprehensive Plan Map 5-2a or 5-2b; NCPRD's Park and Recreation Master Plan; or Metro's Regional Trails and Greenways Map.
2. Shoulder bikeways, bike lanes, bike paths, or cycle tracks shall be considered in the reconstruction or new construction of any other arterial or collector.
3. Within urban growth boundaries, shoulder bikeways, bike lanes, bike paths, or cycle tracks shall be constructed from new public or private elementary, middle school, and high school facilities to off-site bikeways to provide continuous bicycle route connections within and between surrounding developments, unless precluded by existing development.

L. Trails: Trail dedications or easements shall be provided and developed as shown on Comprehensive Plan Map IX-1, *Open Space Network & Recreation Needs*; the Facilities Plan (Figure 4.3) in NCPRD's Park and Recreation Master Plan; and Metro's Regional Trails and Greenways Map.

M. Trails and Pedestrian Connections in Sunnyside Village: The following standards apply in Sunnyside Village. Where these standards conflict with other provisions in Section 1007, Subsection 1007.06(M) shall take precedence.

1. An interconnecting system of trails and accessways throughout Sunnyside Village shall be provided. The general trail locations are shown on Comprehensive Plan Map X-SV-1. The location of the trails shall be set at the time a land use application is approved. The locations of the trails are based on achieving connections to streets and/or pedestrian ways and protection of the significant features of the resource protection areas.
2. The trail system will generally occur along the creeks and resource protection areas. The accessways and/or trail system will provide connections to parks, the elementary school, and to adjacent commercial and residential developments.

3. There also shall be an east-west accessway between 142nd Avenue and 152nd Drive, south of Sunnyside Road and north of Oregon Trail Drive.
4. The trail system shall be designed to provide multiple access points for the public. The trails shall be constructed by the developer.
5. All trails and accessways within the resource protection areas shall either be dedicated or an easement granted to NCPRD in conjunction with development. These connections shall be maintained by and constructed to the standards established by NCPRD.
6. The maintenance of all pedestrian connections and trails located outside the resource protection areas as identified on Comprehensive Plan Map X-SV-1 shall be the responsibility of the property owner.

N. Pedestrian and Bicycle Circulation: The pedestrian and bicycle circulation connections shown on Comprehensive Plan Maps X-CRC-3, *Clackamas Regional Center Area Design Plan Urban Design Elements*, X-CRC-7, *Clackamas Regional Center Area Design Plan Pedestrian and Bicycle Circulation Network*, and X-CRC-7a, *Clackamas Regional Center Area Design Plan Walkway Network*, shall be provided.

1007.07 TRANSIT AMENITIES

All residential, commercial, institutional, and industrial developments on existing and planned transit routes shall be reviewed by Tri-Met or other appropriate transit provider to ensure appropriate design and integration of transit amenities into the development. The design shall not be limited to streets, but shall ensure that pedestrian/bikeway facilities and other transit-supportive features such as shelters, bus pull-outs, park-and-ride spaces, and signing will be provided. The designs shall comply with Tri-Met standards and specifications.

1007.08 STREET TREES

A. Within the Portland Metropolitan Urban Growth Boundary, street trees are required on all road frontage—except frontage on private roads or access drives—for subdivisions, partitions, multifamily dwellings, three-family dwellings, attached single-family dwellings where three or more dwelling units are attached to one another, and commercial, industrial, or institutional developments, except that for structural additions to existing commercial, industrial, or institutional buildings, street trees are required only if the addition exceeds 10 percent of the assessed value of the existing structure, or 999 square feet. Street trees shall comply with the following standards:

1. Partial or complete exemptions from the requirement to plant street trees may be granted on a case-by-case basis. Exemptions may be granted, for example, if the exemption is necessary to save existing significant trees which can be used as a substitute for street trees.
2. Street trees to be planted shall be chosen from a County-approved list of street trees (if adopted), unless approval for planting of another species is given by the Department of Transportation and Development. Trees listed in Table 1007-2, *Prohibited Street Trees*, shall not be planted as street trees.
3. Location and planting of street trees may be influenced by such conditions as topography, steep terrain, soil conditions, existing trees and vegetation, preservation of desirable views, and solar access.
4. Planting of street trees shall be coordinated with other uses which may occur within the street right-of-way, such as bikeways, pedestrian paths, storm drains, utilities, street lights, shelters, and bus stops.
5. Street trees at maturity shall be of appropriate size and scale to complement the width of the street or median area.

Table 1007-2: Prohibited Street Trees

Scientific Name	Common Name	Reason for Prohibition
Acer macrophyllum	Big-leaf Maple	Leaves block drainage; Roots buckle sidewalks
Acer negundo	Box Elder	Insect prone; Weak wood
Acer saccharinum	Silver Maple	Shallow roots; Weak wood
Aesculus hippocastanum	Common Horsechestnut	Messy fruits
Betulus species	Birches	Insect prone; Weak wood
Carya species	Hickories	Fruits cause litter and safety problems
Catalpa species	Catalpas	Seed pods cause litter problem
Corylus species	Filberts	Fruits cause litter and safety problems

Scientific Name	Common Name	Reason for Prohibition
Crataegus species	Hawthorns	Thorns; Fruits cause litter and safety problems
Fraxinus species	Ashes	Seed pods cause litter problem
Gleditsia triacanthos	Honey Locust (species, does not include horticultural variants)	Seed pods cause litter problem
Juglans species	Walnuts	Fruits cause litter problem
Morus species	Mulberries	Fruits cause litter and safety problems
Populus species	Poplars	Shallow roots; Weak wood
Robinia species	Locusts	Weak wood; Suckers
Salix Species	Willows	Shallow roots; Weak wood
Ulmus fulva	Slippery Elm	Insect prone; Shallow roots; Weak wood
Ulmus pumila	Siberian Elm	Shallow roots; Weak wood

B. Street trees required for developments in the Clackamas Regional Center Area, as identified on Comprehensive Plan Map X-CRC-1, *Clackamas Regional Center Area Design Plan Regional Center, Corridors, and Station Community*, shall comply with the following standards:

1. Street trees are required along all streets, except for drive aisles in parking lots.
2. When determining the location of street trees, consideration should be given to accommodating normal retail practices in front of buildings such as signage, outdoor display, loading areas, and pullout lanes.
3. Street trees are required along private access streets under the following conditions:
 - a. On both sides when the access point is a signalized intersection;

- b. On both sides when the street section has four or more lanes at the access point;
 - c. On both sides when the private street is developed to comply with building orientation standards;
 - d. On a minimum of one side when the street section has one or two lanes, and the street is not at a signalized intersection or is not used to meet the structure orientation standards of Subsections 1700.03(C) and 1700.04(B); and
 - e. On a minimum of one side of the street when access is shared with adjacent property. Adjoining property shall be required to install trees on its side of the access street when the property is developed.
4. In the Fuller Road Station Community, as identified on Comprehensive Plan Map X-CRC-1, street trees are required along both sides of all street types, and as shown in Comprehensive Plan Figure X-CRC-11, *Clackamas Regional Center Area Design Plan Fuller Road Station Community, Type "E" Pedestrian/Bicycle Connection*, for Type E pedestrian/bicycle connections. Street trees shall be spaced from 25 to 40 feet on center, based on the selected tree species and any site constraints. Street trees shall otherwise comply with the other provisions of Subsections 1007.08(A) and (B).
- C. In the Business Park District, street trees are required at 30- to 40-foot intervals along periphery and internal circulation roads, except where significant trees already exist.
- D. Street trees are required for developments in the Sunnyside Village Community Plan area, as identified on Comprehensive Plan Map X-SV-1, *Sunnyside Village Plan Land Use Plan Map*, along both sides of all connector and local streets, and as set forth in Subsection 1007.11. In addition:
- 1. One to two street trees are required per interior lot, and two to four for corner lots depending on the canopy of the tree species proposed. If a small canopy (less than or equal to 25 feet in diameter at maturity) is proposed, then two per interior lot and four per corner lot are required. If a larger canopy (greater than 25 feet in diameter at maturity) is proposed, then one per interior lot and two per corner lot are required.
 - 2. As each portion of a project is developed, a specific species of street tree will be chosen for each street. The developer may choose the species of street tree to be planted so long as the species is not known to cause sidewalks to buckle, does not have messy fruits or pods, is not prone to insects or having weak wood, and is not on the list of prohibited trees. The County will have final approval regarding the type of street tree to be planted.

3. Along connector streets or streets with a higher classification, metal grating, non-mortared brick, grasscrete, or similar material shall be installed at grade over the planting area around street trees, or raised planters shall be constructed to prevent soil compaction and damage to the trunk. Landscape strips or tree wells are required along streets with a classification below connector status.

1007.09 TRANSPORTATION FACILITIES CONCURRENCY

- A. The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrently with the new development it is required to serve or, within a reasonable period of time following the approval of new development.
- B. Subsection 1007.09 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.
- C. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:
 1. Development that is located:
 - a. In the Light Industrial, General Industrial, or Business Park District; and
 - b. North of the Clackamas River; and
 - c. West of Highway 224 (south of Highway 212) or 152nd Drive (north of Highway 212); and
 - d. South of Sunnyside Road (east of 82nd Avenue) or Harmony Road (west of 82nd Avenue) or Railroad Avenue (west of Harmony Road); and
 - e. East of Interstate 205 (south of Milwaukie Expressway) or the city limits of Milwaukie (north of the Milwaukie Expressway).
 2. Modification or replacement of an existing development (or a development that has a current land use approval even if such development has not yet been constructed) on the same property, provided that an increase in motor vehicle traffic does not result;
 3. Unmanned utility facilities, such as wireless telecommunication facilities, where no employees are present except to perform periodic servicing and maintenance;
 4. Mass transit facilities, such as light rail transit stations and park-and-ride lots;

5. Home occupations to host events, which are approved pursuant to Section 806; and
 6. Development in the Government Camp Village, as shown on Comprehensive Plan Map X-MH-4, *Government Camp Village Plan Land Use Plan & Boundary*, that is otherwise consistent with the Comprehensive Plan and zoning designations for the Village.
- D. As used in Subsection 1007.09(C), “adequate” means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS) , as established by Comprehensive Plan Tables 5-2a, *Performance Evaluation Measures for the Urban Area*, and 5-2b, *Performance Evaluation Measures for the Rural Area*.
- E. For the purpose of calculating capacity as required by Subsections 1007.09(C) and (D), the following standards shall apply:
1. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards, except that the method of calculating capacity on state facilities is established by the Oregon Highway Plan.
 2. The minimum capacity standards shall apply to all roadways and intersections within the impact area of the proposed development. The impact area shall be established by the Clackamas County Roadway Standards.
 3. Capacity shall be evaluated for motor vehicle traffic only.
- F. As used in Subsection 1007.09(C), “timely” means:
1. For facilities under the jurisdiction of the County, necessary improvements are included in the Five-Year Capital Improvement Program, fully funded, and scheduled to be under construction within three years of the date land use approval is issued;
 2. For facilities under the jurisdiction of the State of Oregon, necessary improvements are included in the Statewide Transportation Improvement Plan and scheduled to be under construction within four years of the date land use approval is issued;
 3. For facilities under the jurisdiction of a city or another county, necessary improvements are included in that jurisdiction’s capital improvement plan, fully funded, and scheduled to be under construction within three years of the date land use approval is issued.
 4. Alternatively, “timely” means that necessary improvements will be constructed by the applicant or through another mechanism, such as a local improvement district. Under this alternative:

- a. Prior to issuance of a certificate of occupancy for a conditional use or a development subject to design review and prior to recording of the final plat for a subdivision or partition, the applicant shall do one of the following:
 - i. Complete the necessary improvements; or
 - ii. For transportation facilities under the jurisdiction of the County, the applicant shall provide the county with a deposit, letter of credit, performance bond, or other surety satisfactory to county staff pursuant to Section 1311, *Completion of Improvements, Sureties, and Maintenance*. For transportation facilities under the jurisdiction of the state, a city, or another county, the applicant shall comply with the respective jurisdiction's requirements for guaranteeing completion of necessary improvements. This option is only available if the jurisdiction has a mechanism in place for providing such a guarantee.
5. For a phased development, the first phase shall satisfy Subsections 1007.09(F)(1) through (4) at the time of land use approval. Subsequent phases shall be subject to the following:
- a. At the time of land use approval, necessary improvements shall be identified and the phase for which they are necessary shall be specified.
 - b. Necessary improvements for a particular phase shall either:
 - i. Comply with Subsections 1007.09(F)(1) through (3) at the time of building permit approval, except that the improvements shall be scheduled to be under construction within three years of building permit approval rather than within three years of land use approval; or
 - ii. Comply with Subsection 1007.09(F)(4), in which case the improvements shall be completed or guaranteed prior to issuance of a certificate of occupancy or recording of the final plat for the applicable phase.
- G. As used in Subsection 1007.09(F), "necessary improvements" are:
- 1. Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.09(D).
 - a. A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.

- b. If a transportation impact study is not required, County traffic engineering or transportation planning staff shall identify necessary improvements or the applicant may opt to provide a transportation impact study.
- H. As an alternative to compliance with Subsection 1007.09(C), the applicant may make a voluntary substantial contribution to the transportation system.
- 1. As used in this subsection, “substantial contribution” means construction of a roadway or intersection improvement that is all of the following:
 - a. A complete project or a segment of a roadway identified in Comprehensive Plan Table 5-3a, *20-Year Capital Projects*, 5-3b, *Preferred Capital Projects*, or 5-3c, *Long-Term Capital Projects*; the Statewide Transportation Improvement Plan (STIP); or the capital improvement plan (CIP) of a city or another county.
 - i. For a segment of a roadway to qualify as a substantial contribution, the roadway shall be on or abutting the subject property; no less than the entire segment that is on or abutting the subject property shall be completed; and there shall be a reasonable expectation that the entire project—as identified in Comprehensive Plan Table 5-3a, 5-3b, or 5-3c; the STIP; or the CIP of a city or another county—will be completed within five years;
 - b. Located within the impact area of the proposed development. The impact area shall be established by the Clackamas County Roadway Standards;
 - c. Estimated to have a minimum construction cost of \$527,000 in year 2004 dollars. The minimum construction cost shall on January 1st of each year following 2004 be adjusted to account for changes in the costs of acquiring and constructing transportation facilities. The adjustment factor shall be based on the change in average market value of undeveloped land, except resource properties, in the County according to the records of the County Tax Assessor, and the change in construction costs according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index; and shall be determined as follows:
 - i. $\text{Change in Average Market Value} \times 0.50 + \text{Change in Construction Cost Index} \times 0.50 = \text{Minimum Construction Cost Adjustment Factor}$
 - ii. After the adjustment factor is applied to the previous year’s minimum construction cost, the result shall be rounded to the nearest thousand.
 - 2. Prior to issuance of a certificate of occupancy for a conditional use or a development subject to design review and prior to recording of the final plat for a subdivision or partition, the applicant shall do one of the following:

- a. Complete the substantial contribution; or
- b. For transportation facilities under the jurisdiction of the County, the applicant shall provide the county with a deposit, letter of credit, performance bond, or other surety satisfactory to county staff pursuant to Section 1311. For transportation facilities under the jurisdiction of the state, a city, or another county, the applicant shall comply with the respective jurisdiction's requirements for guaranteeing completion of necessary improvements. This option is only available if the jurisdiction has a mechanism in place for providing such a guarantee.

1007.10 FEE IN LIEU OF CONSTRUCTION

For all or part of the road frontage improvements required by Section 1007; located within the Portland Metropolitan Urban Growth Boundary (UGB) and required for a partition, a two- or three-family dwelling (where no more than one such dwelling is proposed), an attached or detached single-family dwelling, or a manufactured dwelling; the developer may elect to pay a fee in lieu of construction as follows.

- A. The fee in lieu of construction may be paid if the road frontage improvements are located on a local or collector road that is not identified on Comprehensive Plan Map 5-3, *Essential Pedestrian Network*, and payment of the fee is deemed by the Department of Transportation and Development to be an acceptable alternative to construction of the required improvements; or
- B. The fee in lieu of construction may be paid if the road frontage improvements are located on a road that is identified on Comprehensive Plan Map 5-3; payment of the fee is deemed by the Department of Transportation and Development to be an acceptable alternative to construction of the required improvements; and at least one of the following criteria is met:
 - 1. The improvements are included in the Five-Year Capital Improvement Program;
 - 2. The improvements are located on a road where significant topographical or natural feature constraints exist; or
 - 3. The improvements are located on a local or collector road where a sidewalk or pathway does not exist within 200 feet of the required improvements.
- C. For a two-family dwelling, a detached single-family dwelling, an attached single-family dwelling where two dwelling units are attached to one another, or a manufactured dwelling, the fee in lieu of construction shall be \$25.00 per lineal foot of frontage. The fee shall be adjusted annually to account for the change in construction costs according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index. The annual adjustment shall be made in January on the date that the ENR publishes its first index of the year.

- D. For a partition, a three-family dwelling, or an attached single-family dwelling where three or more dwelling units are attached to one another, the fee in lieu of construction shall be equal to the estimated cost of constructing the required frontage improvements and shall be calculated as follows.
 - 1. A frontage improvement cost construction estimate acceptable to the Department of Transportation and Development shall be completed by an engineer who is registered by the State of Oregon.
 - 2. The elements to be considered when calculating the fee shall include, but shall not necessarily be limited to, mobilization/start-up, grading, rock, drainage, asphalt, curb, sidewalk, and retaining wall.
- E. All fees in lieu of improvements collected, and interest thereon, shall be placed in a "Sidewalk Improvement Fund." Fees shall be spent on sidewalk or pedestrian pathway construction on local or collector roads within the UGB.

1007.11 STREETS AND SIDEWALKS IN SUNNYSIDE VILLAGE

The following standards apply in Sunnyside Village. Where these standards conflict with other provisions in Section 1007, Subsection 1007.11 shall take precedence.

- A. Connector streets with bike lanes shall include two 10-foot-wide travel lanes, two six-inch-wide standard curbs, two seven-foot-wide parking strips, two four- to five-foot-wide planting strips, two four-foot-wide bike lanes, and two five-foot-wide sidewalks. The minimum right-of-way width shall be 61 to 63 feet, depending on the planting strip width. If commercial/retail are adjacent to the site, then nine-foot-wide sidewalks are required. (See Comprehensive Plan Figure X-SV-1, *Sunnyside Village Plan Connector Street with Planting Strips and Bike Lanes*.)
- B. Connector streets without bike lanes shall include two 10-foot-wide travel lanes, two six-inch-wide standard curbs, two seven-foot-wide parking strips, two four- to five-foot-wide planting strips, and two five-foot-wide sidewalks. The minimum right-of-way width shall be 53 to 55 feet, depending on the planting strip width. If commercial/retail is adjacent to the site, then nine-foot-wide sidewalks are required. (See Comprehensive Plan Figure X-SV-2, *Sunnyside Village Plan Connector Street with Planting Strips*.)
- C. Local streets shall include two eight-to-nine-foot-wide travel lanes, two six-inch-wide standard curbs, one eight-foot-wide parking strip, two five-foot-wide sidewalks, and two four-foot-wide tree planting strips. The right-of-way width shall be 43 to 45 feet. (See Comprehensive Plan Figure X-SV-5, *Sunnyside Village Plan Local Street with Planting Strips*.)

Cul-de-sacs are permitted only when topographic conditions or existing street patterns preclude extension of streets. The maximum radius shall be 40 feet.

- D. All streets adjacent to resource protection areas shall have at least one five-foot-wide sidewalk along one side of the street. If there are no significant trees (at least eight inches in diameter) along the resource protection area adjacent to the street, then a minimum four-foot-wide planting strip is required along both sides of the street. If it is determined that a unique view is to be preserved, then the Planning Director will determine if street trees are required.
- E. New street connections and private access driveways should be located along arterial and collector roadways within Sunnyside Village to provide safe and efficient traffic operations. New street connections along arterial streets are shown on Comprehensive Plan Map X-SV-3, *Sunnyside Village Plan Street Classifications*. New street connections to collector roadways shall be a minimum of 150 feet apart, measured road centerline to centerline.

New individual driveway connections shall not be permitted along arterial and collector roadways. The removal and/or consolidation of existing private driveways on arterial and collector streets should be investigated as redevelopment of properties occurs.

At existing or future major street intersections (existing or proposed traffic signals), no new driveways or street connections shall be allowed within the influence area of the intersection. The influence area is defined as the distance that vehicles will queue from the signalized intersection. The influence area shall be based upon traffic volumes summarized in the Sunnyside Area Master Plan (November 1994) or based upon information acceptable to the County Engineering Division. This influence area shall include an additional 100 feet beyond the queue length for back-to-back left turns.

The preferred minimum intersection spacing on minor arterials is 500 feet, measured road centerline to centerline. Major arterial intersection spacing is preferred to be between 600 feet and 1,000 feet, measured road centerline to centerline.

- F. The interior angles at intersection roadways shall be as near to 90 degrees as possible, and in no case shall it be less than 80 degrees or greater than 100 degrees. Minimum centerline radius for local roadways shall be 100 feet unless the alternative horizontal curve illustrated on Comprehensive Plan Figure X-SV-9, *Sunnyside Village Plan Alternative Horizontal Curve for Local Streets*, is used.
- G. Alleys shall be private streets with rights-of-way of 16 feet. (See Comprehensive Plan Figure X-SV-6, *Sunnyside Village Plan Alleys*.)

- H. A traffic circle will mark the heart of Sunnyside Village and will provide suitable geometrics for the five radial streets that converge at this point. Travel on the circle shall occur in one direction. This shall be facilitated by traffic diverters that guide vehicles but still allow comfortable pedestrian movement. The raised diverters should consist of low raised curbs and/or special paving. The travel lane within the circle should allow for easy merging.

Special paving shall demark crosswalks. Bike lanes shall be clearly marked and shall occur at the edge of the travel lane and define the inner boundary of the crosswalks and bus loading areas. The bus loading areas shall be located adjacent to the Village Commercial area. On the other side of the circle, this added dimension shall be used for planting strips with street trees, adjacent to nine-foot-wide sidewalks.

The center island shall have a radius of at least 30 feet and shall be landscaped. A vertical feature or monument identifying the entrance to Sunnyside Village should mark the center of the circle and shall be framed by blossoming trees.

- I. Intersection dimensions should be minimized to reduce pedestrian crossing-distances and slow vehicles. Curb radiuses should not exceed 25 feet at corners.
- J. For properties with frontage along 152nd Drive, adjacent to the proposed realignment of 152nd Drive, the applicant's share of costs associated with the realignment of 152nd Drive shall be limited to the dedication of required on-site right-of-way for the realignment of 152nd Drive as a collector street, and the guarantee of financing for the required on-site improvements, to collector-street standards, according to the requirements of the County Engineering Division.

1007.12 VACATIONS

Road and Access Easement Vacations: In the RTL and CC Districts, road vacations shall be prohibited in developments unless replaced with a new road or walkway that serves the same function. The replacement does not have to be in the same alignment as long as it provides access to the same areas the vacated road would have if constructed.

1007.13 TRAFFIC MANAGEMENT PLANS

In the OA and VO Districts, a traffic management plan shall be submitted with each development application. The plan shall address, but is not limited to, the following traffic management mechanisms:

- A. Physical site controls on existing traffic;
- B. P.M. peak hour existing traffic limitations;
- C. Traffic monitoring;

- D. Restrictions on the number of parking spaces;
- E. Transportation/transit information center;
- F. Flextime, staggered working hours; and
- G. Carpool and vanpool spaces and similar ride share programs.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-232, 3/12/12; Amended by Ord. ZDO-246, 3/1/14; Amended by Ord. ZDO-250, 10/13/14; Amended by Ord. ZDO-253, 6/1/15]

APPENDIX F

**Clackamas County Zoning Code Section 703, Floodplain Management
District**

703 FLOODPLAIN MANAGEMENT DISTRICT (FMD)

703.01 FINDINGS OF FACT

A Floodplain Management District (FMD) is needed for the following reasons:

- A. Flood Losses Resulting from Periodic Inundation: The flood hazard areas of the County are subject to periodic inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the County's tax base, all of which adversely affect the public health, safety, and general welfare.
- B. General Causes of These Flood Losses: Flood losses are caused by:
 - 1. The cumulative effect of obstruction in floodways causing increase in flood heights and velocities; and
 - 2. The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages.

703.02 PURPOSE

This section is adopted to promote the public health, safety, and general welfare, and to minimize flood losses with provisions designed to:

- A. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or that cause increased flood heights or velocities;
- B. Require that uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction;
- C. Protect individuals, as much as possible, from buying lands that are not suitable for intended purposes because of flood hazard; and
- D. Minimize the need for rescue and relief efforts associated with flooding undertaken at the expense of the general public.

703.03 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by the FMD is considered reasonable for regulatory purposes and is based on engineering and scientific study. Larger floods may occur on rare occasions, or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This section does not imply that areas outside the FMD or land uses permitted within the FMD will be free from flooding or flood damages. This section shall not create liability on the part of the County, or any officer or employee thereof, for any flood damages that result from reliance on the FMD or any administrative decision lawfully made hereunder.

703.04 AREA OF APPLICATION

The FMD is applied to the special flood hazard area (SFHA) identified by the Federal Insurance Administration in a scientific and engineering report entitled, "The Flood Insurance Study for Clackamas County, Oregon & Incorporated Areas," (FIS) dated June 17, 2008, with accompanying Flood Insurance Rate Maps (FIRMs).

- A. The FIS and FIRMs are hereby adopted by reference and declared to be a part of this section and are on file at the County Department of Transportation and Development.
- B. The Planning Director shall make interpretations where needed, as to the exact location of the boundaries of the SFHA (for example, where there appears to be a conflict between a mapped boundary and actual field conditions, topography and/or elevations). In areas where base flood elevation data have been provided, the Planning Director may require the applicant to submit an elevation certificate to determine whether the proposed development is located in the SFHA. To most precisely determine the base flood elevation of the subject area, the elevations provided by the FIS flood profiles in combination with the cross section lines on the FIRM shall supersede the base flood elevation lines and values identified on the FIRM.

703.05 DEFINITIONS

Unless specifically defined below, words or phrases used in this section shall be interpreted to give them the same meaning as they have in common usage and to give this section its most reasonable application.

- A. Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year. Also known as the "regulatory flood," or the "100-year flood," the base flood is the national standard used by the National Flood Insurance Program and all federal agencies for the purposes of requiring the purchase of flood insurance and regulating new development.

- B. Base Flood Elevation: The computed elevation to which floodwater is anticipated to rise during the base flood. Base flood elevations are shown on Flood Insurance Rate Maps and on the flood profiles included in the Flood Insurance Study.
- C. Basement: Any area of a building that has its floor below ground level on all sides.
- D. Below-Grade Crawl Space: An enclosed area below the base flood elevation — which is in nearly all cases considered by the National Flood Insurance Program to also be a basement — that generally serves as the foundation for a structure and exhibits the following characteristics:
1. All sides of the crawl space are below the adjacent exterior grades outside the crawl space;
 2. The interior grade inside the crawl space is not more than two feet below the lowest adjacent exterior grade; and
 3. The height, measured from the interior grade of the crawl space to the top of the crawl space foundation, does not exceed four feet at any point.
- E. Community Rating System: A program of the National Flood Insurance Program (NFIP) that recognizes jurisdictions for implementing floodplain management practices and standards that exceed NFIP minimum requirements. Membership in the program results in increased public safety and property protection, along with reductions in flood insurance premiums.
- F. Conditional Letter of Map Revision: The Federal Emergency Management Agency's (FEMA's) comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. The letter does not revise an effective National Flood Insurance Program map, but it indicates whether the project, if built as proposed, would be recognized by FEMA.
- G. Cross Section: A source of data that is developed during the hydraulic analyses of a stream in the course of producing the Flood Insurance Rate Maps (FIRMs) and the Flood Insurance Study (FIS). Cross sections provide an elevation view of the floodplain taken perpendicular to the flow at specific points and are typically determined using field survey information and topographic maps. Some of the locations of cross sections are shown on the FIRMs and are, in turn, cross-referenced in the FIS, where they provide precise information about a variety of data that relates to flood conditions.

- H. Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials. Development does not include those activities of a type and magnitude that cause no effects on water surface elevations, no effects on the level of insurable damages, and no adverse impacts to upstream or downstream properties, as determined by the Planning Director, based on documentation supplied by the applicant.
- I. Elevation Certificate: A form produced by the Federal Emergency Management Agency (FEMA) that is completed by a professional engineer, licensed architect, or licensed surveyor, usually through field survey work, that reports elevation information about grades, structures, and other facilities. An elevation certificate is used to determine the relationship of grades, structures, and other facilities to the base flood elevation. It is also used to certify building elevations to ensure compliance with community floodplain regulations; determine proper insurance rates; and support a Letter of Map Amendment or Letter of Map Revision Based on Fill. Communities that participate in the Community Rating System are required to use an elevation certificate for all official reporting and recordkeeping of elevations.
- J. Encroachments: Activities or construction within the floodway, including fill, new construction, substantial improvements, and other development.
- K. Federal Emergency Management Agency (FEMA): A federal agency, whose primary mission is to reduce the loss of life and property and protect the nation from all hazards, including natural disasters, acts of terrorism, and other manmade disasters, by leading and supporting the nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation. Among other things, FEMA manages and oversees the National Flood Insurance Program.
- L. Flood: A general and temporary condition of partial or complete inundation of normally dry land area from:
1. The overflow of inland or tidal waters; and/or
 2. The unusual and rapid accumulation of runoff of surface waters from any source.
- M. Flood Fringe Area: In areas where base flood elevation data have been provided and floodways have been established, the flood fringe area is the portion of the special flood hazard area that is outside of the floodway.
- N. Flood Hazard Area: The portion of the special flood hazard area where flood elevations are available but the floodway has not been defined.

- O. Flood Insurance Rate Map: The official map on which the Federal Insurance Administration has delineated both the special flood hazard area and the risk premium zones applicable to the community.
- P. Flood Insurance Study: The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Maps, and the water surface elevations of the base flood.
- Q. Flood Profile: A graph, found in the Flood Insurance Study, of computed flood elevations at floodplain cross sections that is typically available for a stream that has base flood elevations shown on the Flood Insurance Rate Map (FIRM). Elevations provided by the flood profiles, used in combination with the cross section lines on the FIRM, are the most accurate means of determining the base flood elevation at a particular site.
- R. Flood Prone Area: The portion of the special flood hazard area that has been determined by approximate methods and, consequently, for which base flood elevation data are not available.
- S. Floodplain: Land area that is adjacent to rivers and streams and is subject to periodic and recurring inundation by floodwaters.
- T. Floodproofing: A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area.
- U. Floodway: The channel of the river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, often referred to as the “regulatory floodway.”
- V. Hydraulic Shadow: The area that is upstream and downstream of an existing structure or other obstruction, where the water is essentially stagnant due to water flowing around the structure or obstruction, as defined on pages 1-3 of the June 2001 *Hydraulic Shadow Computations* document, on file at the County Department of Transportation and Development.
- W. Letter of Map Amendment (LOMA): An official amendment, by letter from the Federal Emergency Management Agency, to an effective National Flood Insurance Program map. A LOMA establishes a property’s location in relation to the special flood hazard area. LOMAs usually are issued because a property has been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation.

- X. Letter of Map Revision (LOMR): The Federal Emergency Management Agency's modification to an effective Flood Insurance Rate Map (FIRM). LOMRs generally are based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. The LOMR officially revises the FIRM, and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR generally is accompanied by an annotated copy of the affected portions of the FIRM or FIS report.
- Y. Letter of Map Revision Based on Fill: The Federal Emergency Management Agency's modification of the special flood hazard area shown on the Flood Insurance Rate Map based on the placement of fill outside the existing regulatory floodway.
- Z. Lowest Construction Elements: The lowest flooring system of a structure that consists of repeated structural members, spaced 24 inches or less on center.
- AA. Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Subsection 703.11(A)(1).
- BB. Manufactured Home: A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
- CC. National Flood Insurance Program (NFIP): A federal program that is administered by the Federal Emergency Management Agency that is designed to reduce the loss of life, damage to property, and rising disaster relief costs, both within and beyond the special flood hazard area. The NFIP makes federally backed flood insurance available to communities that agree to adopt and enforce floodplain management ordinances that meet or exceed NFIP requirements.
- DD. New Construction: Structures for which the start of construction commenced on or after the effective date of this section.
- EE. "No-Rise" Certification: A certification that is provided by a professional engineer or licensed architect that demonstrates through accompanying hydrologic and hydraulic analyses, performed in accordance with standard

engineering practice and National Flood Insurance Program rules and regulations, that an encroachment within the floodway will not result in any increase in the flood levels during the regulatory flood discharge. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map.

- FF. Obstruction: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, or matter in, along, across, or projected into any channel, watercourse, or regulatory flood hazard area that may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where it might be carried downstream by the flow of water resulting in damage to life or property.
- GG. Pre-FIRM Structure: A structure that was built before March 1, 1978, the effective date of the first Flood Insurance Rate Map (FIRM) for the County, and hence, prior to the date when detailed flood hazard data and flood elevations were provided to the County.
- HH. Post-FIRM Structure: A structure that was built on or after March 1, 1978, the effective date of the first Flood Insurance Rate Map (FIRM) for the County.
- II. Recreational Vehicle: A vehicle that is:
1. Built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projection;
 3. Designed to be self-propelled or permanently towable by a light duty truck; and
 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- JJ. Regulatory Flood Protection Elevation: The elevation to which uses regulated by the FMD are required to be elevated or floodproofed.
- KK. Shallow Flooding Area: The portion of the special hazard area with average flood depths of one to three feet that usually exhibit sheet flow on sloping terrain. For areas of alluvial fan flooding, velocities are also determined.
- LL. Special Flood Hazard Area: (SFHA): The land area covered by the floodwaters of the base flood on National Flood Insurance Program (NFIP) maps and, thus, the area determined by detailed or approximate studies to be in a 100-year floodplain. The SFHA is subject to the NFIP's floodplain management regulations and the mandatory purchase of flood insurance. The

SFHA includes the floodway, flood fringe, flood hazard, flood prone, and shallow flooding areas.

- MM. Start of Construction: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the structure.
- NN. Structure: A walled and roofed building, manufactured home, or a gas or liquid storage tank that is principally above ground.
- OO. Substantial Damage: Any damage of any origin sustained by a pre-FIRM structure, or a structure for which the applicable Flood Insurance Rate Map or the Flood Insurance Study has been updated or revised since the date of construction of the structure, whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. The market value of the structure before the damage occurred shall be the structure's Real Market Value that is provided by the County Assessor's office. The cost of restoring a structure shall be determined by the County Building Codes Division, pursuant to Subsection R105.3.1.1 of the 2005 Oregon Residential Specialty Code and through subsequent versions of the applicable, adopted Building Code that address substantially damaged structures within the special flood hazard area.
- PP. Substantial Improvement: Any repair, rehabilitation, reconstruction, or improvement — or series of repairs, rehabilitations, reconstruction, or improvements — of a pre-FIRM structure, or a structure for which the applicable Flood Insurance Rate Map or the Flood Insurance Study has been updated or revised since the date of construction of the structure, the cost of which — or cumulative costs of which at the time of the most recent repair, rehabilitation, reconstruction, or improvement — equals or exceeds 50 percent of the market value of the structure. The market value of the structure shall be determined at the time of the most recent repair, rehabilitation, reconstruction, or improvement, either before the improvement or repair is started, or if the

structure has been damaged and is being restored, before the damage occurred. The market value of the structure shall be the structure's Real Market Value that is provided by the County Assessor's office. The cost of repair, rehabilitation, reconstruction, or improvement of a structure, or series thereof, shall be determined by the County Building Codes Division, pursuant to Subsection R105.3.1.1 of the 2005 Oregon Residential Specialty Code and through subsequent versions of the applicable, adopted Building Code that address substantially improved buildings within the special flood hazard area. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other part of the structure commences, whether or not that alteration affects the external dimensions of the structure. Substantial improvement does not, however, include:

1. Any project to improve a structure to correct existing violations of state or local health, sanitary, or safety code specifications provided such violations have been identified by the local code enforcement official and the project is the minimum necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

QQ. Wet Floodproofing: Permanent or contingent measures that are applied to a structure or its contents that prevent or provide resistance to damage from flooding, while allowing floodwaters to enter the structure or area. Generally, this includes properly anchoring the structure, using flood resistant materials below the base flood elevation and protecting mechanical and utility equipment. Application of wet floodproofing as a flood protection technique under the National Flood Insurance Program is limited to enclosures below elevated residential and non-residential structures and to nonresidential structures that have been issued variances by the County.

703.06 EXEMPT USES

The following uses are exempt from the requirement to obtain a Floodplain Development Permit and from compliance with Subsections 703.10 and 703.11 .

- A. Uses that do not constitute development. Examples of uses that may qualify for this exemption include farming, wild crop harvesting, archery ranges, wildlife and nature preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails, lawns, gardens, and play areas.
- B. Repair, rehabilitation, reconstruction, or improvement of a pre-FIRM structure that is not a substantial improvement and where the structure has not sustained substantial damage. If the structure is located in the floodway, no increase in ground coverage shall result unless:
 1. A "no-rise" certification is provided; or

2. Proof is provided by a professional engineer or licensed architect that the area within which the increase in ground coverage is proposed lies within the hydraulic shadow.
- C. Fish enhancement projects — including stream crossings that are a direct component of such projects — outside of the floodway sponsored or approved by a state or federal agency.

703.07 DEVELOPMENT IN THE FLOODWAY

Development in the floodway is prohibited, except as provided in Subsection 703.06(B), or for the uses listed in this subsection. The following uses are allowed only if permitted in the underlying zoning district and, with the exception of fish enhancement projects, require approval of a Floodplain Development Permit:

- A. Development that requires a waterfront location (e.g., marinas and boat ramps). A “no-rise” certification shall be provided.
- B. Riprap or other structural stream bank protection measures. A “no-rise” certification and the evidence required in Subsection 703.10(J)(2) shall be provided, or the criteria in Subsection 703.10(J)(1) shall be met.
- C. Hydroelectric facilities. A “no-rise” certification shall be provided;
- D. Stream crossings, except those that are a direct component of a fish enhancement project sponsored or approved by a state or federal agency, subject to Subsection 703.10(G);
- E. Replacement, substantial improvement, or repair of substantial damage of a structure that was constructed prior to the establishment of, or revisions to, the floodway, subject to the following:
 1. The development shall comply with Subsection 1206.05 and the applicable provisions of Subsections 703.10 and 703.11.
 2. Foundations shall be designed by a professional engineer or licensed architect, to the satisfaction of the County Building Codes Division, to withstand the mean velocity of floodwaters in the floodway, as they are listed in the Floodway Data tables of the Flood Insurance Study, and to withstand the scouring forces associated with those floodwater velocities.
 3. If an increase in ground coverage is proposed, the applicant shall provide either a “no-rise” certification or proof by a professional engineer or licensed architect that the area within which the increase in ground coverage is proposed lies within the hydraulic shadow.

- F. Fish enhancement projects — including stream crossings that are a direct component of such projects — sponsored or approved by a state or federal agency, subject to the following:
 - 1. The project requires review as a Type I application pursuant to Section 1307.
 - 2. The responsible agency shall provide a feasibility analysis and certification, prepared by a qualified professional, that the project is designed to keep any rise in 100-year flood levels as close to zero as practically possible and that no structures shall be impacted by any potential rise.
 - 3. Routine maintenance of the project shall be required in order to sustain conveyance over time, and a long-term maintenance program shall be included in the analysis and certification.

703.08 DUTIES OF THE PLANNING DIRECTOR

Duties of the Planning Director under this section shall include:

- A. The Planning Director shall review Floodplain Development Permits to determine if the proposed development adversely affects the flood carrying capacity of the special flood hazard area. For purposes of this subsection, "adversely affects" means that the cumulative effect of the proposed development and all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.
- B. Within the special flood hazard area, when more detailed base flood elevation or floodway data is available outside of the adopted Flood Insurance Study (FIS) from a federal, state or other authoritative source — such as preliminary or draft information from a new study that will revise the FIS —the Planning Director may obtain, review, and reasonably utilize such data. When the data pertains to a preliminary or draft FIS in Zone A, the Planning Director is required to reasonably utilize the data, and is allowed discretion in using this data only to the extent that the technical or scientific validity of the data in the draft or preliminary FIS is questioned by a qualified professional.
- C. For all new or substantially improved structures, the Planning Director shall obtain either an elevation certificate or a Federal Emergency Management Agency National Flood Insurance Program Floodproofing Certificate for Non-Residential Structures.
 - 1. In either case, the currently effective form shall be used, and it shall be completed in accordance with the accompanying instructions.

2. The determination regarding which certificate is required shall be made based on the nature of the development consistent with National Flood Insurance Program regulations.
- D. The Planning Director shall maintain for public inspection all records pertaining to the provisions of this section.
- E. The Planning Director shall notify adjacent communities and the State Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

703.09 FLOODPLAIN DEVELOPMENT PERMITS

Except as provided under Subsections 703.06(B) and (C) and 703.07(F), a Floodplain Development Permit (FDP) shall be obtained for development in the FMD. Work that is necessary to protect, repair, maintain, or replace existing structures, utility facilities, roadways, driveways, and stream banks in response to emergencies may be undertaken prior to obtaining an FDP, provided that an FDP is obtained after the emergency has passed. An FDP requires review as a Type II application pursuant to Section 1307.

- A. Submittal Requirements: In addition to the submittal requirements identified in Subsection 1307.07(C), an application for an FDP shall include:
 1. A site plan drawn to scale, showing elevations of the site; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; and location and elevations of streets, water supply, sanitary facilities, and soil types; and other applicable information;
 2. Specifications for building construction and materials, loads and forces, and effect on soil bearing pressures, erosion control, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities;
 3. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
 4. Either an elevation certificate or a Federal Emergency Management Agency National Flood Insurance Program Floodproofing Certificate for Non-Residential Structures.
 - a. In either case, the currently effective form shall be used, and it shall be completed in accordance with the accompanying instructions, and based on construction drawings and proposed site locations of development.

- b. The determination regarding which certificate is required shall be made based on the nature of the proposed development consistent with National Flood Insurance Program regulations.

B. Factors of Consideration: In reviewing an application for an FDP, the following factors shall be considered:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments;
2. The danger that materials may be swept on to other lands or downstream to the injury of others;
3. The proposed water supply and sanitation systems and the ability of those systems to prevent disease, contamination, and unsanitary conditions;
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
5. The importance to the community of the service provided by the proposed facility;
6. The requirements of the facility for a waterfront location;
7. The availability of alternative locations not subject to flooding for the proposed use;
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
9. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area;
10. The safety of access to property in times of flood for ordinary and emergency vehicles;
11. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
12. Other factors that are relevant to the purpose of this section.

C. Approval Criteria: An FDP shall be subject to the following standards and criteria:

1. All necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
2. If the proposed development is in the floodway, the standards of Subsection 703.07 have been met.

3. If the proposed development includes alteration of a watercourse, maintenance will be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 4. The proposed development will comply with the applicable provisions of Subsections 703.10 and 703.11.
- D. Conditions of Approval: The County may attach conditions of approval to an FDP if such conditions are deemed necessary to further the purpose of this section. Such conditions may include, but are not limited to:
1. Limitations on periods of use and operation;
 2. Imposition of operation controls, sureties, and deed restrictions; and
 3. Floodproofing and other protective measures, such as:
 - a. Installation of watertight doors, bulkheads, and shutters;
 - b. Reinforcement of walls to resist water pressure;
 - c. Use of paints, membranes, or mortars to reduce seepage of water through walls;
 - d. Addition of mass or weight to structures to resist flotation;
 - e. Installation of pumps to lower water levels in structures;
 - f. Construction of water supply and waste treatment systems to prevent the entrance of floodwaters;
 - g. Pumping facilities for subsurface external foundation wall and basement floor pressures;
 - h. Construction to resist rupture or collapse caused by water pressure or floating debris;
 - i. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
 - j. Requirements for construction of channel modifications, dikes, levees, and other protective measures.
- E. Finalization of an FDP: If a preliminary elevation certificate or floodproofing certificate was required for a structure, a building permit for that structure shall not receive a final approval or certificate of occupancy until the County approves a final elevation certificate or floodproofing certificate that is based on the as-built/finished construction.

- F. Approval Period: Approval of an FDP is valid for four years from the date of the final written decision. If the County’s final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.
1. “Implemented” means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved FDP, “implemented” means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained.
 - a. A “major development permit” is:
 - i. A building or manufactured dwelling placement permit for a new primary structure that was part of the FDP approval; or
 - ii. A permit issued by the County Engineering Division for parking lot or road improvements that were part of the FDP approval.
- G. Time Extension: If the approval of an FDP is not implemented within the initial approval period established by Subsection 703.09(F), a two-year time extension may be approved pursuant to Section 1310.

703.10 GENERAL STANDARDS

Development in the FMD shall comply with the following standards:

- A. Anchoring:
1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- B. Construction Materials and Methods, and Utilities:
1. The following standards shall apply to below-grade crawl spaces. For more detailed information, refer to FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*. For flood insurance purposes, there is an additional charge that is added to the basic flood insurance policy premium for structures that are built on below-grade crawl spaces.
 - a. The building shall be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the openings required by Subsection

703.10(B)(1)(b). Because of hydrodynamic loads, crawl-space construction is prohibited in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a professional engineer or licensed architect. Other types of foundations are recommended for these areas.

- b. The crawl space shall have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening shall be no more than one foot above the lowest adjacent exterior grade.
- c. Portions of the building below the base flood elevation (BFE) shall be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawl space used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
- d. Any building utility systems within the crawl space shall be elevated above the BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, shall either be placed above the BFE or sealed from floodwaters.
- e. The interior grade of a crawl space below the BFE shall not be more than two feet below the lowest adjacent exterior grade.
- f. The height of the below-grade crawl space, measured from the interior grade of the crawl space to the top of the crawl space foundation wall shall not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.
- g. There shall be an adequate drainage system that removes floodwaters from the interior area of the crawl space. The enclosed area shall be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity or mechanical means.
- h. The velocity of floodwaters at the site should not exceed five feet per second for any crawl space. For velocities in excess of five feet per second, other foundation types should be used.

2. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage, and using methods and practices that minimize flood damage. For more detailed information, refer to November 1999 FEMA Publication 348, *Protecting Building Utilities from Flood Damage*; and FEMA Technical Bulletin 2-93, *Flood-Resistant Materials Requirements*.
 3. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
 4. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters.
 5. All equipment, machinery, appliances, and electrical boxes that pertain to electrical, ventilation, plumbing, and heating and air-conditioning systems and services, as well as outside fuel storage tanks, outside air-conditioning units, and other interior or exterior service facilities, systems, equipment, machinery, and appliances shall be designed, elevated, floodproofed, and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Floodproofed facilities, systems, equipment, machinery, and appliances — except for waterproofed wires and cables, as well as waterproofed and sealed plumbing pipes and other plumbing services — shall be certified as such by a preliminary and final floodproofing certificate. Non-floodproofed facilities, systems, equipment, machinery, and appliances shall be elevated at least two feet above the BFE, except that duct systems may be elevated at least one foot above the BFE.
 6. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 7. A professional engineer or licensed architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the County.
- C. Substantial Improvement and Substantial Damage: A structure for which a substantial improvement or repair of substantial damage is proposed shall be elevated, retrofitted, upgraded, etc., such that the structure and all of its interior and exterior service facilities, systems, equipment, machinery and appliances shall be brought into compliance with the applicable standards of this section.

D. Manufactured Homes:

1. Manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor is elevated at least two feet above the BFE, or the lowest construction elements are elevated at least 18 inches above the BFE, whichever results in the higher elevation of the lowest floor.
2. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
3. Manufactured homes shall be placed pursuant to Section 824, utilizing the applicable designs and guidelines, as approved by the Building Codes Division, of the September 1985 FEMA Publication, *Manufactured Home Installation in Flood Hazard Areas*, or any more recent or replacement publication thereof.

E. Recreational Vehicles: Recreational vehicles shall be:

1. Located on the site for fewer than 180 consecutive days;
2. Fully licensed and ready for highway use;
3. Supported on wheels or a jacking system;
4. Attached to services on the site only by quick-disconnect type utilities and security devices; and
5. Void of any permanently attached additions.

F. Fill:

1. Any fill or other materials — except those proposed within the interior of, and inside the walls of, a crawl space, foundation, basement or enclosure floor — shall be shown to have a beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the applicant, showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.
2. Fill or other materials shall be protected against erosion by riprap, vegetative cover, or bulkheading.
3. Structures may be allowed to be constructed on fill and thereby elevated above the BFE, subject to the following standards:

- a. The fill shall be placed such that the lowest adjacent finished grade of the fill to the foundation of the structure is at least two feet above the BFE.
 - b. The lowest portion of the lowest structural support system of the building (i.e., the bottom of slab, bottom of footings, or bottom of any other lowest on-grade or sub-grade supporting member) shall be located at least one foot above the BFE.
 - c. Placement of the fill shall require approval of a grading permit.
 - d. The structure shall be constructed pursuant to the applicable standards of FEMA Technical Bulletin 10-01, *Ensuring That Structures Built on Fill in or near Special Flood Hazard Areas Are Reasonably Safe from Flooding*.
4. All fill placed at or below the BFE shall be balanced with at least an equal amount of material removal either on-site, or from a nearby area at or below the BFE and in the same drainage basin. In addition, the following standards shall apply:
- a. Excavation below the level of the seasonal groundwater table shall not be used in balancing fill volumes against excavation volumes;
 - b. The mean annual groundwater level shall be determined by soil morphology, or other available data on groundwater conditions;
 - c. Balancing of a fill shall occur at the same time as the fill is placed on the development site;
 - d. The site plan required in Subsection 703.09(A)(1) shall identify the area where material is removed from the floodplain to balance fill volumes, including pertinent elevations and volume of fill removed;
 - e. A professional engineer or licensed architect shall certify that the amount of material removed balances the amount of fill material;
 - f. A suitable recorded easement or similar legally binding mechanism, in a form acceptable to County Counsel shall be provided to the Planning Director, indicating that future development of the delineated area where material is removed to balance fill volumes is prohibited, and the delineated area cannot be used in the future as balancing for a fill; and
 - g. When the balancing occurs off-site, the application shall also include:
 - i. Authorization from the owner of the property where the balancing will occur; and

- ii. A legal description of the parcel where the balancing will occur.
- 5. The following uses or activities are not subject to the provisions of Subsection 703.10(F)(4):
 - a. Removal and/or fill necessary to plant new trees or vegetation;
 - b. Removal and/or fill required for the construction of storm-water runoff detention facilities and/or structures; and
 - c. Removal and/or fill required for the construction of other facilities such as levees designed specifically to reduce or mitigate flood impacts.
- G. Stream Crossings, Including Bridges and Culverts, and Transportation Projects:
 - 1. Stream crossings and transportation projects shall be designed as balanced removal and fill projects, or designed to not raise the BFE.
 - 2. Stream crossings and transportation projects that encroach into the floodway shall obtain a “no-rise” certification, or, if the “no-rise” condition cannot be achieved, shall obtain a Conditional Letter of Map Revision, prior to permitting the work, followed by a Letter of Map Revision after the work has been completed.
 - 3. Stream crossings and transportation projects shall be designed to minimize the area of fill in the special flood hazard area (SFHA) and to minimize erosive water velocities.
 - 4. Stream crossings shall be as close to perpendicular to the stream as practicable.
 - 5. Stream crossings shall be designed to allow fish passage.
 - 6. Stream crossings and transportation projects are subject to review and approval pursuant to applicable federal and state statutes and administrative rules.
- H. Subdivisions:
 - 1. Subdivisions shall be consistent with the need to minimize flood damage.
 - 2. Subdivisions shall have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize flood damage.

3. Subdivisions shall have adequate drainage provided to reduce exposure to flood damage.
4. The applicant shall provide base flood elevations for the area of development. Where base flood elevation data have not been provided or are not available from another authorized source, the data shall be generated for subdivisions that contain at least 50 lots or five acres.

I. Toxic or Hazardous Materials:

1. The storage or use of toxic or hazardous materials in conjunction with nonresidential uses is prohibited, except as permitted in Subsection 703.10(I)(2).
2. Storage or use of toxic or hazardous materials may be permitted if the applicant demonstrates the following:
 - a. The proposed development requires toxic or hazardous materials for operation.
 - b. An area outside the SFHA is not available to be used for storage or use of toxic or hazardous materials.
 - c. The containers, structures, facilities and machinery that contain, use or process the toxic or hazardous materials shall be elevated:
 - i. A minimum of two feet above the BFE in flood fringe and flood hazard areas;
 - ii. A level to be determined pursuant to Subsection 703.11(C)(1) in flood prone areas; or
 - iii. The depth number specified on the Flood Insurance Rate Map — or a minimum of two feet above the highest adjacent grade if no depth number is specified — in shallow flooding areas.
 - d. The structures that support the containers, structures, facilities, and machinery that contain, use or process the toxic or hazardous materials shall comply with Subsections 703.10(A) and 703.10(B)(2) and (7).

J. Riprap or Other Structural Stream Bank Protection Measures:

1. If riprap or other structural stream bank protection measures are proposed to repair bank damage, bank removal or bank erosion, the following criteria shall be met. For the purpose of this subsection, “pre-existing conditions” are the conditions of the repair area upon which the FIRM(s), Flood Boundary and Floodway Map(s), and FIS(s) were based that were in effect during the period that the bank was damaged, removed and / or eroded, leading up to the proposed repair.
 - a. The measures shall not encroach any further into the stream channel than the pre-existing conditions.
 - b. The measures shall not add any more cubic yards of bank material than was in place in the pre-existing conditions.
 - c. The measures shall not exceed the height of the bank nor protrude above the topography that was in place in the pre-existing conditions.
 - d. The pre-existing conditions shall be demonstrated through some combination of historical and aerial photography, survey and cross-section information, maps or plans, hydrologic and hydraulic modeling, or any other pertinent information.
 - e. The applicant shall provide evidence from a professional engineer, with expertise in hydrology, hydraulics, fluvial geomorphology, or hydrogeology, that the proposal complies with Subsections 703.10(J)(1)(a) through (d) and that the proposed stream bank protection measures will cause no adverse impacts to upstream or downstream properties, when compared to impacts of the pre-existing conditions.
2. If riprap or other structural stream bank protection measures are proposed for reasons other than to repair bank damage, bank removal or bank erosion, or if the repair exceeds the standards of Subsection 703.10(J)(1), the applicant shall provide evidence from a professional engineer, with expertise in hydrology, hydraulics, fluvial geomorphology, or hydrogeology, that the proposed stream bank protection measures will cause no adverse impacts to upstream or downstream properties.

703.11 SPECIFIC STANDARDS

- A. Flood Fringe and Floodway Areas: In flood fringe and floodway areas, as indicated on the Flood Insurance Rate Map (FIRM) or determined pursuant to Subsection 703.08(B), development shall comply with the following criteria:

1. Residential Construction: New construction and substantial improvement of a dwelling shall have the lowest floor, including basement, elevated at least two feet above the base flood elevation (BFE) — or the lowest construction elements elevated at least one foot above the BFE, whichever results in the higher elevation of the lowest floor — except that new or substantially improved manufactured homes shall have the lowest floor, including basement, elevated at least two feet above the BFE, or the lowest construction elements elevated at least 18 inches above the BFE, whichever results in the higher elevation of the lowest floor. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by a professional engineer or licensed architect or shall meet or exceed the following minimum criteria. For more detailed information, refer to FEMA Technical Bulletin 1-93, *Openings in Foundation Walls*.
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided, unless the applicant provides documentation from a professional engineer or licensed architect that a flood vent manufacturer's product can provide less than one square inch of opening for every square foot of enclosed area and still meet National Flood Insurance Program standards.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
2. Nonresidential Construction: New construction and substantial improvement of a nonresidential structure shall either comply with Subsection 703.11(A)(1), or, together with attendant utility and sanitary facilities, shall comply with the following criteria. For more detailed information, refer to FEMA Technical Bulletin 3-93, *Non-Residential Floodproofing — Requirements & Certification*.
 - a. The structure shall be floodproofed, so that below the point one foot above the BFE, the structure is watertight, with walls substantially impermeable to the passage of water. Applicants floodproofing nonresidential structures shall be notified in writing that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to one foot above the BFE will be rated as being floodproofed to the BFE).

- b. The structure shall have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c. A professional engineer or licensed architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the County.
- B. Flood Hazard Areas: In flood hazard areas, as indicated on the FIRM or determined pursuant to Subsection 703.08(B), development shall comply with Subsection 703.11(A) and the following criteria:
- 1. The cumulative effect of the proposed development and all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
 - 2. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow.
 - 3. So far as practical, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- C. Flood Prone Areas: In flood prone areas, development shall comply with the following criteria:
- 1. Proposed construction shall be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, post-flood improvements to the waterway, etc., where available. Failure to elevate the lowest floor to at least two feet above the highest grade may result in higher insurance rates.
 - 2. Proposed residential construction shall comply with Subsections 703.11(A)(1)(a) through (c). Proposed nonresidential construction, together with attendant utility and sanitary facilities, shall comply with Subsections 703.11(A)(2)(a) through (c). However, the level to which the structure must be elevated or floodproofed shall be determined pursuant to Subsection 703.11(C)(1).
 - 3. Proposed construction shall comply with Subsections 703.11(B)(2) and (3).
- D. Shallow Flooding Areas: In shallow flooding areas development shall comply with the following criteria:

1. New construction and substantial improvement of a dwelling shall comply with Subsections 703.11(A)(1)(a) through (c) and shall have the lowest floor, including basement, elevated above the highest adjacent grade of the building site to a minimum of two feet above the depth number specified on the FIRM, or shall have the lowest construction elements elevated to a minimum of one foot above the depth number specified on the FIRM, whichever results in the higher elevation of the lowest floor. If no depth number is specified, the lowest floor, or the lowest construction elements, whichever results in the higher elevation of the lowest floor, shall be elevated at least two feet above the highest adjacent grade of the building site.
2. New construction and substantial improvement of a nonresidential structure shall either comply with Subsection 703.11(D)(1), or, together with attendant utility and sanitary facilities, shall comply with Subsection 703.11(A)(2)(a) through (c), except that the structure shall be floodproofed to the elevation identified in Subsection 703.11(D)(1).
3. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

703.12 EXCEPTION

- A. Approval Criteria: Certain non-residential structures — such as detached garages and storage sheds solely used for parking and limited storage that are no greater than 400 square feet in area, pole barns used for storage of farm machinery and equipment, small garden sheds, and structures used in conjunction with agricultural activities — may be granted an exception from the elevation and floodproofing standards of Subsection 703.11, subject to the following criteria. (For more detailed information, refer to FEMA Technical Bulletin 7-93, *Wet Floodproofing Requirements*.)
 1. The exception is reviewed pursuant to Subsection 703.13, and compliance with the approval criteria of Subsection 703.13(A) is demonstrated.
 2. The structure will be wet floodproofed.
 3. The structure will not cause significant flood risk.
 4. The structure will not be used for human habitation, and will be utilized primarily for storage or parking.
 5. The structure will be designed to have low flood damage potential.
 6. The structure will be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.

7. The structure will be constructed with flood-resistant materials that meet the requirements of the County Building Codes Division, up to:
 - a. A minimum of one foot above the BFE in flood fringe and flood hazard areas;
 - b. A level to be determined pursuant to Subsection 703.11(C)(1) in flood prone areas; or
 - c. The depth number specified on the Flood Insurance Rate Map — or a minimum of two feet above the highest adjacent grade if no depth number is specified — in shallow flooding areas.
 8. If the structure will be located in the floodway, the structure will comply with Subsection 703.07.
- B. Insurance Consequences: If an exception is granted for a structure that is accessory to a dwelling and the structure will exceed a value greater than 10 percent of the value of the dwelling, the applicant shall be given written notice that substantial increases in insurance rates may result.

703.13 VARIANCES

- A. Approval Criteria: In conjunction with review of a Floodplain Development Permit, a variance from the requirements of this section may be approved subject to the following standards and criteria:
1. The request is consistent with Subsection 703.09(B).
 2. There is good and sufficient cause for the variance.
 3. Compliance with the requirements for which the variance is requested would cause an exceptional hardship to the applicant.
 4. Approval of the variance would not result in increased flood levels, additional threats to public safety, extraordinary public expense, or a nuisance condition.
 5. The variance requested is the minimum necessary, considering the flood hazard, to provide relief.
 6. If the proposal is to repair or rehabilitate a historic structure that is listed on the National Register of Historic Places or a State Inventory of Historic Places, the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.

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- B. Insurance Consequences: If a variance is granted that allows the lowest floor of a structure to be built below the regulatory flood protection elevation, the applicant shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

[Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-248, 10/13/14]

APPENDIX G

Clackamas County Zoning Code Section 1307, Procedures

1307 PROCEDURES

1307.01 PURPOSE

Section 1307 is adopted to:

- A. Implement the goals and policies of the Comprehensive Plan for citizen involvement and the planning process;
- B. Establish uniform procedures for the review of land use applications and legislative land use proposals;
- C. Facilitate timely review of land use applications by the County;
- D. Clarify the land use application review process for applicants; and
- E. Enable the public to effectively participate in the County's land use permit decision-making process.

1307.02 APPLICABILITY

Section 1307 applies to all land use permit applications and all legislative land use proposals under this Ordinance.

- A. No person shall engage in or cause development to occur without first obtaining the necessary land use permit approvals required by, and according to the procedures in, Section 1307.
- B. Where the provisions of Section 1307 conflict with other provisions of this Ordinance, the more specific provisions shall control.

1307.03 REVIEW AUTHORITIES

- A. Review Authorities, Generally: Review authorities are those who are designated to make recommendations or decisions regarding land use permit applications and legislative land use proposals. Table 1307-1 lists the land use permits and legislative land use proposals that are provided for by this Ordinance and establishes:
 - 1. The review authority charged with making the initial decision;
 - 2. The review authority charged with making the decision on the initial County-level appeal, if any;
 - 3. The review authority charged with making the decision on the second County-level appeal, if any; and

4. Those circumstances where an additional review authority is charged with making a recommendation on the application or proposal to the decision maker.
- B. Planning Director: Pursuant to Oregon Revised Statutes 215.042, the Planning Director is the County official designated to administer land use planning in the County. In this role, the Planning Director administers the Comprehensive Plan and this Ordinance, issues decisions on certain land use permit applications, and provides administrative support to other review authorities. As used in this Ordinance, the term Planning Director includes any County staff member authorized by the Planning Director to fulfill the responsibilities assigned to the Planning Director by this Ordinance.
- C. Hearings Officer: Pursuant to ORS 215.406, the Hearings Officer is appointed by the Board of County Commissioners to conduct public hearings and issue decisions on certain land use permit applications.
- D. Historic Review Board: The Historic Review Board is designated as an advisory body on matters pertaining to the Historic Landmark, Historic District, and Historic Corridor overlay zoning district and has the powers and duties described in Sections 707 and 1307.
1. The Historic Review Board shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.
 2. Historic Review Board members shall have demonstrated an interest in historic preservation and have experience or special expertise or knowledge in the field of historic preservation. Three positions on the Historic Review Board shall be filled as follows:
 - a. One architect, with knowledge in historic restoration;
 - b. One contractor, with expertise in construction techniques applied to historic structures; and
 - c. One representative from a historic group in the County.
 3. Unless otherwise provided for, members of the Historic Review Board shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
 4. If a member of the Historic Review Board does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.

5. A member whose term has ended may continue to serve on the Historic Review Board until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(D)(3).
 6. The Historic Review Board shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.
 7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.
- E. Design Review Committee: The Design Review Committee is designated as an advisory body on matters pertaining to the design review process and has the powers and duties described in Sections 1102 and 1307.
1. The Design Review Committee shall be composed of seven members, appointed by and serving at the pleasure of the Board of County Commissioners.
 2. Five positions on the Design Review Committee shall be filled as follows:
 - a. One landscape architect;
 - b. One architect;
 - c. One registered engineer;
 - d. One graphic design representative; and
 - e. One representative from the field of finance or the construction and development industry.
 3. Unless otherwise provided for, members of the Design Review Committee shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
 4. If a member of the Design Review Committee does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.
 5. A member whose term has ended may continue to serve on the Design Review Committee until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(E)(3).

6. The Design Review Committee shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.
 7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.
- F. Planning Commission: The Planning Commission is designated as the land use planning advisory body to the Board of County Commissioners and acts as the decision maker on an initial appeal of the Planning Director's interpretation of the Comprehensive Plan. The Planning Commission shall have the powers and duties described in Section 1307 and such other powers and duties as may be imposed on it by County, state, or federal law.
1. The Planning Commission shall be composed of nine members, designated in positions labeled 1 through 9, appointed by and serving at the pleasure of the Board of County Commissioners.
 2. Members of the Planning Commission shall be residents of the various geographic areas of the County. No more than two voting members shall be engaged principally in the buying, selling, or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling, or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of occupation, business, trade, or profession.
 3. Unless otherwise provided for, members of the Planning Commission shall serve four-year terms, beginning on May 1st of the year in which they are appointed. Terms may be renewed by the Board of County Commissioners.
 4. If a member of the Planning Commission does not complete his or her term, the Board of County Commissioners shall appoint a replacement to serve the remainder of that term.
 5. A member whose term has ended may continue to serve on the Planning Commission until the Board of County Commissioners renews that term or appoints a new member. The new term shall be considered to have begun on the date it would have under Subsection 1307.03(F)(3).
 6. The Planning Commission shall adopt bylaws governing its proceedings and appoint a chair and vice chair to manage those proceedings according to those bylaws, and County, state, and federal law.

7. In the event of a conflict between the bylaws and any provision of this Ordinance, this Ordinance shall govern. In the event of a conflict between the bylaws and a non-mandatory provision of state law, the bylaws shall govern.

G. Board of County Commissioners: The Board of County Commissioners is the governing body of the County and is the final County decision maker on legislative land use proposals and certain land use permit applications.

1307.04 REVIEW PROCEDURE TYPES

- A. Land use permits and legislative land use proposals provided for under this Ordinance are classified as one of four types, each of which is subject to a corresponding review procedure. The four types are described as follows:
 1. Type I permits are ministerial in nature and involve land use actions governed by non-discretionary standards and clear and objective approval criteria. Approval of a Type I permit may require imposition of conditions of approval to ensure compliance with this Ordinance. The Type I procedure is an administrative review process, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.
 2. Type II permits are administrative in nature and involve land use actions governed by standards and approval criteria that generally require the exercise of limited discretion. Impacts associated with the land use action may require imposition of conditions of approval to minimize those impacts and to ensure compliance with this Ordinance. The Type II procedure is an administrative review process, where the review authority reviews the application for conformance with the applicable standards and approval criteria and issues a decision.
 3. Type III permits are quasi-judicial in nature, and involve land use actions governed by standards and approval criteria that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with this Ordinance and the Comprehensive Plan. The Type III procedure is a quasi-judicial review process where the review authority receives testimony, reviews the application for conformance with the applicable standards and approval criteria, and issues a decision.
 4. Type IV proposals are legislative in nature, and involve the creation, broad-scale implementation, or revision of public policy. These include amendments to the text of the Comprehensive Plan or this Ordinance. Large-scale changes in the Comprehensive Plan Land Use Plan maps and zoning maps also may be characterized as legislative where a larger number of property owners are directly affected.

B. Table 1307-1 lists the land use permits and legislative land use proposals that are provided for by this Ordinance and assigns a procedure type to each. In the event that the procedure type for a land use permit application is not identified in Table 1307-1, specified elsewhere in this Ordinance, or otherwise required by law, the Planning Director shall determine the applicable procedure based on the guidelines in Subsection 1307.04(A). Questions as to the appropriate procedure shall be resolved in favor of the procedure type providing the greatest notice and opportunity to participate by the public.

1. As used in Table 1307-1:
 - a. “PD” means Planning Director.
 - b. “HO” means Hearings Officer.
 - c. “BCC” means Board of County Commissioners
 - d. Numbers in superscript correspond to the notes that follow Table 1307-1.

Table 1307-1: Land Use Permits by Procedure Type

Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
AG/F District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 401.09(A)]	I	No	PD	No County-Level Appeal
AG/F District, Lot of Record Dwelling on High Value Farmland [pursuant to Subsection 401.05(C)(4)]	III	No	HO	No County-Level Appeal
AG/F District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 407-1	II	No	PD	HO
Comprehensive Plan Map Amendment ¹	III or IV	Type III Only	BCC	No County-Level Appeal

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Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Comprehensive Plan Text Amendment	IV	No	BCC	No County-Level Appeal
Conditional Use	III	Yes	HO	No County-Level Appeal
Condominium Plat ²	I	No	PD	No County-Level Appeal
Conversion of a Manufactured Dwelling Park or a Mobile Home Park to a Subdivision	I	No	PD	No County-Level Appeal
Design Review ³	II	Yes	PD	HO
Design Review of a Master Plan in the PMU District	III	Yes	HO	No County-Level Appeal
EFU District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 401.09(A)]	I	No	PD	No County-Level Appeal
EFU District, Lot of Record Dwelling on High Value Farmland [pursuant to Subsection 401.05(C)(4)]	III	No	HO	No County-Level Appeal
EFU District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 401-1	II	No	PD	HO
Farmers' Market	II	No	PD	HO
Floodplain Development	II	No	PD	HO

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Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Floodway, Fish Enhancement Project [pursuant to Subsection 703.07(F)]	I	No	PD	No County-Level Appeal
Habitat Conservation Area District	See Subsection 706.06	No	See Subsection 706.06	See Subsection 706.06
Historic Landmark, Historic District, and Historic Corridor, Maintenance	I	No	PD	No County-Level Appeal
Historic Landmark, Historic District, and Historic Corridor, Major Alteration ⁴	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, Minor Alteration	II	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, Moving or Demolition ⁴	II ³	Yes	PD	HO
Historic Landmark, Historic District, and Historic Corridor, New Construction ⁴	II ³	Yes	PD	HO
Home Occupation, Major, New, with an Exception	III	Yes	HO	No County-Level Appeal
Home Occupation, Major, New, without an Exception	II	No	PD	HO
Home Occupation, Major, Renewal, with a New Exception	III	Yes	HO	No County-Level Appeal

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Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Home Occupation, Major, Renewal, without a New Exception	II	No	PD	HO
Interpretation, Comprehensive Plan ⁵	II	No	PD	PC
Interpretation, Zoning and Development Ordinance ⁶	II	No	PD	HO
Marijuana Processing in the AG/F and EFU Districts	II	No	PD	HO
Marijuana Production, if regulated by Section 841, <i>Marijuana Production, Processing, and Retailing</i>	I	No	PD	No County-Level Appeal
Marijuana Retailing	I	No	PD	No County-Level Appeal
Mineral and Aggregate Overlay District, Extraction Area Permit	I	No	PD	No County-Level Appeal
Mineral and Aggregate Overlay District, Impact Area Permit	I	No	PD	No County-Level Appeal
Mobile Vending Unit, Level Two	I	No	PD	No County-Level Appeal
Mobile Vending Unit, Level Three	II	Yes	PD	HO
Modification	II	No	PD	HO

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Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Nonconforming Use, Alteration not Required by Law	II	No	PD	HO
Nonconforming Use, Verification	II	No	PD	HO
Open Space, Conflict Resolution for Wetlands and Significant Natural Areas	II	No	PD	HO
Open Space Review	II	No	PD	HO
Partition	II	Yes	PD	HO
Principal River Conservation Area	II	No	PD	HO
Private Use Airport and Safety Overlay Zone, Expansion of Existing Use [pursuant to Subsection 712.05(B)]	II	No	PD	HO
Private Use Airport and Safety Overlay Zone, New Use [pursuant to Subsection 712.06]	III	No	HO	No County-Level Appeal
Public Use Airport and Safety Overlay Zones, Use Permitted Subject to Review [pursuant to Subsection 713.05]	III	No	HO	No County-Level Appeal
Property Line Adjustment [except pursuant to Subsection 1107.04(B)(2)(b), 1107.04(B)(2)(c), or 1107.04(C)(3)]	I	No	PD	No County-Level Appeal
Property Line Adjustment [pursuant to Subsection 1107.04(B)(2)(b), 1107.04(B)(2)(c), or 1107.04(C)(3)]	II	No	PD	HO
Replat (number of lots or parcels proposed to increase)	II	Yes	PD	HO

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Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Replat (number of lots or parcels proposed to decrease or remain the same)	I	No	PD	No County-Level Appeal
Sensitive Bird Habitat District, Alteration or Development	II	No	PD	HO
Sign Permit	I	No	PD	No County-Level Appeal
Slopes, Development [pursuant to Subsection 1002.02(A)]	I	No	PD	No County-Level Appeal
Slopes, Development [pursuant to Subsection 1002.02(B)]	II	No	PD	HO
Stream Conservation Area	II	No	PD	HO
Subdivision, Major	III	Yes	HO	No County-Level Appeal
Subdivision, Minor	II	Yes	PD	HO
TBR District, Land Division, 80-acre Minimum Lot Size [pursuant to Subsection 406.09(A)]	I	No	PD	No County-Level Appeal
TBR District, Permits not Otherwise Listed in Table 1307-1 but Identified as Type II in Table 406-1	II	No	PD	HO
Temporary Dwelling for Care	II	No	PD	HO

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Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Temporary Dwelling while Building	I	No	PD	No County-Level Appeal
Temporary Structure for Emergency Shelter	I	No	PD	No County-Level Appeal
Temporary Use Otherwise Prohibited	II	No	PD	HO
Time Extension	II	No	PD	HO
Variance	II	No	PD	HO
Vested Right Determination	II	No	PD	HO
Water Quality Resource Area District	See Subsection 709.06	No	See Subsection 709.06	See Subsection 709.06
Willamette River Greenway	II	No	PD	HO
Willamette River Greenway, Timber Harvest [pursuant to Subsection 705.03(I)]	II	No	PD	HO
Wireless Telecommunication Facility [pursuant to Subsection 835.04]	I	No	PD	No County-Level Appeal
Wireless Telecommunication Facility, with an Adjustment [pursuant to Subsection 835.05]	III	No	HO	No County-Level Appeal

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Land Use Permit	Procedure Type	Pre-Application Conference Required	Initial Decision Review Authority	Appeal Review Authority
Wireless Telecommunication Facility, without an Adjustment [pursuant to Subsection 835.05]	II	No	PD	HO
Zone Change ⁷	III or IV	Type III Only	HO, Type III BCC, Type IV	No County-Level Appeal
Zoning and Development Ordinance Text Amendment	IV	No	BCC	No County-Level Appeal

Notes to Table 1307-1:

- ¹ The Type III procedure shall be modified to include Planning Commission public hearing and recommendation to the Board of County Commissioners prior to the initial Board of County Commissioners public hearing. In the case of a Comprehensive Plan amendment related to the designation of a Historic Landmark, Historic District, or Historic Corridor, both the Type III and Type IV procedures shall be modified to replace the Planning Commission public hearing and recommendation to the Board of County Commissioners with Historic Review Board review and recommendation to the Board of County Commissioners.
- ² If condominium platting is proposed as part of a design review application, a separate condominium plat application is not required.
- ³ The Type II procedure may be modified, pursuant to Subsection 1102.02(B) or (C), to include Design Review Committee review and recommendation to the Planning Director prior to issuance of the Planning Director’s decision.
- ⁴ The Type II procedure shall be modified to include Historic Review Board review and recommendation to the Planning Director prior to issuance of the Planning Director’s decision.

- 5 The Type II procedure shall be modified to allow the Planning Commission's decision on initial appeal to be further appealed to the Board of County Commissioners, pursuant to Subsection 1307.13(E)(1).
 - 6 The Type II procedure shall be modified to allow the Hearings Officer's decision on initial appeal to be further appealed to the Board of County Commissioners, pursuant to Subsection 1307.13(E)(2).
 - 7 In the case of a zone change related to the Historic Landmark, Historic District, and Historic Corridor overlay zoning district, the Type III procedure shall be modified to designate the Board of County Commissioners as the initial decision review authority and to include Historic Review Board review and recommendation to the Board of County Commissioners prior to the initial Board of County Commissioners public hearing, and the Type IV procedure shall be modified to replace the Planning Commission public hearing and recommendation to the Board of County Commissioners with Historic Review Board review and recommendation to the Board of County Commissioners.
- C. Notwithstanding any other provision in Section 1307, except for an application for an interpretation of the Comprehensive Plan, an applicant may choose to process a Type II land use permit application using the Type III procedure, and the Hearings Officer shall be the review authority for the initial decision. The decision of the Hearings Officer shall be the final decision of the County, except for an application for an interpretation of this Ordinance, in which case appeal to the Board of County Commissioners is allowed pursuant to Subsection 1307.13(E)(2).

1307.05 PRE-APPLICATION CONFERENCE

- A. Purpose: Pre-application conferences are intended to familiarize applicants with the requirements of this Ordinance; to provide applicants with an opportunity to meet with County staff to discuss proposed projects in detail; and to identify standards, approval criteria, and procedures prior to filing a land use permit application. The pre-application conference is intended to be a tool to orient applicants and assist them in navigating the land use review process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the County from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.
- B. Applicability: Table 1307-1 identifies the land use permit applications for which pre-application conferences are mandatory. Pre-application conferences are voluntary for all other land use permit applications.
- C. Submittal Requirements: Pre-application conference requests shall include:
 1. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:

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- a. The names, mailing addresses, and telephone numbers of the applicant(s);
 - b. The address of the subject property, if any, and its assessor's map and tax lot number;
 - c. The size of the subject property;
 - d. The Comprehensive Plan designation and zoning district of the subject property;
 - e. The type of application for which the pre-application conference is requested;
 - f. A brief description of the proposal for which the pre-application conference is requested; and
 - g. Signature(s) of the applicant(s), authorizing the filing of the pre-application request.
2. Additional information necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow County staff to review and comment; and
 3. Payment of the applicable fee, pursuant to Subsection 1307.15.
- D. Scheduling: Upon receipt of a complete application, the Planning Director will schedule the pre-application conference. The Planning Director will coordinate the involvement of other County departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.
- E. Summary: Subsequent to the pre-application conference, the Planning Director will provide the applicant with a written summary of the conference. The purpose of the written summary is to provide a preliminary assessment of the proposal, but shall not be deemed to be a recommendation by the County or any other outside agency or service provider on the merits of the proposal.
- F. Validity Period for Mandatory Pre-Application Conferences; Follow-Up Conferences: A follow-up pre-application conference is required for those mandatory pre-application conferences that have already been held when:
1. A complete application relating to the proposed development has not been submitted within one year of the pre-application conference; or
 2. The proposed use, layout, or design of the proposed development has changed significantly.

1307.06 REVIEW OF MULTIPLE APPLICATIONS

When multiple land use permits for the same property are required or proposed by an applicant, all of the applications may be filed concurrently. Each application shall be processed separately using the procedure identified in Table 1307-1 for that application, except that applications filed concurrently shall be processed through a consolidated procedure if:

- A. One of the applications is a Type III application for a Comprehensive Plan map amendment, in which case the Type III Comprehensive Plan map amendment procedure shall be used;
- B. Multiple land use permit applications are subject to the same procedure type with the same initial decision and appeal review authorities. Applications for an interpretation of this Ordinance are excluded from this consolidation provision; or
- C. The applicant elects to process multiple applications through a consolidated procedure, if such consolidation is consistent with Subsection 1307.04(C).

1307.07 APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

- A. Initiation of Applications: Type I, II, and III land use permit applications may be initiated by:
 - 1. The owner of the subject property;
 - 2. The contract purchaser of the subject property, if the application is accompanied by proof of the purchaser’s status as such;
 - 3. The agent of the owner or contract purchaser of the subject property, if the application is duly authorized in writing by the owner or the contract purchaser, and accompanied by proof of the agent’s authority; or
 - 4. If the application is for Comprehensive Plan designation or zoning of a Historic District or Historic Corridor, the owners or contract purchasers of at least 60 percent of the property within the area to be so designated or zoned.
- B. Initiation of Legislative Proposals: Type IV legislative land use proposals may be initiated by the Board of County Commissioners, the Planning Commission, or the Planning Director. However, initiation of a legislative proposal does not obligate the County to further processing of the proposal pursuant to Subsection 1307.11, or prevent the County from discontinuing the processing of the proposal at any point prior to decision.
- C. Application Submittal: Type I, II, and III land use permit applications are subject to the following submittal requirements:
 - 1. The following shall be submitted for an application to be complete:

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- a. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:
 - i. The names, mailing addresses, and telephone numbers of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
 - ii. The address of the subject property, if any, and its assessor's map and tax lot number;
 - iii. The size of the subject property;
 - iv. The Comprehensive Plan designation and zoning district of the subject property;
 - v. The type of application being submitted;
 - vi. A brief description of the proposal; and
 - vii. Signature(s) of the applicant(s) and all owners or all contract purchasers of the subject property, or the duly authorized representative(s) thereof, authorizing the filing of the application.
 - b. A completed supplemental application form, such form to be prescribed by the Planning Director, or a written statement addressing each applicable approval criterion and standard and each item on the supplemental application form;
 - c. Any additional information required under this Ordinance for the specific land use permit sought; and
 - d. Payment of the applicable fee, pursuant to Subsection 1307.15.
2. The Planning Director, at his or her sole discretion, may waive a submittal requirement of Subsection 1307.07(C)(1)(b) or (c), if the Planning Director determines that the requirement is not material to the review of the application.
 3. Each application, when received by the Planning Director, shall be date-stamped with the date the application was received.
- D. Completeness of a Type I Application: If a Type I application is not complete when submitted, and the applicant does not make it complete within 30 days of submittal, the application is void.
- E. Completeness Review for Type II and III Applications: After it is submitted, a Type II or III land use permit application shall be reviewed for completeness, as follows:

1. Except as otherwise provided under Oregon Revised Statutes 215.427, the Planning Director shall review an application for completeness within 30 days of its receipt.
2. Determination of completeness shall be based upon the submittal requirements of Subsection 1307.07(C)(1) and shall not be based on opinions as to quality or accuracy. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the County will make a favorable decision on the application.
3. If an application is determined to be complete, review of the application shall commence.
4. If an application is determined to be incomplete, written notice shall be provided to the applicant within 30 days of receipt of the application, identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. The application shall be deemed complete upon receipt by the Planning Director of:
 - a. All of the missing information;
 - b. Some of the missing information and written notice from the applicant that no other information will be provided; or
 - c. Written notice from the applicant that none of the missing information will be provided.
5. If the application was complete when first submitted, or the applicant submits additional information, as described in Subsection 1307.07(E)(4), within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
6. On the 181st day after first being submitted, the application is void, if the applicant has been notified of the missing information as required under Subsection 1307.07(E)(4) and has not submitted the missing information or otherwise responded, as provided in Subsection 1307.07(E)(4).

1307.08 TYPE I MINISTERIAL PROCEDURES

Type I land use permit applications are subject to the following procedure:

- A. Notice of Application: Notice of application is not provided.
- B. Decision: The review authority shall approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision.

C. Notice of Decision: A copy of the decision shall be mailed to the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof.

D. Appeal: The review authority's decision is the final decision of the County.

1307.09 TYPE II ADMINISTRATIVE PROCEDURES

Type II land use permit applications are subject to the following procedures:

A. Notice of Application: Notice of application shall be provided as follows:

1. A minimum of 20 days prior to the issuance of a decision, written notice of application shall be mailed to:
 - a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
 - b. All property owners of record, pursuant to Subsection 1307.16(C), within:
 - i. 300 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located inside an urban growth boundary or in an MRR, HR, or RTC District;
 - ii. 500 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and outside an MRR, HR, RTC, EFU, TBR, or AG/F zoning district; or
 - iii. 750 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and in an EFU, TBR, or AG/F zoning district;
 - c. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat.
 - d. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
 - e. Cities, as prescribed in applicable urban growth management agreements;
 - f. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
 - g. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;

2. The conditions of approval, if any;
 3. The street address or other easily understood geographical reference to the subject property;
 4. The name and telephone number of the County staff member to contact where additional information may be obtained;
 5. A statement that the complete application file is available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
 6. The date the review authority's decision becomes effective, unless appealed;
 7. A statement that the decision will not become final until the period for filing an appeal with the County has expired without the filing of an appeal;
 8. A statement that any person who is adversely affected or aggrieved or who is entitled to written notice under Subsection 1307.09(C) may appeal the decision by filing a written appeal, and including the date and time by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, the appeal fee, and where further information may be obtained concerning the appeal process; and
 9. A statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.
- C. Notice of Decision: A copy of the decision shall be mailed to those identified in Subsection 1307.09(A)(1).
- D. Appeal: The review authority's decision is the final decision of the County, unless an appeal is filed pursuant to Subsection 1307.13.

1307.10 TYPE III QUASI-JUDICIAL PROCEDURES

Type III land use permit applications are subject to the following procedures:

- A. Notice of Application and Public Hearing: Notice of application and public hearing shall be provided as follows:
1. Notice shall be provided to the Oregon Department of Land Conservation and Development (DLCD), if required pursuant to ORS 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and Oregon Administrative Rules Chapter 660, Division 18.
 2. A minimum of 35 days prior to the first evidentiary hearing on the application, a copy of the submitted application shall be mailed to:

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- a. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
 - b. Cities, as prescribed in applicable urban growth management agreements;
 - c. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
 - d. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;
 - e. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification; and
 - f. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416.
3. A minimum of 20 days prior to the first evidentiary hearing of each review authority on the application, written notice of the application and hearing shall be mailed to:
- a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
 - b. All property owners of record, pursuant to Subsection 1307.16(C), within:
 - i. 300 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located inside an urban growth boundary or in an MRR, HR, or RTC District;
 - ii. 500 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and outside an MRR, HR, RTC, EFU, TBR, or AG/F zoning district; or
 - iii. 750 feet of the subject property, and contiguous properties under the same ownership, if the subject property is located outside an urban growth boundary and in an EFU, TBR, or AG/F zoning district.
 - iv. If the application is for a zone change to apply the MAO District, the distances set forth in Subsections 1307.10(A)(3)(b)(i) through (iii) shall be increased to 1,000 feet from the outer boundary of the proposed impact area under Section 708;

- c. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat.
 - d. Any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
 - e. Cities, as prescribed in applicable urban growth management agreements;
 - f. Those special districts and government agencies deemed by the Planning Director to have an interest in the application;
 - g. The Oregon Department of Agriculture, if the subject property is in the EFU or AG/F District and the application is for the propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission;
 - h. Metro and any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the subject property, if the application is for Habitat Conservation Area map verification;
 - i. The airport owner and the Oregon Department of Aviation, if required by Oregon Revised Statutes (ORS) 197.183, 215.223, or 215.416; and
 - j. Tenants of a mobile home or manufactured dwelling park, as defined in ORS 446.003, when property that includes all or part of such mobile home or manufactured dwelling park is the subject of an application for a Comprehensive Plan map amendment, zone change, or both. Notice to such tenants shall be mailed no more than 40 days before the first evidentiary hearing.
4. At a minimum, notice of application and hearing shall include:
- a. An explanation of the nature of the application and the proposed use or uses that could be authorized;
 - b. A list of the applicable criteria from this Ordinance and the Comprehensive Plan that apply to the application;
 - c. The street address or other easily understood geographical reference to the subject property;
 - e. Date, time, and location of the hearing;
 - f. A statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals on that issue;

- g. The name and telephone number of the County staff member to contact where additional information may be obtained;
 - h. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
 - i. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a cost established by the Board of County Commissioners;
 - j. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings; and
 - k. A statement that subsequent to the close of the public hearing, a decision will be issued and mailed as required by Subsection 1307.10(E).
5. If the application is for a Comprehensive Plan amendment, notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first evidentiary hearing, by publication in a newspaper of general circulation in the County. However, if the application applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.
- B. Application Review and Staff Report: The Planning Director shall review the application, written comments, and evidence submitted prior to the public hearing; prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and make a recommendation to the review authority. The staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing.
- C. Public Hearing: A public hearing shall be held before the review authority, for the purpose of receiving testimony regarding the application.
- D. Decision: The review authority shall consider the record and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include:
- 1. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;

2. The conditions of approval, if any;
 3. The street address or other easily understood geographical reference to the subject property;
 4. The date the review authority's decision becomes effective, unless appealed; and
 5. A statement that any person who presented evidence, argument, or testimony as part of the record may appeal the decision by filing a written appeal; the date by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process;
- E. Notice of Decision: A copy of the decision shall be mailed to:
1. Those identified in Subsections 1307.10(A)(3)(a) and (d) through (i);
 2. Anyone who provided evidence, argument, or testimony as part of the record;
 3. Anyone who made a written request for notice of decision; and
 4. DLCD, if required pursuant to ORS 197.615. Procedures for the giving of the required notice to DLCD shall be those established by ORS 197.615 and Oregon Administrative Rules Chapter 660, Division 18.
- F. Appeal: The review authority's decision is the final decision of the County, except as may be provided for interpretation applications pursuant to Subsection 1307.13(E). Appeal of the County's final decision is to the Oregon Land Use Board of Appeals.

1307.11 TYPE IV LEGISLATIVE PROCEDURES

Type IV legislative land use proposals are subject to the following procedures:

- A. Notice of Proposal and Public Hearing: Notice of proposal and hearing shall be provided as follows:
1. Notice shall be provided to the Oregon Department of Land Conservation and Development, if required pursuant to ORS 197.610. Procedures for the giving of the required notice shall be those established by ORS 197.610 and Oregon Administrative Rules Chapter 660, Division 18.

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2. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, a minimum of 35 days prior to the first public hearing, a copy of the text, showing proposed additions and deletions, shall be made available to the public for review. All active community planning organizations, hamlets, and villages that are recognized by the County shall be notified when it becomes available.
3. A minimum of 20 days prior to the first public hearing of each review authority on the proposal, written notice of the proposal and hearing shall be mailed to:
 - a. For proposed amendments to the text of the Comprehensive Plan or this Ordinance, all active community planning organizations, hamlets, and villages that are recognized by the County;
 - b. For proposed Comprehensive Plan Land Use Plan map amendments and zone changes, any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village;
 - c. Cities, as prescribed in applicable urban growth management agreements; and
 - d. Those special districts and government agencies deemed by the Planning Director to have an interest in the proposal.
4. At a minimum, notice of proposal and hearing shall include:
 - a. An explanation of the nature of the proposal;
 - b. Date, time, and location of the hearing;
 - c. The name and telephone number of the County staff member to contact where additional information may be obtained; and
 - d. For Comprehensive Plan Land Use Plan map amendments and zone changes, a copy of the proposed map change(s).
5. Notice of the date, time, location, and purpose of the Planning Commission's hearing and the Board of County Commissioner's hearing shall be given a minimum of 10 days prior to the date of each review authority's first public hearing, by publication in a newspaper of general circulation in the County. However, if the legislative land use proposal applies to only a part of the County, the notice may instead be published in a newspaper of general circulation in that part of the County.

- B. Proposal Review and Staff Report: The Planning Director shall consider the proposal, written comments, and evidence submitted prior to each public hearing and prepare staff reports summarizing the proposal, comments received to-date, and the relevant issues associated with the proposal. Each staff report shall make a recommendation to the review authority.
- C. Planning Commission Public Hearing: A public hearing shall be held before the Planning Commission, for the purpose of receiving testimony regarding the proposal.
- D. Planning Commission Recommendation: The Planning Commission shall consider the record and may make a recommendation to the Board of County Commissioners to adopt, adopt with modifications, or decline to adopt the proposal. If no recommendation is made by the Planning Commission and no extension is granted by the Board of County Commissioners, the Board of County Commissioners may act upon the proposal notwithstanding the lack of a recommendation.
- E. Board of County Commissioners Public Hearing: A public hearing shall be held before the Board of County Commissioners, for the purpose of receiving testimony regarding the proposal.
- F. Decision: The Board of County Commissioners shall consider the record and may adopt, adopt with modifications, or decline to adopt the proposal; remand the matter back to the Planning Commission for further consideration; or table the matter. The decision of the Board of County Commissioners to adopt or adopt with modifications shall be by ordinance.
- G. Notice of Decision: Notice of decision shall be provided as follows:
 - 1. A maximum of 20 days after the decision is made it shall be submitted to the Oregon Department of Land Conservation and Development (DLCD). Procedures for the giving of the required notice shall be those established by ORS 197.615 and Oregon Administrative Rules Chapter 660, Division 18.
 - 2. On the same day the decision is submitted to DLCD, the County shall mail, or otherwise deliver, notice to persons who both participated in the County proceedings that led to the decision to adopt the change to the Comprehensive Plan or this Ordinance and requested in writing that the County give notice of the change. The notice shall:
 - a. State how and where the materials described in Subsection 1307.11(G)(1)(a) through (d) may be obtained;
 - b. Include a statement by the individual delivering the notice that identifies the date on which the notice was delivered and the individual delivering the notice;

- c. List the locations and times at which the public may review the decision and findings; and
- d. Explain the requirements for appealing the land use decision under ORS 197.830 to 197.845.

H. Appeal: The Board of County Commissioners' decision is the final decision of the County. Appeal of the County's final decision is to the Oregon Land Use Board of Appeals or the Oregon Land Conservation and Development Commission, as determined by state law.

1307.12 PUBLIC HEARINGS

Subsection 1307.12 applies to public hearings held pursuant to Section 1307, except that only Subsections 1307.12(A), (B), (E) through (H), and (J) apply to public hearings in a Type IV proceeding.

- A. Procedure, Generally: Public hearings shall be conducted in accordance with Oregon Revised Statutes (ORS) 197.763, Subsection 1307.12, and any bylaws or rules of procedure adopted by the review authority. Subsection 1307.12 authorizes the Hearings Officer, Planning Commission, and Board of County Commissioners to adopt rules of procedure for the conduct of hearings.
- B. Parties: Any interested party shall be entitled to participate in a public hearing.
- C. Order of Proceeding: The order of proceeding for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by the adopted bylaws or rules of procedure of the review authority, as appropriate.
 - 1. Jurisdictional Objections: Before receiving the staff report or testimony on the application, any objections on jurisdictional grounds shall be noted in the record and if there is objection, the review authority has the discretion to proceed or terminate the hearing.
 - 2. Disclosure Statement: The review authority (or individual member thereof), or its designee, shall read the land use disclosure statement, which shall include:
 - a. A list of the applicable substantive criteria, or a reference to the staff report, where a list of the criteria can be found;
 - b. A statement that testimony, argument, and evidence must be directed toward the criteria described in Subsection 1307.12(C)(2)(a) or other criteria in the Comprehensive Plan or land use regulation which the person believes to apply to the decision;

- c. A statement that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals (LUBA) based on that issue; and
 - d. If applicable, a statement that a failure to raise constitutional issues relating to proposed conditions of approval precludes an action for damages in circuit court.
3. Call for Ex Parte Contacts: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member has had ex parte contacts. Any member announcing an ex parte contact shall state for the record the nature and content of the contact. If the review authority is the Hearings Officer, he or she shall declare any ex parte contacts and state for the record the nature and content of the contact.
4. Call for Abstentions: If the review authority is the Planning Commission or the Board of County Commissioners, the presiding officer, or designee, shall inquire whether any member must abstain from participation in the hearing due to conflicts of interest. Any member announcing a conflict of interest shall state the nature of the conflict, and shall not participate in the proceeding, unless the vote is necessary to meet a requirement of a minimum number of votes necessary to take official action; provided, however, that the member shall not participate in any discussion or debate on the issue out of which the conflict arises. If the review authority is the Hearings Officer, he or she shall declare any potential conflicts of interest. The Hearings Officer shall state the nature of the conflict, and if the nature of the conflict is such that the Hearings Officer cannot fulfill his or her duty to be a fair and impartial decision maker, the Hearings Officer shall recuse himself or herself from hearing the matter.
5. Staff Report: The Planning Director shall present a report and recommendation concerning the proposal.
6. Presentation of the Application:
 - a. Applicant's case;
 - b. Community planning organizations, hamlets, and villages. Appearance by a representative from any active community planning organization, hamlet, or village that is recognized by the County, if the subject property lies wholly or partially inside the boundaries of such organization, hamlet, or village, to present the organization's position on the proposal;
 - c. Public testimony; and

- d. Rebuttal. Rebuttal may be presented by the applicant. The scope of rebuttal is limited to matters that were introduced during the hearing.
 7. Close of Hearing: No additional testimony, evidence, or argument shall be accepted after the close of the hearing unless the record is held open by the review authority.
 8. Reopened Hearing: The hearing may be reopened by the review authority, prior to decision, to receive additional testimony, evidence, or argument. Notice shall be provided to the same persons who received notice of the original hearing and to anyone who provided evidence, argument, or testimony as part of the record.
 9. Deliberations: If the review authority is the Planning Commission or Board of County Commissioners, deliberations shall immediately follow the hearing, except that deliberations may be delayed to a subsequent date and time certain. If the review authority is the Hearings Officer, deliberations will not occur, and the Hearings Officer will instead take the matter under advisement.
 10. Remand: The Board of County Commissioners may remand any matter previously considered by the Planning Commission back to the Planning Commission for further review.
 11. Recommendation or Decision: When the review authority is the Planning Commission or Board of County Commissioners, the recommendation or decision, as applicable, will be voted on and announced during a public meeting.
- D. Ex Parte Contact:
1. The review authority shall not do any of the following:
 - a. Communicate, directly or indirectly, with any party or their representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate;
 - b. Take notice of any communications, reports, staff memoranda, or other materials prepared in connection with a particular application, unless the parties are afforded an opportunity to contest the material so noted; or
 - c. Inspect the site with any party or his representatives unless all parties are given an opportunity to be present. Individuals representing the review authority may inspect the site alone but must put the circumstances of the inspection on record.
 2. A party may challenge the review authority, or individual member thereof, on the grounds of Subsection 1307.12(D)(1), or that such individual has a legal

conflict of interest as defined by ORS 244.020(1) or ORS 244.120. A challenge and the decision thereon by the review authority shall be entered in the record of the application.

3. While every effort must be made to avoid ex parte contact, no decision of the review authority shall be invalid due to ex parte contact or bias resulting from ex parte contact, as described under Subsection 1307.12(D)(1), if the review authority (or individual member thereof) receiving the contact:
 - a. Places on the record the substance of any written or oral ex parte communication concerning the decision or action; and
 - b. Has a public announcement made of the content of the communication, and of the parties' right to rebut the substance of the communication, at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.
4. A communication between County staff and the review authority (or individual member thereof) shall not be considered an ex parte contact for purposes of Subsection 1307.12(D)(1).

E. Evidence and Exhibits:

1. All evidence may be received unless excluded by the review authority on its own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs. Relevant evidence is any evidence having a tendency to make the existence or non-existence of a fact that is of consequence to the approval of the land use permit or legislative land use proposal more or less probable than it would without the evidence. Evidence may be received subject to a later ruling regarding its admissibility.
2. The review authority may exclude cumulative, repetitious, or immaterial evidence, but erroneous admission of evidence by the review authority shall not preclude action by the review authority or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party.
3. All evidence shall be offered and made a part of the record in the application or legislative proceeding; and, except for matters stipulated to and except as provided in Subsection 1307.12(E)(4), no other factual information or evidence shall be considered in the recommendation or decision.

4. The review authority may take notice of judicially cognizable facts, and may take notice of general, technical, or scientific facts within specialized knowledge. Except in a Type IV proceeding, interested parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The review authority may utilize experience, technical competence, and specialized knowledge in evaluation of the evidence presented.
 5. All exhibits received shall be marked so as to provide identification upon review. Such exhibits may be returned when the period for review has expired, but shall otherwise be preserved by the Planning Director.
- F. Time Limits: The review authority may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing. No person may speak more than once without obtaining permission from the review authority.
- G. Questioning: The review authority (or individual member thereof) or County staff may question any person who testifies. The applicant and other parties to the proceeding shall not have the right to question or cross-examine any person who testifies.
- H. Scope of Testimony: Except in a Type IV proceeding, testimony shall be directed towards the applicable standards and criteria that apply to the proposal. The review authority may exclude or limit cumulative, repetitious, or immaterial testimony. To expedite hearings, the review authority may call for those in favor and those in opposition to rise, and the review authority shall note the numbers of such persons for the record.
- I. Continuances and Open Record Periods:
1. All documents or evidence relied upon by the applicant shall be submitted to the County and be made available to the public. Any staff report used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence are provided by any party, the review authority may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the time limitations of ORS 215.427 and ORS 215.429.
 2. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, argument, or testimony regarding the application. The review authority shall either continue the public hearing, pursuant to Subsection 1307.12(I)(2)(a), or leave the record open for additional written evidence, argument, or testimony, pursuant to Subsection 1307.12(I)(2)(b).

- a. If the review authority grants a continuance, the hearing shall be continued to a date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, argument, or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, argument, or testimony for the purpose of responding to the new written evidence. Only one continuance is available of right under Subsection 1307.12(I)(2)(a); provided, however, nothing in Subsection 1307.12(I)(2)(a) shall restrict the review authority, in its discretion, from granting additional continuances.
 - b. If the review authority leaves the record open for additional written evidence, argument, or testimony, the record shall be left open for at least seven days. The review authority may leave the record open for an additional period of at least seven days for any participant to respond to new evidence submitted during the prior open-record period. However, if the review authority has not provided for this additional open-record period, any participant may file a written request with the Planning Director for an opportunity to respond to new evidence submitted during the period the record was left open. Any such request shall be filed no later than the end of the last business day the record is left open. If such a request is filed, the review authority may reopen the record pursuant to Subsection 1307.12(I)(4).
 - c. A continuance or extension granted pursuant to Subsection 1307.12(I)(2) shall be subject to the limitations of ORS 215.427 and ORS 215.429, unless the continuance or extension is requested or agreed to by the applicant.
3. Additional notice of a continued hearing is not required, unless the hearing is continued without announcing a date, time, and place certain, in which case notice of the continued hearing shall be given as though it were the initial hearing.
 4. If the record is reopened to admit new evidence, argument, or testimony, any person may raise new issues which relate to the new evidence, argument, testimony, or criteria for decision-making which apply to the matter at issue. Notice of the reopened record shall be provided to any person who presented evidence, argument, or testimony as part of the record prior to the date the record was reopened.

5. Unless waived by the applicant, the review authority shall allow the applicant at least seven days after the record is closed to all other parties to submit final written argument in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. This seven-day period shall not be subject to the limitations of ORS 215.427 and ORS 215.429.

J. Record of Hearing:

1. A verbatim record of the proceeding shall be made by written, mechanical, or electronic means, which record need not be transcribed except upon review on the record.
2. The record of proceedings is comprised of:
 - a. The Comprehensive Plan and this Ordinance, all of which shall be automatically incorporated into the record;
 - b. The application or legislative proposal that initiated the proceeding;
 - c. All testimony, argument, evidence, and exhibits submitted prior to the close of the record of the proceeding;
 - d. Any staff reports submitted prior to the close of the record of the proceeding;
 - e. Any electronic presentation used by either staff, applicant, or other participant in the proceeding;
 - f. The verbatim record, as provided in Subsection 1307.12(J)(1);
 - g. Minutes, if any, of the hearing;
 - h. A verbatim record, as provided in Subsection 1307.12(J)(1), of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority;
 - i. Minutes, if any, of any public meeting after the close of the hearing at which the proceeding is discussed by or acted upon by the review authority; and
 - j. The written decision.

1307.13 APPEALS

Subsection 1307.13 applies to all appeals processed by the County of decisions issued under Section 1307. Table 1307-1 identifies those land use permit decisions that may be appealed at the County level and the applicable review authority for those appeals.

- A. Filing an Appeal: An appeal shall be in writing and must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business.
- B. Notice of Appeal: Notice of appeal shall be made on a form prescribed by the Planning Director and shall be accompanied by the appeal fee. The notice of appeal shall contain:
1. Identification of the decision sought to be appealed, including its assigned file number, the name of the applicant, and the decision date;
 2. The name, mailing address, and telephone number of the appellant;
 3. The nature of the decision being appealed and the grounds for appeal; and
 4. Signature(s) of the appellant(s), or the duly authorized representative(s) thereof, authorizing the filing of the appeal.
- C. Proper Filing of Notice of Appeal: The failure to file a timely and complete notice of appeal is a jurisdictional defect, and the Planning Director shall not accept a notice of appeal that does not comply with Subsections 1307.13(A) and (B). The Planning Director's determination that an appellant has failed to comply with Subsections 1307.13(A) and (B) shall be final.
- D. Appeal Procedures; Scope: Appeals are subject to the following procedures:
1. De Novo Review: Appeals shall be de novo. In a de novo review, all issues of law and fact are heard anew, and no issue of law or fact decided by the lower-level review authority is binding on the parties in the hearing. New parties may participate, and any party may present new evidence and legal argument by written or oral testimony. The record of the initial proceeding shall be made a part of the record of the appeal. For purposes of Subsection 1307.13(D)(1), the record of the initial proceeding consists of
 - a. Those items listed in Subsections 1307.12(J)(2)(a) through (d) and (j); and
 - b. Those items listed in Subsections 1307.12(J)(2)(e) through (i), to the extent that any prior hearing(s) or public meeting(s) were conducted in reaching the decision that is being appealed.
 2. Notice of Public Hearing: Notice of public hearing shall be provided as follows:
 - a. A minimum of 20 days prior to the first evidentiary hearing on the appeal, written notice of the appeal and hearing shall be mailed to:

- i. Those who were entitled to notice pursuant to Subsection 1307.09(A)(1);
 - ii. The appellant; and
 - iii. Anyone who previously provided evidence, argument, or testimony as part of the record.
 - b. At a minimum, notice of hearing shall include those elements identified in Subsection 1307.10(A)(4), except that 1307.10(A)(4)(i) will reference the appealed decision, rather than the staff report.
 3. Public Hearing: A public hearing shall be held before the appeal review authority, for the purpose of receiving testimony regarding the application.
 4. Decision: The appeal review authority shall consider the record and affirm the decision, affirm the decision with additional conditions or modifications, or reverse the decision. The appeal review authority shall issue a written decision in the form of an order, which shall be signed and dated, that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include the elements identified in Subsection 1307.10(D)(1) through (5).
 5. Notice of Decision: A copy of the written order shall be mailed to:
 - a. Those identified in Subsection 1307.10(E); and
 - b. The appellant.
 6. Appeal: Except where an additional County-level appeal is provided pursuant to Subsection 1307.13(E), the appeal review authority's decision is the final decision of the County. Appeal of the County's final decision is to the Oregon Land Use Board of Appeals.
- E. Review of an Interpretation by the Board of County Commissioners:
1. A second County-level appeal is provided for applications for an interpretation of the Comprehensive Plan, where the Board of County Commissioners shall review the decision of the Planning Commission on appeal. Processing of the appeal shall comply with Subsections 1307.13(A) through (D), except that notice of the public hearing shall be given to:
 - a. Those identified in Subsections 1307.09(A)(1)(a), (d) through (f), and (i);
 - b. The appellant;

- c. Anyone who provided evidence, argument, or testimony as part of the record; and
 - d. Anyone who made a written request for notice of decision.
2. A second County-level appeal is provided for applications for an interpretation of this Ordinance, where the Board of County Commissioners may choose to review the decision of the Hearings Officer on appeal but is not required to do so.
- a. If the Board of County Commissioners accepts the appeal, processing of the appeal shall comply with Subsections 1307.13(A) through (D), except that notice of the public hearing shall be given pursuant to Subsection 1307.13(E)(1).
 - b. If the Board of County Commissioners denies a request for review, it shall do so in writing. Notice of the denial shall be given pursuant to Subsection 1307.13(E)(1). If the Board of County Commissioners denies a request for review, the decision of the Hearings Officer stands as the final decision of the County. The period for appeal to the Oregon Land Use Board of Appeals commences on the date of mailing of the Board of County Commissioners' denial of review.
- F. Effect of Judicial or Administrative Review: Except as provided by law or order of a court or administrative tribunal having jurisdiction, a decision of the County shall remain valid and effective notwithstanding the initiation of judicial or administrative review of such decision; provided, however, that any development permit dependent upon such decision shall be issued only with the applicant's written acknowledgement in a form approved by County Counsel, that such review has been initiated and may result in the reversal of the decision, in which event the permit shall be revoked, as well as any temporary occupancy permit, and the premises shall thereafter be brought into conformity with the applicable standards and criteria by appropriate means. No permanent occupancy certificate shall be issued by the building official until such review has concluded through the adoption of a decision making such occupancy in all respects lawful.
- G. Remand from the Land Use Board of Appeals: The County shall take final action on decisions remanded by the Oregon Land Use Board of Appeals (LUBA) within one year of the effective date of LUBA's final order, unless the applicant requests in writing that the County proceed with the application pursuant to Oregon Revised Statutes (ORS) 215.435(2)(a), in which case the provisions of ORS 215.435 shall apply. The effective date of LUBA's final order shall be determined pursuant to ORS 215.435(1).

1307.14 CONDITIONS OF APPROVAL

Approval of a Type I, II, or III land use permit may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:

- A. Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no time is set forth, within a reasonable time. Failure to fulfill any conditions within the time limitations provided shall be grounds for the Planning Director to initiate revocation of the approved land use permit pursuant to Subsection 1307.16(L).
- B. Conditions shall be imposed to ensure compliance with the standards and approval criteria applicable to the land use permit, or shall be reasonably calculated to fulfill public needs emanating from the proposed land uses as set forth in the application, in the following respects:
 - 1. Protection of the public from the potentially deleterious effects of the proposed use; or
 - 2. Fulfillment of the need for public services created by the proposed use.
- C. The review authority may find compliance with an applicable approval criterion by imposing conditions necessary to ensure compliance and finding that it is feasible for the conditions to be satisfied. Notwithstanding this provision, where conditions require state agency permits to be obtained, the review authority need only find substantial evidence to demonstrate that the applicant is not precluded from obtaining such state agency permits as a matter of law.
- D. A surety may be required from the applicant, in an amount sufficient to ensure compliance with one or more conditions of approval, subject to Section 1311, *Completion of Improvements, Sureties, and Maintenance*.

1307.15 FEES

Fees are for the purposes of defraying administrative costs and are subject to the following:

- A. Fees payable at the time of application or appeal are established by separate order of the Board of County Commissioners.
- B. The failure to submit the required fee with an application or appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect.
- C. An active community planning organization that is recognized by the County may file appeals without fee, provided the decision to file an appeal is made at a public meeting held in compliance with Oregon Revised Statutes 192.610 to 192.690.

- D. Appeal fees shall be refunded if the appellant prevails. Any other fee refund policy shall be established by separate order of the Board of County Commissioners.
- E. The County Administrator or designee may reduce or waive fees upon showing of just cause to do so.

1307.16 GENERAL PROVISIONS

- A. Calculation of Time: For the purposes of this Ordinance, unless otherwise specifically provided, days mean calendar days. In calculating a specific time period, the day on which the period begins to run shall not be included; and the day on which the period ends shall be included. In the event the last day falls on a day on which the County is not open for business, the period of time shall end on the next day on which the County is open for business.
- B. Property Owner's Signature: 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 Planning Director and the review authority, if other than the Planning Director, may accept these statements to be true, unless the contrary be proved, and except where otherwise in this Ordinance more definite and complete proof is required. Nothing herein shall prevent the Planning Director or the review authority, if other than the Planning Director, from demanding proof that the signer is the owner, officer, attorney in fact, or agent.
- C. Property Owner Notice: Where notice to property owners of record is required by Section 1307, the records of the County Assessor shall be used to identify the owners and their mailing addresses. Persons whose names and addresses are not on file at the time of the filing of the applicable land use permit application or appeal need not be notified of the application, decision, or hearing. If a property within the notification area is located outside the County, the records of the applicable County Assessor shall be used. The failure of a property owner to receive notice as provided in Section 1307 shall not invalidate the proceedings, if the County can demonstrate by affidavit that such notice was given.
- D. Method of Mailing: When mailing is required by Section 1307, first-class mail shall be used, except that for mailing to any of the following, either first-class mail or electronic mail may be used: community planning organizations, hamlets, villages, cities, special districts, and government agencies.
- E. Burden of Proof: Except in a Type IV proceeding, the proponent has the burden of proof on all elements of the proposal. The proposal must be supported by a preponderance of evidence that it conforms to all applicable standards and criteria. The preponderance of evidence standard is often described as enough evidence to make the proponent's point more likely than not.

- F. Argument and Evidence: For the purposes of Section 1307:
1. Argument means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by any party. Argument does not include facts.
 2. Evidence means facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards and criteria believed by any party to be relevant to the proposal.
- G. Withdrawal: Prior to the issuance of the written decision, the applicant may submit a written notice of withdrawal of the application. Upon receipt of a written notice of withdrawal, the application shall be deemed dismissed without further action by the review authority. A withdrawal shall not bar filing a new application; withdrawal shall not be deemed a final decision for any purpose. A withdrawal cannot be appealed. If an application is withdrawn after the mailing of notice of application or public hearing, the Planning Director shall mail written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.
- H. Final Action Deadline: Except as modified by ORS 197.763, the County shall take final action on a land use permit application that is subject to Oregon Revised Statutes (ORS) 215.427, including resolution of all County appeals, within the time period specified by ORS 215.427, unless the applicant provides written request for an extension of such period pursuant to ORS 215.427(5).
- I. Effective Date of Decision: The County's final decision on a Type I, II, or III land use permit application becomes effective on:
1. The day the final decision is issued, if no appeal at the County level is allowed;
 2. The day after the appeal period expires, if an appeal at the County level is allowed, but no notice of appeal is timely filed;
 3. The day the decision is issued by the final County appeal body, if an appeal is allowed and notice of appeal is timely filed. However, if the appeal is withdrawn prior to decision, the effective date of the County's final decision shall revert to the day after the appeal period would have expired had an appeal not been timely filed; or
 4. The date of mailing of the Board of County Commissioners' denial of review, pursuant to Subsection 1307.13(E)(2)(b).

- J. Reissuing a Decision: The review authority may reissue a Type I, II, or III decision as a result of a clerical error, a misstatement of facts, or the erroneous imposition or omission of conditions of approval. A decision may not be reissued after the expiration of the appeal period, if any, or after the filing of an appeal. Notice of the reissued decision shall be given in the same manner as notice of the original decision. A new appeal period equal to that of the original decision shall be provided from the date of mailing of the amended decision.
- K. Re-filing an Application: If a Type II or III land use permit application is denied, or a Type II or III land use permit is revoked pursuant to Subsection 1307.16(L), an applicant may re-file for consideration of the same or substantially similar application only if:
1. At least two years have passed after either final denial of an application by the County or revocation of a permit; or
 2. The review authority finds that one or more of the following circumstances render inapplicable all of the specific reasons for the denial:
 - a. A change, which is material to the application, has occurred in this Ordinance, the Comprehensive Plan, or other applicable law; for the purposes of this provision, “change” includes amendment to the applicable provisions or a modification in accepted meaning or application caused by an interpretation filed pursuant to Section 1308;
 - b. A mistake in facts, which was material to the application, was considered by the review authority;
 - c. There have been changes in circumstances resulting in new facts material to the application;
 - d. A change has occurred in the zoning of the subject property, or adjacent property, that substantially affects the merits of the application; or
 - e. There have been substantial changes in the surrounding area, or on the subject property, such as availability of services or improvements to public facilities, that affect the merits of the application.
- L. Revocation of Approval: An approval of a Type II or III land use permit may be revoked, as follows:
1. The Planning Director may initiate a public hearing for revocation of a prior approval of a land use permit when there is a violation of conditions attached to the previous approval sufficient to merit such revocation.

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2. Revocation of approval shall be reviewed using the Type III procedure. The Hearings Officer shall be the review authority, and the decision of the Hearings Officer shall be the final decision of the County.
3. Revocation is in addition to, and not in lieu of, any other remedy provided by law or equity, and is not a condition precedent to any such remedy.

M. Modifications: Except as permitted pursuant to Section 1309:

1. A modification to an approved Type I, II, or III land use permit, or conditions thereto, shall be processed as a new application; and
2. A modification to conditions of approval for a Type II or III land use permit shall be considered only if one or more of the circumstances identified in Subsection 1307.16(K)(2) apply.

[Added by Ord. ZDO-248, 10/13/14; Amended by Ord. ZDO-253, 6/1/15; Amended by Ord. ZDO-254, 1/4/16]

