

ARTICLE 2. PROCEDURES FOR LAND USE APPLICATIONS

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SECTION 2.0100. DEVELOPMENT PERMIT REQUIRED

- 1) Except as excluded by Section 2.0300, no person shall engage in or cause to occur a development for which a development permit has not been issued. The Building Official shall not issue a permit for the construction, reconstruction or alteration of a structure or a part of a structure for which a development permit has not been issued.
- 2) A development permit shall be issued by the Community Development Director according to the provisions of this Ordinance. The Director shall not issue a development permit for the improvement or use of land that has been previously divided or otherwise developed in violation of this Ordinance, regardless of whether the permit applicant created the violation, unless the violation can be rectified as part of the development.
- 3) A decision on a development permit shall be final upon expiration of the period provided for filing an appeal or, if appealed, upon rendering of the decision by the reviewing body.
- 4) Authorization of a development permit shall be void after 180 days unless substantial construction or action has taken place.

SECTION 2.0200. STATE AND FEDERAL PERMIT REQUIREMENTS

If any state or federal permit is required for a development or use, an applicant, prior to issuance of a development permit or action, shall submit to the Planning Division a copy of the state or federal permit.

SECTION 2.0300. EXCLUSIONS FROM DEVELOPMENT PERMIT REQUIREMENT

The activities listed below do not require a development permit. Exclusion from the requirement for a development permit does not exempt the development or its use from the other applicable requirements of the Ordinance.

- 1) Landscaping, gardening or other similar treatment or use of the land surface not involving the placement of a structure.
- 2) Fences less than or equal to 6.0 feet in height and not located on the portion of a corner lot so as to obstruct the clear line of vision of vehicular traffic approaching on either of two opposing streets (see Section 3.9530 - Clear Vision Area) or located in a designated floodway. Fences greater than 6.0 feet in height require a development permit and must meet applicable setback standards.
- 3) A change internal to a building or other structure that does not substantially affect the use of the structure and that does not require a building permit.
- 4) Residential accessory structures less than 200 square feet and less than 10 feet in height are not subject to a development permit when placed on the owner's property where said owner resides. No structures may be placed on a corner lot so as to obstruct the clear line of vision of vehicular traffic approaching on either

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- of two opposing streets (see Section 3.9530 - Clear Vision Area).
- 5) A temporary emergency measure necessary for the safety or protection of property in the event of a natural disaster or catastrophic event, until appropriate permits may be obtained, if state, federal or local permits are required for the activity, structure or use.
 - 6) Erection of a tent or similar portable structure for not more than 30 days.
 - 7) Farming, except in the F-80 zone.
 - 8) Seasonal flower stands, selling flowers produced on the property on which the stand is located and which stand is no larger than 10 square feet in size or over 10 feet in height.
 - 9) The propagation, management, or harvest of timber regulated by the Oregon Department of Forestry under the Oregon Forest Practices Act. This exclusion does not include those lands for which an exception to State Planning Goal 4 has been taken.
 - 10) Structures (excluding mobile homes but including campers, trailers, motor homes, boats and other recreational vehicles) may be temporarily occupied by the property owners or their family or guests for not more than 30 days out of any 90-day period. No more than three recreational vehicles may be used for temporary occupancy purposes on said property at any time, and shall be removed from the property at the end of each occupancy period.
 - 11) The establishment, construction or termination of a public facility or utility that directly serves a limited area of authorized development including such facilities as a private or public street, sewer, water line, electrical power or gas distribution line, or telephone or television cable system. This activity requires a development permit in special purpose districts and resource zones.
 - 12) A recreational vehicle may be occupied as a residential dwelling on a lot or parcel with an existing dwelling that is uninhabitable due to damages from an emergency or natural disaster, including wildfire, earthquake, flooding or storms, until no later than [ORD. 24-01]:
 - a) The dwelling has been repaired or replaced and an occupancy permit has been issued;
 - b) The County determines that the owner of the dwelling is unreasonably delaying in completing repairs or replacing the dwelling; or
 - c) Five years after the date the dwelling first became uninhabitable. [ORD. 23-02; ORD. 24-01]
 - d) Under alter, restore, or replacement of a dwelling destroyed by wildfire, identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act (ORS 476.510-476.610) between August 1 and September 30, 2020, occupancy of a recreational vehicle under ORS 197.493(1)(b)(c) is extended to December 30, 2020. [ORD. 24-01]

SECTION 2.1000. PROCEDURE TYPES AND DETERMINATION OF PROPER PROCEDURE

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An application for a development permit or land use action shall be processed under either a Type I, II, IIa, III or IV procedure as stated within the procedures under Sections 2.1010 to 2.1050.

All land use actions shall be classified as one of the following unless State law mandates different or additional procedures for particular land use actions or categories of land use actions or specified otherwise by this Code:

Section 2.1010. Type I Procedure

- 1) Type I development actions involve permitted uses or developments governed by clear and objective review criteria. Type I actions do not encompass discretionary land use decisions. Impacts have been recognized by the development standards within each zone.
- 2) Those actions identified in this code as development and uses permitted under the Type I procedure are Type I actions.
- 3) Under the Type I procedure, an application shall be processed without a need for public hearing or notification of other property owners. As provided for by other provisions of this Ordinance, the nature of the development proposed may require a review committee to determine compliance with standards. When that is required, the action of the Director to issue or deny the development permit pursuant to Sections 2.1110 to 2.1170 will consider the determination of the committee.
- 4) A decision of the Community Development Director may be appealed by the applicant to the Hearings Officer, pursuant to Section 2.2190.

Section 2.1020. Type II Procedure

- 1) Type II land use actions generally involve uses or development for which review criteria are reasonably objective, requiring only limited discretion. Impacts on nearby properties may be associated with conditions of approval to minimize those impacts or ensure compliance with this code.
- 2) Those actions identified in this code as a conditional development and use, development permitted with review, subdivisions containing six lots or less, partitions, and applications related to non-conforming uses/structures under the Type II procedure are Type II actions.
- 3) Except as provided in subsection (5), under the Type II procedure an application for a development permit shall be processed without a need for public hearing. The Community Development Director shall determine whether or not the proposed development meets the required development standards. The Director may obtain technical assistance from a review committee or local or state agencies.
- 4) If the Director finds that the development appears to satisfy the required standards, the Director shall mail a notice of intent to issue a development permit to the applicant and to other persons pursuant to Sections 2.2040 to 2.2050.
- 5) If the Community Development Director believes that persons other than the

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- applicant can be expected to question the application's compliance with the Ordinance, the Director may treat the application as a Type IIa procedure.
- 6) The Community Development Director shall review any information received under subsection (4) and make a finding for each of the points in dispute. The Director shall make a decision on the application by approving, conditionally approving, or denying the application.
 - 7) A decision by the Community Development Director may be appealed to the Hearings Officer by the applicant or by a person who responded to the notice, pursuant to Section 2.2190.

Section 2.1030. Type IIa Procedure

- 1) Type IIa land use actions involve development or uses which require the exercise of discretion and judgment when applying the development criteria contained in this Code, the Comprehensive Plan or the applicable Community Plan. Impacts may be significant and the development issues complex. Extensive conditions of approval may be imposed to mitigate impacts or ensure compliance with this Code and the Comprehensive Plan. Under the Type IIa procedure, an application for a land use action shall be processed by the Hearings Officer after holding a public hearing. The Hearings Officer shall determine whether or not the proposed development meets the required development standards.
- 2) Those actions identified in this Code as a variance or conditional use under the Type IIa procedure are Type IIa actions.
- 3) Once an application is determined by the Community Development Director to be complete, it is scheduled for public hearing pursuant to Section 2.2010 before the Hearings Officer.
- 4) The Director shall provide notice (published and mailed) of intent to hold a public hearing and issue a decision on a land use application pursuant to Section 2.2020 and Section 2.2060.
- 5) The Hearings Officer shall review any information that has been made a part of the official record and make a finding for each of the points in dispute. The Hearings Officer shall make a decision on the application by approving, conditionally approving, or denying the application.
- 6) A decision by the Hearings Officer may be appealed by a party of record to the Board of Commissioners in accordance with Section 2.2190.

Section 2.1040. Type III Procedure

- 1) Type III actions involve complex or subjective decisions which may impose possible significant effects on some persons or a broad effect on a number of persons. Often these applications include subdivisions with seven or more lots, similar use, quasi-judicial zoning map amendments that do not involve any change to the comprehensive plan or designation. Once an application is determined by the Community Development Director to be complete, it is scheduled for public hearing pursuant to Section 2.2010 before the Planning Commission.

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- 2) The Director shall mail and publish a notice pursuant to Section 2.2020 and Section 2.2060.
- 3) At the public hearing, the staff, the applicant, and interested persons may present information relevant to the criteria and standards pertinent to the proposal, given reasons why the application should or should not be approved or proposing modifications and the reasons the person believes the modifications are necessary for approval. The Planning Commission may attach certain development or use conditions beyond those warranted for compliance with the Development and Use Standards Document in granting an approval if the Planning Commission determines the conditions are necessary to avoid imposing burdensome public service obligations on the County, to mitigate detrimental effects to others where such mitigation is consistent with an established policy of the County and to otherwise fulfill the criteria for approval.
- 4) A decision of the Planning Commission may be appealed by a party of record to the Board of Commissioners in accordance with Section 2.2190

Section 2.1050. Type IV Procedure

- 1) Type IV actions will involve either a legislative or quasi-judicial process as appropriate to the circumstances. They may involve the creation, broad scale implementation or revision of public policy such as amendments to the text of the Comprehensive Plan, Community Plans, Zoning Code, or Comprehensive Plan Zoning Map are generally processed as legislative. Large scale changes in Community Development maps also may be characterized as legislative where a larger number of property owners are directly affected. Requests for changes affecting specific properties, a limited number of property owners and/or a specific project are considered quasi-judicial. The Type IV procedure is to be used where indicated in this Ordinance.
- 2) Under the Type IV procedure, the Director shall schedule a public hearing pursuant to Section 2.2010 before the Planning Commission.
- 3) The Director shall mail and publish a notice pursuant to Section 2.3020.
- 4) At the public hearing, the staff, the applicant, and interested persons may present testimony relevant to the proposal. If pertinent, they may give information on whether the proposal does or does not meet appropriate criteria and standards for approval or their proposals for modifications they consider would be necessary for approval. If criteria are involved, the Planning Commission shall have made a finding for each of the criteria applicable, including whether the proposal conforms to criteria found in the Comprehensive Plan. A written report and recommendation shall be submitted to the Board of Commissioners.
- 5) If the Planning Commission has recommended against or has failed to act on a legislative proposal, the Board of Commissioners may terminate further consideration of the proposal. For quasi-judicial proposals and legislative proposals on which the Planning Commission has made a favorable recommendation and for other proposals that have not been terminated, the Board of Commissioners shall conduct a public hearing. The Director shall set a

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date for the hearing, pursuant to Section 2.2010. The form of notice and persons to receive notice are as required by the relevant sections of this Ordinance. At the public hearing, the staff shall review the report of the Planning Commission and provide other pertinent information, and interested persons shall be given the opportunity to present new testimony and information relevant to the proposal that was not heard before the Planning Commission and make final arguments why the matter should or should not be approved, and if approved, the nature of the provisions to be contained in approving action.

- 6) To the extent that a finding of fact is required, the Board of Commissioners shall make a finding for each of the criteria applicable and in doing so may sustain or reverse a finding of the Planning Commission. The Board of Commissioners may delete, add or modify any of the provisions pertaining to the proposal or attach certain development or use conditions beyond those warranted for compliance with standards in granting an approval if the Board of Commissioners determines the conditions are appropriate to fulfill the criteria for approval.
- 7) To the extent that a policy is to be established or revised, the Board of Commissioners shall make its decision after information from the hearing has been received. The decision shall become effective by passage of an Ordinance.
- 8) Unless specifically provided otherwise, the procedures of this Article do not apply to legislative action which shall be adopted in accordance with the Clatsop County Charter and State Law.

Section 2.1060. Legislative Enactments Not Restricted

Nothing in Article 2 shall limit the authority of the Board of Commissioners to make changes in district or zone designations or requirements as part of some more extensive revision of the Comprehensive Plan or implementing ordinance or to make changes in the. Nothing in this article shall relieve a use or development from compliance with other applicable laws.

Section 2.1070. Pre-application Conference

- 1) An applicant or the applicant's authorized representative shall request the Director to arrange a pre-application conference. Unless the applicant and Director agree that a conference is not needed, the conference shall be held within 15 days of the request. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the Ordinance, provide for an exchange of information regarding applicable elements of the Comprehensive Plan and development requirements, arrange such technical and design assistance as will aid the applicant, and to otherwise identify policies and proposed development. The Director, if requested by the applicant, shall provide the applicant with a written summary of the conference within 5 days of the conference. The summary shall include confirmation of the procedures to be used to process the application, a list of materials to be submitted and the criteria and standards which may apply to the approval of the application.
- 2) The Director shall invite applicable service agencies, such as Clatsop County

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Public Works and the Oregon Department of Transportation, to the pre-application conference if it is determined that the agencies' facilities or services may be significantly impacted by the proposed development.

Section 2.1080. Applicant-Neighborhood Meeting [Ord. #17-02]

The purpose of a neighborhood meeting is to ensure that applicants pursue early and effective citizen participation in conjunction with their applications, giving them the opportunity to understand and try to mitigate any real or perceived impacts their proposed development may have on the neighborhood. The meeting is not intended to produce complete consensus on all applications; it is intended to encourage applicants to be good neighbors. Applicants are encouraged to reconcile as many public concerns as possible before submitting their land use application(s). County staff may attend the neighborhood meeting in an advisory capacity to answer questions.

- 1) The applicant shall hold a neighborhood meeting before submitting the following types of land use applications:
 - (A) Multi-family development that abuts a single-family zoning district;
 - (B) Commercial or industrial development that abuts any residential zoning district;
 - (C) Manufactured home park adjacent to any residential zoning district;
 - (D) Major subdivisions;
 - (E) Cluster and planned development;
 - (F) Quasi-judicial map amendments;
 - (G) For other applications or revisions to applications that the Director determines may have a significant neighborhood impact, such as conditional uses, expansion of nonconforming uses, rezones, goal exceptions, variances. In these cases, the Director shall determine the minimum notice area for the neighborhood meeting.

- 2) Neighborhood Meetings must meet the following requirements:
 - (A) The applicant shall consult with County staff to determine an appropriate meeting date, time, and place given the location of the proposed development and availability of staff to attend.
 - (B) The applicant shall send mailed notice of the public meeting to the Community Development Department Director and all property owners within a minimum distance of 300 feet of the boundaries of the subject property with the specific area to be determined by the Director based on the project scale, land use and transportation patterns or anticipated public interest in the project. If any part of the subject property is within the boundaries of a neighborhood or community organization as defined by Section 1.030, notice shall be sent to the designated representative(s) of such neighborhood or community organization. The property owner list

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shall be provided by the county and shall be compiled from county tax assessor's property owners of record from the most recent property tax assessment roll. The notice shall be sent a minimum of 10 days and no more than 30 days before the meeting, and shall include:

- 1) Date, time and location of the public meeting;
 - 2) A brief written description of the development proposal and proposed use(s) with enough specificity so that the project is easily discernable;
 - 3) The location of the subject property(ies), including address (if applicable), nearest cross streets and any other easily understood geographical references, and a map that depicts the subject property.
- (C) The applicant's presentation at the neighborhood meeting shall include:
- 1) A map depicting the location of the subject property(ies) proposed for development.
 - 2) A visual description of the project including a site plan, tentative subdivision plan and elevation drawings of any proposed structures, when applicable.
 - 3) A description of the nature of the proposed use(s) including but not limited to, sizes and heights of structures, proposed lot sizes, density, etc.
 - 4) The expected or anticipated impacts from the proposed development (e.g. traffic, storm drainage, tree removal, etc.).
 - 5) Mitigation proposed by the applicant to alleviate the expected/anticipated impacts.
 - 6) An opportunity for the public to provide comments.
- (D) The applicant shall take meeting notes and submit them to the County, including:
- 1) Meeting date and time;
 - 2) Name and address of all in attendance;
 - 3) Summary of issues raised and comments made at the meeting, and the applicant's responses.
- 3) A land use application will not be deemed complete until the applicant demonstrates substantial compliance with this section by including the results of the neighborhood meeting and supporting documentation with the application. This includes:
- (A) A copy of the notice to surrounding property owners;
 - (B) A signed affidavit of mailing the required notice of neighborhood meeting;
 - (C) A copy of any verbal or written comments received, including any issues raised via telephone, fax, email at the meeting, and the applicant's responses;
 - (D) A copy of the meeting notes as described in Subsection (2)(D) above.

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- (E) If responses to the meeting notice were not received by the applicant and no one attended the neighborhood meeting, the applicant shall submit evidence as indicated above with the meeting notes reflecting the absence of comment and/or attendance.

Section 2.1090. Effective Date of Development Permits

- 1) A decision on a Type II, IIa, III or IV request shall not become final until expiration of the period provided for filing an appeal, pursuant to Section 2.2190 or ORS 197.830, whichever applies, has elapsed.
- 2) If appealed, the decision rendered pursuant to Section 2.1090(1) shall not become final until rendering of the decision by the reviewing body.

Section 2.1100. Use of a Development

A development may be used only for a lawful use. A lawful use of a development is one that is not prohibited by law and for which the development is designed, arranged and intended or which is non-conforming (See Section 3.1000 Nonconforming uses and structures).

Section 2.1110. Procedures for Processing Development Permits

- 1) An application for a development permit shall be processed under either a Type I, II, IIa or III procedure as these procedures are described in Section 2.1000 to 2.1040.
- 2) When an application and proposed development is submitted, the Director shall determine the appropriate procedure. When an application includes procedures that call for different procedure types they shall be considered by a single hearing body. When there is a question as to the appropriate type procedure, the question shall be resolved in favor of the higher type number. An application shall be processed under the highest numbered procedure required for any part of the development proposal.

Section 2.1120. Coordination of Development Permit Procedure

The Director shall be responsible for the coordination of the development permit application and decision-making procedure and shall issue a development permit to an applicant whose application and proposed development is in compliance with the provisions of this Ordinance. Sufficient information shall be submitted to resolve all determinations that require furnishing notice to persons other than the applicant. In the case of a Type II, IIa, or Type III procedure, an applicant may defer submission of details demonstrating compliance with standards where such detail is not relevant to the approval under those procedures. Before issuing the development permit the Director shall be provided with the detail required to establish full compliance with the requirements of this Ordinance.

Section 2.1130. Development Permit Application

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An application for a development permit shall consist of the materials specified in this Section, plus any other materials required by this Ordinance.

- 1) A completed development permit application form with a site map drawn to scale.
- 2) An explanation of intent, stating the nature of the proposed development, reasons for the permit request, pertinent background information, information required by this Ordinance and other information that may have a bearing in determining the action to be taken.
 - (A) Applications for permits, excluding land divisions, requesting the construction of a dwelling unit, whether the dwelling be seasonal or year-round, or other development requiring the following services, shall be accompanied by the following proofs of services:
 - 1) Proof that a year-round source of potable water has been obtained pursuant to Section 3.0040.
 - 2) There shall be verification of septic approval or hook-up to a state approved sewer system.
- 3) Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.
- 4) Proof of legal access to the property:
 - (A) If access is taken directly from a State, County, or Public road, documentation from the appropriate agency verifying legal access.
 - (B) If access is taken from a Private road or across property not in exclusive ownership of the applicant, proof of easement shall be provided.
- 5) Legal description of the property affected by the application.
- 6) Authorization from the local fire official.
- 7) Additional information required by other sections of this Ordinance because of the type of development proposal or the area involved.

Section 2.1140. Submission of Development Permit Application

Application materials shall be submitted to the Director who shall have the date of submission indicated on each copy of the materials submitted. The Director shall have 30 days from the date the application is submitted in which to determine if the application is complete. If the application is deemed incomplete the Director shall notify the applicant in writing of exactly what information is missing. Within 180 days the application shall be deemed complete if the applicant: (a) provides all of the missing information; or (b) provides some of the missing information and written notice that no other information will be provided; or (c) provides written notice that none of the information will be provided.

Section 2.1150. Referral and Review of the Development Permit Applications

- 1) Transmit one copy of the application, or appropriate parts of the application, to appropriate referral agencies for review and comment and for determination of compliance with state and federal requirements. If the referral agency does not

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comment within ten (10) days, unless an extension of up to ten (10) days is requested by the agency and granted by the Director, the referral agency is presumed to have no comment. The Director shall grant an extension only if the application involves unusual circumstances or if due to circumstances related to a Type III procedure.

- 2) Transmit an application involving review or approval by others for disposition as provided by the applicable sections of this Ordinance. The Director shall, whenever feasible, consolidate action on approvals.
- 3) If a Type III procedure is required, the Director shall provide for notice and hearing as set forth in Section 2.2020 and Section 2.2060.

Section 2.1160. Development Permit Decision

- 1) The Director shall issue a development permit if the Director finds that applicable approvals by others have been granted and the proposed development otherwise conforms to the requirements of this Ordinance.
- 2) The Director shall deny the development permit if required approvals are not obtained or the application otherwise fails to comply with Ordinance requirements. The notice shall describe the reason for denial.
- 3) Within forty-five (45) days of the date of accepting a permit application not involving approval by others or within ten (10) days of receiving required approval by others, the Director shall grant or deny the application, the evidence, comments from referral agencies and review committees and approvals required by others. The Director shall notify the applicant and, if required, others entitled to notice of the disposition of the application. The notice shall indicate the date that the decision will take effect and describe the right of appeal pursuant to Section 2.1090.
- 4) An application for a Development Permit may be processed using abbreviated findings when the proposed development is found to meet all of the following:
 - (A) The proposed development is in compliance with the zoning regulations of this ordinance if:
 - 1) The use is allowed, and
 - 2) Meets lot width/depth ratio, and
 - 3) All setbacks are adequate, and
 - 4) An approved access is available, and
 - 5) Potable water supply is present pursuant to Clatsop County Standards Document, Section 3.0040 (does not apply to land partitions), and
 - 6) Proof of sewage disposal acceptable to DEQ.
 - (B) The proposed development is not in a floodway or floodplain as shown on the County floodway maps.
 - (C) The proposed development is not in a hazards zone as shown on the County's hazard map.
 - (D) No other agencies need to be notified of the development prior to the County issuing a development permit.

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In the event of an appeal, the Community Development Director may expand upon the abbreviated findings used when making the original determination.

Abbreviated findings shall be restricted to Type I and Type II procedures where no or little discretion is needed to make a decision and shall serve as a development permit if all questions are answered positively.

- 5) Except for Type IV procedures, all County actions on development permits, including resolution of all appeals at the Planning Commission and Board of Commissioners must be complete within 150 days of receipt of a completed application (see Section 2.1140 for determination of completed application). This 150-day period may be extended no more than 215 days at the request of the applicant.

Section 2.1170. Action on Resubmission of Denied Application

After sixty (60) days from the date of final determination denying an application, an applicant may make appropriate alterations to a proposal and resubmit it with payment of any additional fees required. If a previously denied application is resubmitted within one year, previous approvals need not be reconsidered unless the Director finds that changed conditions or changes in the proposal warrant such reconsideration.

Section 2.1180. Remand

The director shall submit to the Planning Commission remands made to the Planning Commission by the Board of Commissioners pursuant to Section 2.2240(1) and 2.3060(2)(B). If no additional information is required from the applicant, the remand will be scheduled for the next Planning Commission hearing and will be subject to time limitations as set out in Section 2.1160. If additional information is required from the applicant concerning the items on remand, the Department shall notify the applicant within ten (10) days of the Board of Commissioners written action. The applicant has from the date of notification to the 30th day after the Board's written action to submit all the requested information. The application is considered complete for the remand when all the requested information is submitted or, on the 31st day after the Board's written action, whichever comes first. The remand shall then be scheduled for the next Planning Commission hearing and shall be subject to the time limitations of Section 2.1160.

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SECTION 2.2000. PUBLIC DELIBERATIONS AND HEARINGS

Section 2.2010. Responsibility of Director for Hearings

The Director, subject to further direction of the governing body, shall provide for the following duties pertaining to a hearing, all in accordance with other provisions of this Ordinance.

- 1) Schedule and assign the matter for review and hearing.
- 2) Conduct the correspondence of the hearing body.
- 3) Give notice.
- 4) Maintain a record and enter into the record relevant dates such as those of giving notice, hearings, postponement and continuances and a summary of action taken by the hearings body.
- 5) Prepare minutes to include the decision on the matter heard and the reasons for the decision.
- 6) Reduce the decisions of the hearings body to writing within a reasonable time.
- 7) Mail a copy of the decision to a party requesting the same upon payment of a reasonable fee, if a fee has been established.

Section 2.2020. Mailed Notice of a Public Hearing

- 1) Mailed notice of a hearing shall be reasonably calculated to give actual notice and, other than for a legislative action under Sections 2.3010 to 2.3060, shall:
 - (A) Explain the nature of the application and the proposed use or uses, which could be authorized;
 - (B) List the applicable criteria from the Ordinance and the Plan that apply to the application at issue;
 - (C) Set forth the street address or other easily understood geographical reference to the subject property;
 - (D) State the date, time and location of this hearing;
 - (E) State 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 decision maker an opportunity to respond to the issue precludes an appeal based on that issue;
 - (F) Be mailed at least:
 - 1) Twenty days before the evidentiary hearing; or
 - 2) If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;
 - (G) Include the name of a local government representative to contact and the telephone number where additional information may be obtained;
 - (H) State 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 reasonable cost;
 - (I) State 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

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- reasonable cost; and
 - (J) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- 2) Notice of the hearings governed by this section shall be provided:
- (A) To the applicant; and
 - (B) To owners of record of property on the most recent property tax assessment roll where such property is located:
 - (C) within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary; or
 - (D) within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
 - (E) within 750 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone; and
 - (F) To any Neighborhood /Community Organization whose boundaries include the site; and
 - (G) To the Oregon Department of Transportation (ODOT) for Type II A and Type III applications related to property within 750 feet of a state highway or that in the opinion of the Community Development Director may be found to have a significant impact on State facilities.

Section 2.2030. Posted Notice of a Public Hearing [Ord. #17-02]

Development sites that are the subject of quasi-judicial public hearings shall be posted unless otherwise noted in this Code.

- 1) County and Applicant's Responsibilities:
- (A) The County shall supply the notices that the applicant is required to post on the subject property and shall specify the dates the notices are to be posted and the earliest date on which they may be removed.
 - (B) The County shall provide an affidavit to be signed and returned by the applicant certifying that the notice(s) were posted at the correct time and that if there is any delay in the County's land use process caused by the applicant's failure to correctly post the subject property for the required period of time and in the correct location, the applicant agrees to extend the 150-day period in a timely manner.
 - (C) The Applicant shall post the notice either ten or twenty consecutive days before the first scheduled public hearing on the matter in accordance with Section 2.2020.
 - (D) The Applicant shall return the signed affidavit of posting, with a photo of the sign attached, at least seven full days before any hearing.
 - (E) If the subject property is not properly posted as described in Section 2 below, the Director may postpone the hearing until such provisions are met.

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- 2) Number and Location. The applicant must place the notices:
 - (A) On each frontage of the subject property in a location visible from a traveled public road or street abutting the property. If no public street abuts the property, the notice shall be placed so as to be generally visible to the public.
 - (B) Notices shall not be posted within the public right-of-way or on trees.
 - (C) The applicant shall remove all signs and return them to the County within ten days following the public hearing that is the subject of the notice.
 - (D) If the subject property is located where the posting would not be visible to anyone other than adjacent property owners who received written notice, alternative locations visible to the public may be determined by the Community Development Director. These may include posting in a conspicuous place at the point the property obtains access to a County or public road.

Section 2.2040. Mailed Notice for a Type II procedure

- 1) Notice of intent to issue a Development Permit shall be provided:
 - (A) To the applicant; and
 - (B) To owners of record of property on the most recent property tax assessment roll where such property is located:
 - 1) within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary; or
 - 2) within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
 - 3) within 750 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone; and
 - (C) To any Neighborhood/Community Organization whose boundaries include the site.
 - (D) To the Oregon Department of Transportation (ODOT) for applications related to property within 750 feet of a state highway or that in the opinion of the Community Development Director may be found to have a significant impact on State facilities.
- 2) The notice shall:
 - (A) Describe the proposed development;
 - (B) Summarize the standards and facts that justify approval of the permit;
 - (C) Invite persons to submit information relevant to the proposed development and applicable standards within ten (10) days giving reasons why the permit application should or should not be approved or proposing modifications the person believes are necessary for approval according to the standards;
 - (D) Advise of the right and the procedure to appeal the decision on the

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proposed development if the person's concerns are not resolved.

Section 2.2050. Procedure for Mailed Notice

Unless otherwise provided, addresses for a mailed notice required by this Ordinance shall be obtained from the County Assessor's real property tax records. Unless the address is on file with the Director, a person whose name is not in the tax records at the time of filing of an application, or of initiating other action not based on an application, need not be furnished mailed notice. The failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this Ordinance for notice. In addition to persons who receive notice as required by the matter under consideration, the Director may provide notice to others he has reason to believe are affected or otherwise represent an interest that may be affected by the proposed development.

Section 2.2060. Procedure for Published Notice

Notice shall be published at least once in a newspaper of general circulation for a public hearing. The notice shall identify the time, date, location and agenda of the public hearing.

Section 2.2070. Challenges to Impartiality

Except for Type IV hearings conducted by the governing body, a party to a hearing or a member of a hearing body may challenge the qualifications of a member of the hearing body to participate in the hearing and decision regarding the matter. The challenge shall state by affidavit the facts relied upon by the challenger relating to a person's bias, prejudice, personal interest, or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner. Except for good cause shown, challenge shall be delivered by personal service to the Community Development Director not less than (48) hours preceding the time set for public hearing. The Director shall attempt to notify the person whose qualifications are challenged prior to the meeting. The challenge shall be incorporated into the record of the hearing.

Section 2.2080. Disqualification

Except for Type IV hearings conducted by the governing body, no member of a hearing body shall participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:

- 1) Any of the following have a direct or substantial financial interest in the proposal: the hearing body member or the member's immediate family member, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.
- 2) The member owns property within the area entitled to receive notice of the public hearing.

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- 3) The member has a direct private interest in the proposal.
- 4) For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.

Section 2.2090. Participation by Interested Officers or Employees

No officer or employee of the County who has a financial or other private interest in a proposal shall participate in discussion with or give an official opinion to the hearing body on the proposal without first declaring for the record the nature and extent of each interest.

Section 2.2100. Ex Parte Contacts

Except for Type IV hearings conducted by the governing body, the general public has a right to have hearing body members free from prehearing or ex parte contacts on matters heard by them. It is recognized that a public right is free access to public officials on any matter.

No decision or action of a Planning Commission or County governing body shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision-making body, if the member of the decision-making body receiving the contact:

- 1) Places on the record the substance of any written or oral ex parte communications concerning the decision or action; and
- 2) Has a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related. Hearing body members shall reveal any prehearing or ex parte contacts with regard to any matter at the commencement of the public hearing on the matter. If such contacts have not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate or abstain in accordance with Section 2.2120.

Section 2.2110. Staff Contacts

A communication between County staff and the Planning Commission or governing body shall not be considered an ex parte contact for the purposes of Section 2.2100.

Section 2.2120. Abstention or Disqualification

Except for Type IV hearings conducted by the governing body, disqualification for reasons other than the member's own judgment may be ordered by a majority of the members of a hearing body present and voting. The member who is the subject of the motion for disqualification may not vote on the motion.

Section 2.2130. Rights of Disqualified Member of the Hearing Body

- 1) An abstaining or disqualified member of the hearing body may be counted for purposes of forming a quorum. A member who represents personal interest at a

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hearing may do so only by abstaining from voting on the proposal, physically joining the audience and vacating the seat on the hearing body, and making full disclosure of his or her status and position at the time of addressing the hearing body.

- 2) If all members of the hearing body abstain or are disqualified, the administrative rule of necessity shall apply. All members present who declare their reasons for abstention or disqualification shall thereby be requalified to act.
- 3) Except for Type IV hearings conducted by the governing body, a member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received.

Section 2.2140. Burden and Nature of Proof

- 1) Except as otherwise provided, the applicant shall bear the burden of proof that the proposal is in compliance with the applicable standards. In addition, evidence of mistake of adoption of the plan designation or development regulations or subsequent change in the affected area are relevant considerations.
- 2) Unless specifically identified as jurisdictional, failure to comply with a provision of this Article shall invalidate an action only if it prejudices the substantial rights of the person alleging the error. Persons alleging procedural error shall have the burden of proof as to whether the error occurred and whether the error has prejudiced the person's substantial rights.

Section 2.2150. Quasi-Judicial Hearing Procedure

- 1) At any quasi-judicial hearing held under this Ordinance, the hearing body shall have authority to conduct a public hearing and;
 - (A) Determine who qualifies as a party;
 - (B) Regulate the course, sequence and decorum of the hearing;
 - (C) Dispose of procedural requirements or similar matters;
 - (D) Rule on offers of proof and relevancy of evidence and testimony;
 - (E) Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation and rebuttal testimony;
 - (F) Take such other action appropriate for conduct commensurate with the nature of the hearing.
- 2) Any hearing that is held to receive evidence shall be conducted as follows:
 - (A) Announce the nature and purpose of the hearing and summarize the rules of conducting the hearing.
 - (B) Allow the Director or a representative to summarize the application.
 - (C) Allow the applicant or a representative to be heard.
 - (D) Allow the opponent or representative to be heard.
 - (E) Allow parties or witnesses in favor of the applicant to be heard.
 - (F) Allow parties or witnesses in favor of the opponent to be heard.
 - (G) Allow the applicant to offer rebuttal evidence and testimony limited to rebuttal of points raised. New testimony will not be heard.

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- (H) Conclude the hearing and announce a decision or take the matter under advisement.
- 3) A hearing that is to be held on an existing record shall be conducted as follows:
 - (A) Announce the nature and purpose of the hearing and summarize the rules of conducting the hearing.
 - (B) Allow the Director or representative to summarize the application.
 - (C) Allow the applicant or a representative to be heard.
 - (D) Allow the opponent or a representative to be heard.
 - (E) Conclude the hearing and announce a decision or take the matter under advisement.
- 4) The announcement described in paragraphs (2)(A) and (3)(A) shall at a minimum:
 - (A) List the applicable substantive criteria.
 - (B) State that testimony and evidence must be directed toward the criteria described in paragraph (A) of this subsection or other criteria in the Plan or land use regulation which the person believes to apply to the decision; and
 - (C) State 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 based on that issue.
- 5) Prior to the conclusion of any initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The hearing body shall grant such request by continuing the public hearing pursuant to paragraph (6) of this subsection or leaving the record open for additional written evidence or testimony pursuant to paragraph (7) of this subsection.
- 6) If the hearing body 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 and 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 or testimony for the purpose of responding to the new written evidence.
- 7) If the hearing body leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the hearing body for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearing body shall reopen the record pursuant to subsection (8) of this section.
 - (A) A continuance or extension granted pursuant to this section shall be subject to the limitations of ORS 215.248, unless the continuance or extension is requested or agreed to by the applicant.
 - (B) Unless waived by the applicant, the hearing body shall allow the applicant

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at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence.

- 8) When the hearing body reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue.
- 9) A decision under this Ordinance shall be final when it has been reduced to writing and either:
 - (A) Mailed to an affected party; or
 - (B) Publicly recorded; or
 - (C) The affected party has actual notice of the written decision.

Section 2.2160. Decision

Following the hearing procedure described in Section 2.2150, the hearing body shall approve, approve with conditions, or deny the application or if the hearing is in the nature of an appeal, affirm with modifications or additional conditions, reverse or remand the decision that is on appeal. A decision on a hearing or an application for a development permit shall be made within the time limitation set out in Section 2.1160.

Section 2.2170. Findings and Order

The hearing body shall prepare findings of fact and an order which shall include:

- 1) A statement of the applicable criteria and standards against which the proposal was tested, and of the hearing body's interpretation of what would be required to achieve compliance with the criteria and standards.
- 2) A statement of the facts which the hearing body found establishing compliance or noncompliance with each applicable criteria and assurance of compliance with applicable standards.
- 3) The reasons for a conclusion to approve or deny.
- 4) The decision to deny or approve the proposed change with or without conditions.

Section 2.2180. Record of Proceedings

The hearing body shall cause the proceedings to be recorded stenographically or electronically.

- 1) Testimony shall be transcribed if required for judicial review or if ordered by the hearing body.
- 2) The hearing body shall, where practicable, retain as part of the hearing record each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or otherwise disposed of.

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- 3) The findings and order shall be included in the record.
- 4) A person shall have access to the record of the proceedings at reasonable times, places and circumstances. A person shall be entitled to make copies of the record at the person's own expense.

Section 2.2190. Request for Review / Appeal

- 1) The Hearings Officer shall hear appeals from Type I and Type II decisions of the Director
- 2) The Board of Commissioners shall hear appeals of decisions of the Hearings Officer (Type IIa) and Planning Commission (Type III).
- 3) The affected party shall file an appeal with the Director within twelve (12) days of a final decision. An additional five days after filing of an appeal may be granted to allow the appellant to submit additional justification for the appeal. The actual appeal, however, must be filed within the twelve-day limit.
- 4) At its discretion, the reviewing body may, after considering the application and appeal, and finding that the facts therein stated do not warrant further hearing, summarily affirm the action and deny the appeal. The Board of Commissioners, if it believes the matter warrants review, may limit an appeal or review to a review of the record and a hearing for receipt of oral arguments regarding the record, or may accept new evidence and testimony. If new evidence is to be received, a hearing shall be conducted pursuant to this article.
- 5) A final decision of the Board of Commissioners may be appealed to the Land Use Board of Appeals, pursuant to ORS 197.829.

Section 2.2200. Requirements of Notice of Appeal

A notice of appeal shall contain:

- 1) An identification of the decision sought to be reviewed, including the date of the decision.
- 2) A statement of the standing of the person seeking review.
- 3) The specific grounds relied upon for review.
- 4) If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Section 2.2230(1).

Section 2.2210. Review

The Board of Commissioners shall issue an order stating the scope of review to be one of the following:

- 1) Denying review.
- 2) Restricting review to the record made by the hearing body.
- 3) Limit review to such issues as the Board of Commissioners determines necessary for a proper resolution of the matter.
- 4) De novo hearing on the merits.

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Section 2.2220. Review on the Record

Unless otherwise provided for by the Board of Commissioners, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include:

- 1) A factual report prepared by the Community Development Director.
- 2) All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review.
- 3) The transcript of the hearing, if previously prepared; otherwise, a detailed summary of the evidence, but the details need not be set forth verbatim.

Section 2.2230. Review Consisting of Additional Evidence or De Novo Review

- 1) The reviewing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing if it is satisfied that the additional testimony or other evidence could not reasonably have been presented at the prior hearing. The reviewing body shall consider all of the following in making such a decision.
 - (A) Prejudice to the parties.
 - (B) Convenience or availability of evidence at the time of the initial hearing.
 - (C) Surprise to opposing parties.
 - (D) The competency, relevancy and materiality of the proposed testimony or other evidence.
- 2) "De novo hearing" shall mean a hearing by the reviewing body as if the action had not been previously heard and as if no decision has been rendered, except that all testimony, evidence and other material from the record of the previous consideration shall be included in the record of the review.

Section 2.2240. Review Body Decision

- 1) Upon review, the review body may by order affirm, reverse or modify in whole or part a determination or requirement of the decision that is under review. When the review body modifies or renders a decision that reverses a decision of the hearing body, the review body, in its order, shall set forth its findings and state its reasons for taking the action encompassed in the order. When the review body elects to remand the matter back to the hearing body for such further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify such.
- 2) Action by the review body shall be decided by a majority vote of its members present at the meeting at which review was made and shall be taken either at that or any subsequent meeting. The review body shall render its decision no later than sixty (60) days after the filing of the request for review.
- 3) The Director shall by written notice send by first class mail the decision arrived at

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by the Director or hearing body to the applicant, to any participant in the proceeding leading to the decision and any person, entity or organization requesting information pertaining to a final decision on the application.

Section 2.2250. LUBA Remand [ORD.23-02]

- 1) If the County is acting on the remand of a decision from the Land Use Board of Appeals (LUBA), the governing body may authorize the planning commission or hearings officer to conduct hearings and make a decision for lands designated as agricultural or forest lands under Statewide Planning Goals 3 or 4.
- 2) Following review by the planning commission or hearings officer the governing body shall review the decision and shall:
 - a) schedule a public hearing and issue a final decision on the application;
 - b) leave the planning commission or hearings officer decision as the final county decision; or
 - c) adopt the planning commission or hearings officer decision by consent order as the decision of the governing body.

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SECTION 2.3000. LEGISLATION

Section 2.3010. Legislative Action Under This Ordinance

- 1) The following are legislative actions under this Ordinance:
 - (A) An amendment to this Ordinance.
 - (B) A district or zone change action the County Commission has designated as legislative after finding the matter at issue involves such a substantial area and number of property owners or such broad public policy changes that administrative processing would be inappropriate.
- 2) A legislative action shall follow the Type IV procedure subject to the modifications and supplements of Sections 2.3010 to 2.3060.

Section 2.3020. Legislative Hearing Notice

Notice of a hearing on a legislative decision under this Ordinance need not include a mailing to property owners where the matter at issue does not relate to a specific geographic area. Where such mailing or posting is omitted, the Community Development Director shall prepare a notice program designed to reach persons believed to have a particular interest and to provide the general public with a reasonable opportunity to be aware of the hearings on the proposal.

Section 2.3030. Arguments on Policy

In addition to matters pertaining to compliance with criteria and consistency with the Comprehensive Plan, a person may provide information and opinion regarding the desirable policy of the County relevant to the proposed legislative matter.

Section 2.3040. Information at Planning Commission Hearing

The Planning Commission shall afford an interested person the opportunity to submit written recommendations and comment in advance of the hearing and this information shall be available for public inspection. At the hearing, written recommendations and other information will be received and oral statements will be permitted.

Section 2.3050. Planning Commission Recommendation

In preparing its recommendation the Planning Commission shall do the following:

- 1) Identify the provisions of the Comprehensive Plan that govern the decision and prepare findings describing how the proposal complies or fails to comply with these Plan provisions.
- 2) Review the nature of the proposal and describe whether the proposal warrants processing as a legislative matter.
- 3) State reasons for the recommendations and make the recommendations. Recommendations may include policy advice of the Planning Commission in addition to determinations described in (1) and (2) above.

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Section 2.3060. Board of Commissioners Legislative Action

- 1) The Board of Commissioners may limit the nature of the information it will receive at the hearing and may establish separate rules for consideration of each of the following:
 - (A) Compliance with the Plan.
 - (B) Refinements proposed.
 - (C) After confirming Appropriateness of the legislative process.
- 2) Policy changes or, amending or reversing the recommendations of the Planning Commission, the Board of Commissioners may take any of the following steps:
 - (A) Enact or defeat an Ordinance on all or part of the proposal under consideration.
 - (B) Refer some or all of the proposal back to the Planning Commission for further consideration. If such referral is subsequently returned, no further hearing need be conducted if the proposal is processed under the County procedure for Ordinance enactment.

SECTION 2.4000. CONDITIONAL DEVELOPMENT AND USE

Section 2.4010. General

Although each zoning district is primarily intended for a predominate type of use and development, there are a number of uses which may or may not be appropriate in a particular district depending upon all the circumstances of the individual case. For example, the location, nature of the proposed use, character of the surrounding development, traffic capacities of adjacent streets, and potential environmental effects, all may indicate that the circumstances of the development and use needs to be individually reviewed. It is the intent of this section to provide a system of review of such uses so that the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this ordinance and the objectives of the comprehensive plan.

Section 2.4020. Application for a Conditional Development and Use

If a development and use is classified as conditional in a zone, it is subject to approval under Sections 2.4000 to 2.4050. An applicant for a proposed conditional development and use shall provide facts and evidence and a site plan in compliance with Section 2.9400 sufficient to enable the Community Development Director or hearing body to make a determination.

Section 2.4030. Authorization of a Conditional Development and Use

- 1) A new, enlarged or otherwise altered development classified by this Ordinance as a conditional development and use may be approved by the Community Development Director under a Type II procedure except that the following conditional developments and uses may be approved by the Hearings Officer under a Type IIa procedure:
 - (A) Dog kennel or Kennel;
 - (B) Airport;

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- (C) Bed & Breakfast over 3 units;
 - (D) Golf courses;
 - (E) Automobile service station or repair shop, including body work, used car sales, wrecking yard;
 - (F) Public or private recreation such as riding stable, fishing or boating docks or ramps, gun club, golf course, or resort type establishment in association with recreation;
 - (G) Non-farm partition;
 - (H) Non-farm dwelling;
 - (I) Farm help relative dwelling;
 - (J) Home occupations related to auto/machinery repair or painting;
 - (K) Firearms training facility;
 - (L) Solid waste disposal site;
 - (M) Small scale, light industrial developments such as assembly, fabricating, processing, compounding, packing and similar operations within an enclosed building.
 - (N) Automobile wrecking yard.
 - (O) Amusement enterprises such as games of skill and science, thrill rides, penny arcades, and shooting galleries.
- 2) Where the proposed development involves a non-water dependent use or activity in the Marine Industrial Shorelands Zone, Section 4.1700, mailed notice shall also be provided to any interested party who has submitted a written request concerning the proposed development, and to state and federal agencies with statutory planning and permit issuance authority in aquatic areas, including the Oregon Division of State Lands, Department of Fish and Wildlife, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Corps of Engineers, and the Environmental Protection Agency.
- 3) In addition to the other applicable standards of this ordinance, the hearing body must determine that the development will comply with the following criteria to approve a conditional development and use.
- (A) The proposed use does not conflict with any provision, goal, or policy of the Comprehensive Plan.
 - (B) The proposed use meets the requirements and standards of this Ordinance.
 - (C) The site under consideration is suitable for the proposed use considering:
 - 1) The size, design, and operating characteristics of the use, including but not limited to off-street parking, fencing/buffering, lighting, signage, and building location.
 - 2) The adequacy of transportation access to the site, including street capacity and ingress and egress to adjoining streets.
 - 3) The adequacy of public facilities and services necessary to serve the use.
 - 4) The natural and physical features of the site such as topography, natural hazards, natural resource values, and other features.

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- (D) The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in (C) above.
- (E) The proposed use will not interfere with normal use of coastal shorelands.
- (F) The proposed use will cause no unreasonably adverse effects to aquatic or coastal shoreland areas, and
- (G) The use is consistent with the maintenance of peripheral and major big game habitat on lands identified in the Comprehensive Plan as Agricultural Lands or Conservation Forest Lands. In making this determination, consideration shall be given to the cumulative effects of the proposed action and other development in the area on big game habitat.
- (H) In addition to compliance with the criteria as determined by the hearing body and with the requirements of Sections 1.1040 and 1.1050, the applicant must accept those conditions listed in Section 2.4040 that the hearing body finds are appropriate to obtain compliance with the criteria.

Section 2.4040. Requirements for Conditional Development and Use

In permitting a conditional development and use, the hearing body may impose any of the following conditions as provided by Section 2.4030:

- 1) Limit the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
- 2) Establish a special yard or other open space or lot area or dimension.
- 3) Limit the height, size or location of a building or other structure.
- 4) Designate the size, number, location or nature of vehicle access points.
- 5) Increase the amount of street dedication, roadway width or improvements within the street right-of-way.
- 6) Designate the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading areas.
- 7) Limit or otherwise designate the number, size, location, height of or lighting of signs.
- 8) Limit the location and intensity of outdoor lighting or require its shielding.
- 9) Require diking, screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
- 10) Designate the size, height, location or materials for a fence.
- 11) Require the protection of existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- 12) Require provisions for public access (physical and visual) to natural, scenic and recreational resources.
- 13) Specify other conditions to permit the development of the County in conformity with the intent and purpose of the classification of development.

Section 2.4050. Time Limit on Permit for Conditional Use

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- 1) Authorization of a conditional use shall be void after two years unless substantial construction or action pursuant thereto has taken place as defined in Section 1.0500. However, the County may, at the discretion of the Community Development Director, extend authorization for an additional one year upon request, provided such request is submitted in writing at least 10 days and not more than 30 days prior to expiration of the permit. The County may grant conditional use approvals for activities such as dike maintenance for a period of time up to five years; such approvals will normally correspond with parallel state and/or federal permits.
- 2) Authorization of a conditional use dwelling in the AF, EFU and F-80 zones shall be void after four years unless substantial construction or action pursuant thereto has taken place as defined in Section 1.0500. However, the County may, at the discretion of the Community Development Director, extend authorization for an additional two years upon request, provided such request is submitted in writing at least 10 days and not more than 30 days prior to expiration of the permit. The county may approve no more than five additional one-year extensions of a permit if:
 - a) The applicant makes a written request for the additional extension period prior to the expiration of an extension;
 - b) The applicable residential development statute has not been amended following the approval of the permit; and
 - c) An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.
 - d) An extension of a permit under subsection (2) of this section is not a land use decision as defined in ORS 197.015. [ORD. 23-02]

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SECTION 2.5000. DEVELOPMENT AND USE PERMITTED WITH REVIEW

Section 2.5010. Application for a Development and Use Permitted with Review

If a development and use is listed as a development and use permitted with review, it is subject to approval under Section 2.5020 and 2.5030. An applicant for a proposed development and use permitted with review shall provide facts and evidence and a site plan in compliance with Section 2.9400 sufficient to enable the Community Development Director or hearing body to make a determination.

Section 2.5020. Authorization of a Development and Use Permitted with Review

A new, enlarged or otherwise altered development listed in this Ordinance as a development and use permitted with review shall be approved by the Community Development Director under a Type II procedure with posted notice and mailed notice to the owners of property situated within (250) feet of the property of the applicant and with published notice in a newspaper of general distribution. After taking into account location, size, design and operation characteristics of the proposed development, the Director shall determine whether or not the proposed development complies with the requirements of Sections 1.1040 and 1.1050. The Director may require changes in the proposed development to ensure that it will meet applicable standards. Where the proposed development involves a nonwater dependent use or activity in the Marine Industrial Shorelands zone, Section 4.1700, mailed notice shall also be provided to any interested party who has submitted a written request concerning the proposed development, and to state and federal agencies with statutory planning and permit issuance authority in aquatic areas, including the Oregon Division of State Lands, Department of Fish and Wildlife, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Corps of Engineers, and the Environmental Protection Agency.

Section 2.5030. Requirements for Development and Use Permitted with Review

Proposed developments must be consistent with the Clatsop County Comprehensive Plan and must satisfy applicable development standards in this Ordinance. Developments in the AF zone must be found to be consistent with the maintenance of big game habitat. In making this determination, consideration shall be given to the cumulative effects of the proposed action and other development in the area on big game habitat. Developments requiring a state or federal permit are subject to the Consistency Review Procedure set forth in Section 2.7000. In permitting a development, the Director may impose any of the conditions listed in Section 2.4040 to ensure that the development is consistent with the resource capabilities of the particular areas and the purpose of the zoning and special district classifications.

Section 2.5040. Time Limit on Permit for Review Use

Authorization of a review use shall be void after two (2) years unless substantial construction or action pursuant thereto has taken place. However, the County may, at the discretion of the Community Development Director, extend authorization for an additional one year upon request, provided such request is submitted in writing at least 10 days and not more than 30 days prior to expiration of the permit. The County may

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grant review use approvals for activities such as dike maintenance for a period of time up to five years; such approvals will normally correspond with parallel state and/or federal permits.

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SECTION 2.6000. DEVELOPMENTS AND USES OF THE SAME TYPE

Section 2.6010. Determination of Nature of Unlisted Developments and Uses

The Planning Commission shall examine the characteristics of developments and uses not listed in any zone and shall make a determination as to what zone the development and use may be allowed as a development and use permitted, permitted with review, or conditional development and use. The Planning Commission shall base its decision on findings that the development is consistent with the purposes of the zoning classification and is similar to the types of development and use permitted or conditional in the zone. The decision shall be made under a Type III procedure with notice provided only in newspapers of general distribution per Section 2.2060.

Section 2.6020. Authorization of the Development and Use

An unlisted development and use shall be approved for the zone determined by the Planning Commission through separate action under the appropriate procedures specified in Sections 2.1010-2.1040.

Section 2.6030. Record of Determination

Unlisted developments and uses for which the Planning Commission has made a determination as to appropriate zone and type similarity shall be maintained in the Land Use Planning Division, for future reference.

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SECTION 2.7000. COASTAL ZONE CONSISTENCY REVIEW

Section 2.7010. Applicability

This section applies to the following activities that directly affect the coastal zone:

- 1) Actions requiring federal permits or licenses
- 2) Federal activities and development projects
- 3) Outer continental shelf activities
- 4) Federal grants or financial assistance.

Section 2.7020. Consistency Review Procedure for Activities Requiring State or Federal Permits or Licenses

Applicants for activities in Clatsop County's coastal zone which require a state or federal permit or license shall submit to the Community Development Director a copy of the completed permit application, other supporting material provided to the permit granting agency and a set of findings which demonstrate that the development would be consistent with the applicable elements of the Comprehensive Plan and this Ordinance.

If the activity requires a local permit, the applicant shall apply for the local permit under the established permit program. Approval of the permit shall constitute a ruling that the action is consistent with the applicable elements of the Comprehensive Plan and Ordinance. If the action does not require a local permit, the County may make an investigation to provide information on the project's conformance with the Plan and Ordinance standards and provisions. The investigation can be done administratively or through public hearings.

The Community Development Director shall respond to the state or federal public permit granting agency within seven working days of the local actions. The response shall contain a statement of whether the permit is consistent with the applicable elements of the Comprehensive Plan, the reasons development is or is not consistent, standards and conditions which apply if the permit is granted, and the need for local permits for developments associated with the activity.

Section 2.7030. Consistency Review Procedure for Federal Activities and Development Projects

Federal activities in the Coastal Zone are not subject to the established local permit procedures. Federal activities which directly affect the coastal zone of the county must be consistent, to the maximum extent practicable, with the coastal zone management program. The coastal zone management programs include the County's Comprehensive Plan and this Ordinance. The federal consistency determination is reviewed by the Oregon Department of Land Conservation and Development.

Consistency determinations for federal activities shall be reviewed for conformance with the mandatory enforceable policies of the County's Comprehensive Plan and Ordinance. The review may be done administratively or through public hearings. The

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federal agency has the option of applying for a local permit to demonstrate consistency with the Plan and Ordinance.

The Community Development Director shall communicate concurrence or disagreement with the consistency determination, and recommendations for conditions of project approval to the Oregon Department of Land Conservation and Development within 21 days of receiving the notice for reviewing the federal consistency determination.

Section 2.7040. Outer Continental Shelf Activities

Federally licensed or permitted activities described in Outer Continental Shelf plans and which affect Clatsop County's coastal zone shall be conducted in a manner consistent with the coastal zone management program. The applicant's consistency certification is reviewed by the Department of Land Conservation and Development. The Community Development Director may review these activities for consistency with the Plan and Zoning Ordinance. The review may be done administratively or through public hearings. The Community Development Director may communicate concurrence or disagreement with the consistency certification to the Oregon Department of Land Conservation and Development within the time specified on the Oregon Department of Land Conservation and Development notice for the activities.

Section 2.7050. Federal Grants and Financial Assistance

Federal financial assistance of grants to state agencies, cities, counties, special purpose districts, or regional bodies, for activities which affect the coastal zone shall be granted only when the activities are consistent with the coastal zone management program. The Community Development Director may review the grants and financial assistance for consistency with the Plan and Ordinance. The review may be done administratively or through public hearings. The Community Development Director may communicate the review findings to the Intergovernmental Relations Division Clearinghouse within the time specified on the Clearinghouse notice.

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SECTION 2.8000. VARIANCE

Section 2.8010. Variance Procedure

- 1) A variance may be appropriate where: by reason of exceptional configuration, or by reason of other extraordinary and exceptional situations or conditions existing on a piece of property, the strict application of any regulations enacted under this Ordinance would result in peculiar, exceptional and undue hardship upon the owner of such property for which a variance is requested. Undue hardship upon adjacent property owners may also be considered. The Hearings Officer may vary or adopt the strict application of any of the requirements of this Ordinance.
- 2) Variances will be considered under a Type IIa procedure pursuant to Section 2.1030. An applicant may request a variance whether before or after the denial of a development permit.
- 3) Standards for a Variance. The requirements for a Variance are listed below. It is the intent of this Ordinance that a variance only be granted to overcome some exceptional physical condition related to a parcel of land posing practical difficulty to development and preventing the owner from using the property as intended by the Zoning Ordinance. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the land.
 - (A) There must be proof of exceptional and extraordinary circumstances which apply to the property and which do not apply to other properties in the same zone or vicinity, and result from lot size or shape legally existing in accordance with land use laws prior to September 30, 1980, topography, geology, or other circumstances over which the applicant has no control. These circumstances or conditions must be such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of the land and/or structure.
 - (B) The granting of a variance shall neither be injurious to the neighborhood or community nor otherwise detrimental to the public welfare or to public safety.
 - (C) The granting of the variance will not permit the establishment of any development or use which is not permitted by the Ordinance, nor confer upon the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the area.
 - (D) There must be proof of significant hardship if the variance is not granted. It is not sufficient proof of hardship to show that a greater profit would result if a variance were granted. Nor shall loss of value be a valid reason to grant a variance. Furthermore, the hardship cannot be self-created or self-imposed, nor can it be created by one who purchases property with or without the knowledge of restrictions present. The hardship must result from the strict application of this Ordinance, and be suffered directly by the property in question. Evidence of a variance granted under similar circumstances shall not be considered as a solely sufficient cause to grant hardship relief.

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- (E) The granting of a variance is necessary for the reasonable use of land or building, and the variance granted by the hearing body is the minimum variance that will accomplish this purpose.
- (F) The hardship does not arise from a violation of the provisions of this Ordinance.
- (G) The development will occur on a parcel of land that in conjunction with adjacent land in the same ownership is not otherwise reasonably capable of development and use under the provisions of this Ordinance.

Section 2.8020. Notification

In addition to the notice required to be sent to property owners pursuant to Section 2.1030 and Section 2.2020, notice of variances to yard setbacks and height variances shall be sent to the fire district in which the property is served for review and comment. If a response is not received by the Department of Community Development within 20 days of the notice it will be assumed that the District has no negative concerns regarding the request.

Section 2.8030. Expiration/Extension

Authorization of a variance shall be void after one year unless substantial construction or action pursuant thereto has taken place. However, the County may, at the discretion of the Planning Director, extend authorization for an additional six (6) months upon request, provided such request is submitted in writing at least 10 days and not more than 30 days prior to expiration of the variance.

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SECTION 2.8100. ZONE CHANGES

Section 2.8110. Purpose

This section provides the criteria for amending the boundaries of any base zone or overlay district delineated on the official Clatsop County “Comprehensive Plan/Zoning Map”. A change in a base zone or overlay district may be made according to the criteria set forth in Section 2.8120.

The process for changing a base zone designation or overlay district that does not involve a change to the comprehensive plan or comprehensive plan designation shall be a Type III procedure. All changes involving comprehensive plan amendments or comprehensive plan designation shall be a Type IV procedure. Changes to a base zone or overlay district may be initiated by the governing body, Planning Commission, or by petition of a majority of property owners in the area proposed for change. Mailed notice of the hearing shall include the owners of property within (250) feet of the area proposed for change. If the change involves a Goal 5 resource, a Plan amendment must also be requested and the Goal 5 Administrative Rule used to justify the decision.

Section 2.8120. Zone Change Criteria

The governing body shall approve a non-legislative zone designation change if it finds compliance with Section 1.1040, and all of the following criteria:

- 1) The proposed change is consistent with the policies of the Clatsop County Comprehensive Plan.
- 2) The proposed change is consistent with the statewide planning goals (ORS 197).
- 3) The property in the affected area will be provided with adequate public facilities and services including, but not limited to:
 - (A) Parks, schools and recreational facilities
 - (B) Police and fire protection and emergency medical service
 - (C) Solid waste collection
 - (D) Water and wastewater facilities
- 4) The applicant shall demonstrate consistency with the Transportation Planning Rule, specifically by addressing whether the proposed amendment creates a significant effect on the transportation system pursuant to OAR 660-012-0060. If required, a Traffic Impact Study (TIS) shall be prepared in accordance with Section 2.9500.
- 5) The proposed change will not result in over-intensive use of the land, will give reasonable consideration to the character of the area, and will be compatible with the overall zoning pattern.
- (6) The proposed change gives reasonable consideration to peculiar suitability of the property for particular uses.
- (7) The proposed change will encourage the most appropriate use of land throughout Clatsop County.
- (8) The proposed change will not be detrimental to the health, safety and general welfare of Clatsop County.

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Section 2.8130. Effective Date of Zone Changes

A change in a zone or special purpose district designation of an area shall take effect thirty (30) days after the date of approval, unless adopted by emergency clause.

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SECTION 2.8200. TEMPORARY USE PERMITS

Section 2.8210. Purpose and Intent

It is the intent of the temporary use permit section to provide procedures and standards for land or structures which possess unique characteristics requiring special consideration for temporary usage. The provisions of this section are to apply when the proposed use does not qualify as a continuation of a non-conforming use. Temporary use permits are not to be construed, permitted nor utilized as a means to abrogate the intent, purpose or procedures of Clatsop County's Comprehensive Plan or Ordinance regulations.

No temporary permit shall be granted which would have the effect of creating a permanent rezoning or result in a hardship when the use is not permitted to continue at the expiration of the permit periods. Further, no temporary permit may be granted which has the effect of conferring a special privilege for which other property within the same zone may not be equally eligible.

Section 2.8220. Goals

The provisions of this section are designed to provide standards and criteria for temporary relief to hardship situations which result from strict Ordinance application. The reasons for the temporary relief shall be to provide an applicant an opportunity for a solution to a temporary land use problem or sufficient time to develop a permanent solution to the land use problem which will result in compliance with the relative zoning regulations.

The provisions of this Section are designed to provide criteria for granting and administering temporary use permits and to provide guidelines for the imposition of additional conditions. The temporary use should be as consistent with intent and purpose of the zone as possible and comply with the requirements of the zone, except as may be additionally provided for under the provisions of Section 2.8200.

Section 2.8230. Permitted Temporary Uses, Criteria and Limitations

The following temporary uses may be permitted under a Type I procedure. A temporary use permit for such uses may be permitted in any zone, subject to those specified criteria and limitations described in conjunction with the temporary use pursuant to the General Standards of subsection 2.8240 and subject to the condition provisions of subsection 2.8250.

- 1) Non-Conforming Uses. A different use for non-conforming uses of structures and/or land may be permitted by the Community Development Director provided it is determined by the Planning Director that the character and nature of the proposed temporary use will be more compatible to the surrounding vicinity than the existing non-conforming use.
- 2) Existing Structures and/or Premises. Existing structures and/or premises which do not have a qualified nonconforming use status and which were designed and

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- intended for use not allowable in their respective zone may be granted a temporary use permit to provide a solution to a temporary land use problem or to provide a temporary solution to enable a permanent solution to be developed.
- 3) New Structures. A use involving a new structure of a temporary nature necessary for the physical or economic welfare and development of the primary permitted use of the property may be granted a temporary permit by the Community Development Director subject to a finding that the new structure permitted by the temporary use permit shall be removed at the end of the temporary permit period.
 - 4) Accessory Structures. Existing or new structures may be utilized in conjunction with or support of the primary permitted use of the property on a temporary basis. The Planning Director may grant a temporary use permit for the structure which shall be brought into conformity with the Ordinance provisions in effect.
 - 5) Open Land Uses. Open land uses which do not involve structures or involve structures which create an improvement value to the combined land and structures of less than \$1,000 may be permitted by temporary use permit by the Community Development Director.
 - 6) Manufactured dwelling or recreational vehicle for a period not to exceed one year, used during the construction of a residential structure for which a building permit has been issued.
 - 7) Real estate office in a legally recorded subdivision.

Section 2.8240. General Standards

The following standards shall be utilized by the Community Development Director in reaching its decision on every application for a temporary use permit:

- 1) A proposed use shall be compatible with and will not create a material adverse effect on the livability or appropriate development of abutting properties and the surrounding community.
- 2) The proposed use will not be adversely affected by the permitted development of abutting properties and the surrounding vicinity.
- 3) In applying specific temporary use criteria and limitations, these general standards, and determinations of appropriate conditions, consideration shall be given, but not limited to:
 - (A) The harmony and scale, bulk, coverage, and density;
 - (B) The availability of public facilities and utilities;
 - (C) The harmful effect, if any, upon a desirable neighborhood character;
 - (D) The generation of traffic and the capacity of surrounding streets and roads;
 - (E) The creation of noise, vibration, odors, or other similar nuisances;
 - (F) Any other relevant impact on the peace, quiet, comfort, and enjoyment by and of the abutting properties and the surrounding community.
 - (G) No structural alterations may be made to a non-conforming use structure nor may new structures be placed upon premises to be utilized by a temporary use permit which materially prolongs the economic hardship by

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the discontinuance of such use and conformance with the provisions of the applicable zone.

- (H) No temporary use permit shall be granted which is inconsistent with the purpose and intent set forth in subsection 2.8210 or is inconsistent with the goals set forth in subsection 2.8220.

Section 2.8250. Conditions

- 1) Required Conditions. All temporary permits issued by the Community Development Director shall be subject to the following conditions:
 - (A) Restoration and Bond. Where new structures and uses thereof and new open land uses are permitted by the temporary use permit, the premises shall be required to be restored to the same or better state of condition existing prior to the granting of the temporary use permit within three (3) months of the termination of the permit. A performance bond subject to Section 1.1090 shall be required, if determined necessary by the Community Development Director at the time of approval in sufficient amount to cover the estimated costs of such restoration.
 - (B) Time Limit. Temporary permits shall be granted for no longer than a one (1) year period of time.
 - (C) Temporary Permit Renewal. Temporary permits may be renewed up to four (4) times, provided however, prior to the first renewal the applicant must submit plans to the Community Development Director demonstrating how he intends to resolve the problem after his permit expires and providing a time table for activity to accomplish his plan. No further extension shall be granted unless applicant demonstrates compliance with such time table. No parcel of property, regardless of succession of ownership, or control, shall be eligible for receiving temporary use permits, for the same or different uses, more than five (5) years out of any ten (10) year period of time. It is the intent of this Ordinance that renewals of temporary permits within the terms of this Ordinance shall not be subject to the full requirements necessary for the establishment of a temporary permit but rather, shall be reviewed for the purposes of determination of whether additional conditions need be added in order to maintain compatibility of the temporarily permitted use with the surrounding area and to determine compliance with the plan for resolution of the problem for which the temporary permit was necessary.
- 2) Additional Conditions.
 - (A) The Community Development Director may attach conditions to temporary use permits in addition to those conditions enumerated in the applicable paragraphs of subsection 2.8250(1). of this section. Some of these may include, but are not limited to:
 - 1) Setbacks, special yards, and spaces;
 - 2) Screening, fences, and walls;
 - 3) Off-street parking and loading;

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- Control of points of vehicular ingress and egress;
- 4) Construction standards and maintenance.
- (B) No temporary use permit shall be issued until the applicant demonstrates how the hardship associated with the temporary use will be resolved and has submitted a written statement indicating by what date the abatement will occur.

Section 2.8260. Revocation

- 1) Basis for Revocation. Except as provided in subsection (2), temporary use permits are automatically revoked and void without special action if:
 - (A) The permit has not been exercised within six (6) months of the date of approval; or
 - (B) The use approved by the temporary permit is discontinued for any reason for six (6) continuous months, or more; or
 - (C) Applicant, his agents or successors fail or refuse to comply with the conditions imposed in a temporary permit and/or to refuse to adhere to the plan as approved.
 - (D) Standing to Request Hearing. A hearing for revocation of a temporary permit may be requested of the Hearings Officer by an affected citizen or by an administrative officer of the County who is of the opinion that one or all of the basis for revocation as stated in subsection (1) exists. Requests for revocation hearings shall be accomplished by submitting a letter to the Hearings Officer stating the basis for requesting the hearing for revocation. The Hearings Officer shall then set a hearing for the revocation if it so determines a hearing is warranted.
 - (E) Hearing Procedure. Public hearing, notification, and appeal procedures for revocation hearings by the Hearings Officer and the Board of Commissioners shall be held subject to Article 2 of this Ordinance.

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SECTION 2.9000. SUBDIVISIONS, PARTITIONS AND PROPERTY LINE ADJUSTMENTS

Section 2.9010. Purpose

In accordance with the provisions of ORS 92 and 215, this section sets forth the minimum standards governing the approval of land divisions, including subdivisions, partitions and property line adjustments within Clatsop County as necessary to carry out the County's Comprehensive Plan and to promote the public health, safety and general welfare.

No person may subdivide, partition land or perform a property line adjustment within Clatsop County except in accordance with ORS 92, 209 and 215 and the provisions of this ordinance. (Ord. 21-05)

Section 2.9020. Applicability. (Ord. 21-05)

Whenever land owners wish to sell part of a lawfully established unit of land, or place a second home on a lawfully established unit of land that already has a home on it, a partition or subdivision is necessary with the exception of the following:

- 1) A division of land resulting from a lien foreclosure of a recorded contract for the sale of real property;
- 2) the creation of cemetery lots; or
- 3) a property line adjustment.

Whenever abutting lawfully established units of land are in common ownership and the land owner wishes to build on or near the common property line(s), an approved restrictive covenant shall be recorded by the owner stating that the abutting units of land shall remain in common ownership until such time the buildings and common property lines meet setback and building code requirements. After recording of said restrictive covenant, the exterior boundary of the combined units of land therein described shall be used for applying the setback and building code requirements. A recorded restrictive covenant is not required for a building that meets setback and building code requirements within the boundaries of a single unit of land abutting other units of land in common ownership.

Land divisions can be in the form of partitions or subdivisions. No land shall be divided prior to approval and recording of a partition or subdivision.

Oregon Revised Statutes (ORS) 92.025 states:

- 1) A person may not sell a lot in a subdivision or a parcel in a partition until the plat of the subdivision or partition has been acknowledged and recorded with the recording officer of the county in which the lot or parcel is situated.
- 2) A person may not sell a lot in a subdivision or a parcel in a partition by reference to or exhibition or other use of a plat of the subdivision or partition before the plat for the subdivision or partition has been so recorded. In negotiating to sell a lot in

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a subdivision or a parcel in a partition under ORS 92.016(1) and (2), a person may use the approved tentative plan for the subdivision or partition.

Partitions are divided into two types, minor and major, depending on road access. For the purposes of this Ordinance access ways shall be categorized as follows:

Private road -- an improved travel surface placed within a private road easement or privately owned tract that is intended to provide access from a state, county, or public road to three or more lots, parcels, or units of land and which is maintained by private funds for the exclusive use of private parties.

Public road -- an improved travel surface placed within a dedicated public right-of-way which is maintained by private funds.

County road -- an improved travel surface placed within a dedicated public right-of-way which has been formally accepted by the county and is maintained by the county.

Minor Partitions -- occur when a tract of land is divided into no more than three (3) parcels, including the parent parcel, in a calendar year when such tract of land existed at the beginning of the year and each parcel has a minimum of 25 feet of frontage on a state, county or public road and access to each parcel is taken from that frontage and within that parcel. A minor partition shall be processed by the Director under a Type II procedure as outlined in Section 2.9030 through 2.9080 of this Ordinance.

Major Partitions -- occur when a tract of land is divided into no more than three (3) parcels, including the parent parcel, in a calendar year when such tract of land existed at the beginning of the year and any parcel has less than 25 feet of frontage on a state, county or public road. Any partition which requires the creation of a state, county or public or private road or the utilization of a private road is also considered a major partition. Both minor and major partitions shall be processed by the Director under a Type II procedure as outlined in Section 2.9050 through 2.9130.

Property Line Adjustment -- is the relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional lot, parcel, or unit of land.

Subdivisions -- occur when a tract of land is divided into four (4) or more lots, including the parent parcel, within a calendar year. A proposed subdivision for six (6) or less lots shall be processed by the Director under a Type II procedure. Any larger subdivision shall be processed by the Director under a Type III procedure. Section 2.9140 through 2.9300 of this Ordinance pertains to the processing of subdivision requests.

Section 2.9030. Processing Property Line Adjustments (Ord. 21-05)

Proposed property line adjustment requests will be processed by the Department Director under a Type I procedure and include the following steps:

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- 1) The applicant will submit a tentative property line adjustment plan, certificate from a land surveyor that abutting properties to be adjusted are lawfully established units of land, completed application and filing fee, to the Department of Community Development. The tentative property line adjustment shall follow the format outlined in Section 2.9090.
- 2) The Director shall evaluate the tentative property line adjustment to determine conformity with lot size and dimension standards of the base zone of the proposed partition. The tentative plan may be modified, if needed, to meet these standards. The Director shall apply conditions as required by Section 2.9070 and conditionally approve, or deny the application.
- 3) Conditional approval of a tentative property line adjustment shall be valid for two years from the date of recording of the conditional approval. The applicant shall meet the conditions of approval attached by the Director prior to expiration of the conditional approval. The Director may, upon written request by the applicant, grant an extension of the expiration date of up to one (1) year upon a written finding that the facts upon which the approval was based have not changed to an extent sufficient to warrant refileing of the tentative plan and after finding no other development approval would be affected. If all conditions of approval for a property line adjustment are not completed prior to expiration of the tentative plan the approval shall be considered void as of the applicable expiration date.
- 4) A property line adjustment deed shall contain the names of the parties, the description of the adjusted line, references to the original recorded documents and signatures of all parties with proper acknowledgement, and contain the words Property Line Adjustment.
- 5) A property line adjustment survey must list the clerk's recording instrument number of the corresponding property line adjustment deed(s) that conforms with ORS 92.190(4) before the permanent survey map is submitted for recording per ORS 209.250.
- 6) The area between the old property line and the new property line is combined with the existing lawfully established unit of land on the same side of the new property line and is not a separate lawfully established unit of land.

Section 2.9040. General Standards for Property Line Adjustments

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- 1) For all areas except those identified as a Resource Zone in Section 1.0500 of this Ordinance, all property which is the subject of a property line adjustment shall be located within the same zone.
- 2) For all areas except those zoned AF, F-80 and EFU:
 - (A) Property line adjustments may be allowed between undersized lots or parcels in the above zones provided that the resulting lots or parcels satisfy the minimum width, depth, frontage, lot width/depth ratio, yard requirements of the zone and setbacks to existing structures are not reduced by the property line adjustment below the minimum setback requirements.
 - (B) Property line adjustments may be allowed between undersized lots or parcels and lots or parcels conforming as to lot size provided the undersized lot meets the requirements in (1) above, and the resulting conforming lot or parcel if partitioned or subdivided would not result in a density greater than the zone(s) in which the property has been designated.
- 3) For all areas zoned AF, F-80 and EFU the adjustment may be approved provided:
 - (A) the remaining substandard parcel is not used as a basis for considering and approving a built upon or irrevocably committed exception, and
 - (B) the substandard parcel is not permitted to have more than one non-farm or non-forest dwelling on it, and
 - (C) it is determined that the tract proposed for transfer can be better managed for resource use, and
 - (D) the tract proposed for transfer may not be used in calculating the lot size of a parcel or parcels for purposes of future land divisions.

Section 2.9050. Processing Minor and Major Partitions (Ord. 21-05)

The processing of proposed minor and major partition requests will include the following steps:

- 1) The applicant will submit a tentative partition plan completed application and filing fee, to the Community Development Department. The tentative partition plan shall follow the format outlined in Section 2.9090.
- 2) The Director shall evaluate the tentative partition plan to determine conformity with lot size and dimension standards of the base zone of the proposed partition. Where a partition is located within 750 feet of a state highway, the Community Development Director will notify the Oregon Department of Transportation (ODOT) of the application and will consider its comments in taking action on the partition request. The tentative plan may be modified, if needed, to meet these standards. The Director, through a Type II procedure in accordance with Section 2.1020, shall apply conditions as required by Section 2.9050 and conditionally approve or deny the tentative plan.

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- 3) Conditional approval of a tentative partition plan shall be valid for two years from the date of the conditional approval. The applicant shall meet the conditions of approval attached by the Director and submit a final partition plat prior to expiration of the conditional approval. The final partition plat shall follow the format outlined in Section 2.9080. The Director may, upon written request by the applicant, grant an extension of the expiration date of up to one (1) year upon a written finding that the facts upon which the approval was based have not changed to an extent sufficient to warrant refile of the tentative plan and after finding no other development approval would be affected. Any partition not completed prior to expiration of the tentative plan shall be considered void.
- 4) The Director shall review the final partition plat to determine that it conforms with the tentative plan and any applicable conditions. Prior to recording of any partition plat, it must be approved by the County Surveyor.
- 5) If the Director or the County Surveyor determines that the partition plat submitted does not conform to the tentative plan or applicable conditions, the applicant shall be afforded an opportunity to make corrections prior to the expiration date.
- 6) If the final partition plat conforms to the tentative plan and applicable conditions, the County Surveyor and the Director shall sign and date the final plat. The applicant will be notified that the plat is ready for recording in the County Clerk's Office.

Section 2.9060. Appeal of Partitions or Property Line Adjustments

Any appeals of partitions or property line adjustment shall be done after approval or denial of the tentative partition plan map or property line adjustment decision and follow the process as set forth in Section 2.2190.

Section 2.9070. General Standards for Minor and Major Partitions (Ord. 21-05)

Land within resource zones is evaluated by different standards than land in non-resource zones. This is because land divisions in resource zones are considered to be primarily for resource use in resource areas, not for development. Specific road improvement standards are not required except for cluster land divisions, which are evaluated as residential parcels since their purpose is for residential use. As a condition of approving residences as conditional uses in resource zones, road improvements will be required.

- 1) Standards for partitions in resource zones (as defined in Section 1.0500):
 - (A) Minor Partitions in Resource Zones shall meet the following standards:
 - 1) Road approach approval from the appropriate agency shall be demonstrated.
 - 2) Clustering in resource zones shall be subject to the standards for partitioning of non-resource lands in (2) below as well as any other applicable standards.

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- 3) County-wide Forest Lands Policy #22 shall be applied to all AF and F-80 partitions.
- (B) Major Partitions in Resource Zones shall meet the following standards:
 - 1) Standards in Section 2.9070(1)(A)(1-3) above shall be met.
 - (a) If a County road is created, the right-of-way shall meet the standards from Table 3.2 – Right-of-way and Improvement Standards Table and the boundaries of the road right-of-way shall be surveyed and monumented. The road shall be improved to a standard established by the Board of Commissioners.
 - b) If a public road is created, Table 3.2 – Right-of-way and Improvements Standards Table and the boundaries of the road right-of-way shall be surveyed and monumented.
 - c) If a private road or easement is created or utilized, the easement shall meet the standards from Table 3.2 – Right-of-way and Improvement Standards Table. Easements which bind all involved property owners and which specify the perpetual, non-exclusive nature of the roadway easement shall be signed and recorded with the County Clerk.
- 2) Standards for Partitions in Non-Resource Zones (as defined in Section 1.0500):
 - (A) Minor Partitions in all zones other than Resource Zones shall meet the following standards:
 - 1) Road approach approval from the appropriate agency shall be demonstrated.
 - 2) Except as set out in Section 5.9070(1) the boundaries of all parcels shall be surveyed and monumented.
 - (B) Major Partitions in Non-Resource Zones shall meet the following standards
 - 1) Standards in 5.9070(2)(A)(1-2) above shall be met.
 - (a) If a County Road is created, the right-of-way shall meet the standards from Table 3.2 – Right-of-way and Improvement Standards Table and the boundaries of the road right-of-way shall be surveyed and monumented. The road shall be improved to a standard established by the Board of Commissioners. All such roads shall be improved at least to the County's A-20 road standard.
 - (b) If a public road is created, the right-of-way shall meet the standards from Table 3.2 – Right-of-way and Improvement Standards Table and the boundaries of the road right-of-way shall be surveyed and monumented. The road shall be improved to the County's G-20 road standard at a minimum. An agreement shall be signed and recorded with the County Clerk outlining the responsibility of the private parties

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- maintaining the road improvements. These maintenance responsibilities shall be enforced by the individual parties or the County at its discretion.
- (c) If a private road or easement is created, the entire road easement shall meet the standards from Table 3.2 – Right-of-way and Improvement Standards Table and the boundaries of the road easement shall be surveyed and monumented in its entirety. The road shall be improved to the County's G-14 road standard at a minimum, and one vehicle turnout shall be provided for every 400' of road and within 50' of each sight obscuring corner. If the travel surface width of the private road exceeds 20 feet no turnouts will be required. Easements which bind all involved property owners and which specify the perpetual, non-exclusive nature of the road way easement shall be signed and recorded with the County Clerk. An agreement shall also be signed and recorded with the County Clerk outlining the responsibilities of the private parties maintaining the road improvements. These maintenance responsibilities shall be enforced by the individual parties and not the County.
 - (d) Any required road improvements shall meet the applicable road standards from Section 3.9800. Required road improvements shall be completed or bonded prior to the sale of any of the partitioned parcels. In the event that the partitioning party intends to retain ownership of a partitioned parcel, required road improvements shall be completed prior to the issuance of any development permit involving the partitioned parcel. Road improvements must be completed to the extent necessary to provide legal access frontage to the parcel proposed for sale or for second home placement. If the partitioning party has not completed required road improvements at the time of final partition approval, the Department of Community Development will record a development restriction upon the involved parcels to require the completion of these improvements prior to the sale of the parcels or prior to the issuance of a development permit to the partitioning party; whichever comes first. The restriction will be removed upon completion of the improvements prior to the sale of the parcels or prior to the issuance of any development permit involving the partitioned parcel.
 - (e) In areas where the parcel or lot has the potential to be further partitioned or subdivided, the County Engineer or Community Development Director shall, where practicable, require that roads be designed and located so as to facilitate

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the future division of land in a manner that accommodates smaller lot sizes and the extension of streets and utilities. The County Engineer or the Community Development Director may require a potential development plat showing the location of potential lots and the right-of-way improvements, including those identified in the County Transportation System Plan (TSP). The full right-of-way width shall be reserved on the initial partition plan to ensure that future structures will not encroach into the ultimate right-of-way or easement area.

Section 2.9080. Extent of Road Improvements (Ord. 21-05)

- 1) Required access road improvements and recorded access easements for the parcels involved shall be completed to provide access from the partitioned parcels to an existing public, county or state road.

Section 2.9090. Exceptions to General Standards for Minor and Major Partitions and Property Line Adjustments (Ord. 21-05)

- 1) Surveys for Large Parcel Partitions and Property Line Adjustments.
 - (A) When a partition is proposed which includes parcels that are greater than ten (10) acres in size no survey of the parcel is required. However, a partition plat must still be submitted and approved. For a major partition the entire roadway being created shall be surveyed and monumented.
 - (B) A property line adjustment created by the relocation of a common boundary as described in ORS 92.010(7)(b) shall be surveyed and monumented in accordance with Oregon law and it shall be filed with the County Surveyor.
 - (C) No survey or monumentation is required for a property line adjustment when the abutting properties are each greater than 10 acres. Nothing in this subsection shall exempt Clatsop County from minimum area requirements established in the Clatsop County Comprehensive Plan and this Ordinance.
 - (D) Altering Access to Improve Public Safety. If, in reviewing a minor partition application, the Community Development Director, in conjunction with the County Engineer or State Highway Engineer, determines that a consolidated, single access would better serve the public health, safety and welfare by reducing access points onto a public road such a condition of approval may be attached. The area utilized for such a consolidated access shall not be reduced from a parcel's lot area for the purpose of determining minimum lot size. Such a consolidated access shall serve a minimum of 3 parcels; if additional partitioning is proposed off a consolidated access, major partition road standards will be applied. Access easements shall be provided for the involved parcels.
 - (E) A shared common driveway may be utilized in a proposed minor partition

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if the following circumstances exist:

- (F) Each parcel in the minor partition has the required 25 foot minimum frontage on a state, county or public road.
- (G) Each parcel has an alternate means of access to the adjoining state, county or public road within its own boundaries.
- (H) The shared common driveway serves no more than three parcels.
- (I) Recorded access easements shall be provided for the involved parcels.

Section 2.9100. Tentative Partition Plan Submission Requirements (Ord. 21-05)

An applicant for a minor or major partition shall submit a copy of a plan for partitioning showing the following information (except as otherwise provided herein, the following does not require a survey):

- 1) A sketch of the original parcel of land (all contiguously owned land) on an 8 ½" x 11" sheet of paper.
- 2) The date, north point, and scale of the drawing.
- 3) The amount of acreage in the original parcel and the acreage of the resulting parcels, and dimensions of all parcels.
- 4) The location, names and widths of all roads and easements adjacent to and within the parcel to be partitioned.
- 5) The existing use or uses of the property, including approximate locations of all structures on the property.
- 6) The width and location of all easements for drainage or public utilities.
- 7) The location of zoning boundaries on the property.
- 8) Approximate location of physical features on the property, such as wetlands and streams.

Section 2.9110. Submission of Final Partition Plat

Prior to expiration of a tentative partition approval, a final plat shall be submitted subject to the Standards of Section 2.9210.

Section 2.9120. Submission and Review of Final Plat

A final plat shall be submitted and within ten (10) days of submission, the Director shall determine whether the material conforms with the approved tentative plan and with the applicable requirements of this Ordinance. If the Director determines that there is a failure to conform, the applicant shall be advised and afforded an opportunity to make corrections. When the plat is found to conform, it shall be signed and dated by the Director if other requirements for a development permit have been fulfilled.

Section 2.9130. Approval Signature for Final Partition Plat (Ord. 21-05)

Following review and approval of a final partition plat, the Director shall take the following actions:

- 1) The Clatsop County Community Development Department shall notify the applicant that the approved partition plat has been signed by the Community

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- Development Director.
- 2) Obtain the approval signature thereon by the County Surveyor certifying that it complies with all applicable survey laws. If it is determined that there has been a failure to comply, the plat surveyor shall be notified and afforded an opportunity to make corrections. When the plat is found to conform, it shall be signed and dated by the County Surveyor.
 - 3) The County Surveyor shall notify the applicant that the approved partition plat has been signed. The applicant shall take the plat to the County Tax Office for review of payment of taxes. The County Tax Office shall notify the applicant that all taxes must be paid prior to final plat recording with the County Clerk. The private surveyor shall provide a signature line on the final plat for the County Assessor/Tax Collector. The County Tax Office shall notify the applicant when the Plat is ready for recording.
 - 4) The applicant shall take the final partition plat to the County Clerk's Office for recording.

Section 2.9140. Subdivisions (Ord. 21-05)

An application for a subdivision of six (6) or less lots shall be processed by the Director under a Type II procedure. Any larger subdivision shall be processed by a Type III procedure. A subdivision occurs when four (4) or more lots are created, including the parent parcel, within a calendar year.

- 1) No one subdivision, contiguous group of subdivisions or planned development shall create greater than 30 lots within the same calendar year, (January 1- December 31), in the Rural designation in the Clatsop Plains planning area; and
- 2) The applicant when applying for a subdivision or planned development in the Clatsop Plains Rural designation, shall show how the request addresses the NEED issue of the Clatsop Plains Community Plan below:

"6. Clatsop County intends to encourage a majority of the County's housing needs to occur within the various cities' urban growth boundaries. Approval of subdivisions and planned developments shall relate to the needs for rural housing. Through the County's Housing Study, the County has determined the Clatsop Plains rural housing needs to be approximately 900 dwelling units for both seasonal and permanent by the year 2000."

Section 2.9150. Preliminary Plat (Ord. 21-05)

An applicant for a subdivision shall submit nine (9) paper copies and one electronic (pdf) copy of the preliminary plat, together with improvement plans and other supplementary information required by this Ordinance to indicate the design and objectives of the subdivision.

Section 2.9160. Form and Scale of Preliminary Plat (Ord. 21-05)

The preliminary plat shall be clearly and legibly drawn. It shall show all pertinent information to scale so that the Commission may have an adequate understanding of what is proposed during the review process. Under ordinary circumstances, the scale of

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the drawing is to be one (1) inch equals fifty (50) feet or one-hundred (100) feet, or for areas over one-hundred (100) acres; one (1) inch equals two-hundred (200) feet.

Section 2.9170. Preliminary Plat Information (Ord. 21-05)

The Preliminary Plat of the proposed subdivision shall include the following information:

- 1) Proposed name of subdivision. Subdivision plat names shall be subject to the approval of the County Surveyor or, in the case where there is no County Surveyor, the County Assessor. No tentative subdivision plan or subdivision plat of a subdivision shall be approved which bears a name similar to or pronounced the same as the name of any other subdivision in the same county, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name. All subdivision plats must continue the lot numbers of the subdivision plat of the same name last filed. On or after January 1, 1992, any subdivision submitted for final approval shall not use block number or letters unless such subdivision is a continued phase of a previously recorded subdivision, bearing the same name, that has previously used block numbers or letters.
- 2) North arrow, scale, and date of the completed drawing, approximate acreage, and boundary lines.
- 3) Appropriate identification clearly stating the map is a Preliminary Plat.
- 4) Location of the subdivision by section, township, range, tax lot or lots and donation land claim sufficient to define the location and boundaries of the proposed subdivision.
- 5) Names, addresses and zip codes of all owners, applicants, engineers and surveyors responsible for laying out the subdivision.
- 6) Existing locations, widths, names of both opened and unopened streets within or adjacent to the subdivision, together with easements, or rights-of-way and other important features, such as section lines, corners, city boundary lines and monuments.
- 7) A vicinity map showing the relationship of the proposed subdivision to surrounding development, streets, and sewer and water services, within one-quarter (1/4) mile of the exterior boundaries of the proposed development.
- 8) Location of at least one (1) temporary bench mark within the plat boundaries.
- 9) Contour lines related to the temporary bench mark or other datum approved by the County Engineer and having contour intervals together with the calculated degrees of slope as follows:
 - (A) For slopes not in excess of 10 percent: two-foot contours.
 - (B) For slopes over 10 percent: five-foot contours.
 - (C) Location of significant natural features such as rock outcroppings, marshes, wooded areas and isolated trees to be preserved or removed.
 - (D) Location of any rare, threatened and endangered species (plant or animal) or habitat located on or within 1,000 feet of the proposed subdivision.
 - (E) Location and direction of all water courses and/or bodies and the location

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- of all areas subject to flooding.
- (F) Existing uses on the property, including location of all existing structures.
- (G) Location, width, name, approximate grade, and radii of curves of all proposed streets, their relationship of such streets to any projected or existing streets adjoining the proposed subdivision. The applicant shall submit documented preliminary approval, from the County Engineer, of the road design.
- (H) Location, width, and purpose of proposed easements and private roads for private use, where permitted, and all reservations or restrictions relating to such easements and private roads.
- (I) Proposed plan for draining surface water, including the location and type of drainage ways to carry surface water from the development without adversely affecting adjacent properties. If any filling is proposed, the drainage plan must demonstrate that adequate provisions have been made for the prevention of backup or ponding of surface water on adjacent properties as well as within the proposed development.
- (J) Location, acreage and dimensions of lots and the proposed lot numbers.
- (K) Site, if any, allocated for a purpose other than single family dwellings.
- (L) Location, acreage and dimensions of areas proposed for public use.
- (M) Location, acreage and dimensions of areas proposed for common open space (30% in the Rural designation of the Clatsop Plains planning area).
- (N) Any subdivision may be platted in as many as three (3) phases. All phases must be submitted on the Preliminary Plat with proposed time limitations for the recording of the various phases. However, phasing must meet the following time limitations:
 - (O) Phase I - shall be recorded within twelve (12) months of preliminary approval.
 - (P) Phase II - shall be recorded within thirty-six (36) months of preliminary approval.
 - (Q) Phase III - shall be recorded within sixty (60) months of preliminary approval.

The Planning staff shall review each phase prior to recording to make sure the phase, as recorded, is in accord with the preliminary approval given by the Planning Commission. Any submitted phase which does not coincide with the approval as given by the Planning Commission shall be referred to the Planning Commission for a hearing. At such hearing, the Commission shall have the authority to revoke, revise, amend or alter the prior approval. Notice shall be sent subject to Sections 2.2020-2.2050.

For any subdivision which has an approved phasing plan as granted by the Commission under the preliminary plat approval, all parts of the subdivision shall fall under control of the various Ordinances in effect at the time of preliminary approval, unless state or local law shall determine that newer or current

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Ordinances or laws are to be followed.

If any time limitation is exceeded, preliminary approval for the subdivision or any phase of the subdivision shall be void. The applicant shall submit any future proposals for development of the property to the Commission for approval.

Agreement for improvements for each phase shall comply with this Ordinance prior to the Final Plat approval of such phase. If a bond is required, such bond shall be for a sum determined by the County Engineer to be sufficient to cover costs of construction for that phase.

- 10) Technical documentation shall be supplied to the Commission by the subdivider at the time of submittal of the preliminary plat, addressing the following items:
 - (A) An acceptable and approved method of sewage disposal for each proposed lot which meets the rules and regulations of the Oregon Department of Environmental Quality as administered by the Environmental Health Division of the County Public Health Department or its contract agent.
 - (B) An acceptable and approved method of water supply.
 - (C) The nature and type of improvements proposed for the subdivision, and a timetable for their installation.
 - (D) A description of community facilities which would serve the subdivision, and a timetable for the completion or installation of the facilities.
 - (E) Where a surface or subsurface water problem may exist, as determined by the Department of Environmental Quality, Environmental Health Division of the County Public Health Department, or other qualified specialist, a complete report by an independent, qualified hydrologist or hydrogeologist or other qualified specialist shall be required prior to any hearing on the Preliminary Plat by the Commission. The cost for such study shall be paid by the applicant.
 - (F) Applicants shall provide a list of any conditions, covenants and restrictions (CCRs) which are to be recorded.
 - (G) A demonstration that lot size and use are in compliance with the applicable zone.
 - (H) An access road improvement plan.
 - (I) Recorded access easements shall be provided for access from the subdivision boundary to an existing public, county or state road if not abutting said roads.
- 11) Compliance with the Clatsop County Comprehensive Plan and Land and Water Development and Use Code, and ORS 92 and 215.
- 12) Notations indicating any limitations on rights-of-access to or from streets and lots or other parcels of land proposed by the developer or established by the Board.
- 13) A quotation from the Clatsop County Assessor on taxes to be paid on a proposed subdivision before final platting shall take place in accordance with ORS 92.095.
- 14) If any federal or state permit or license is required to carry out the preliminary plat

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approval, approval shall be subject to a condition requiring the subdivision to comply with any applicable federal and state laws.

- 15) In areas subject to the geologic hazard overlay zone, a grading plan prepared in conformance with Section 5.3000.

Section 2.9180. Preliminary Plat Review (Ord. 21-05)

- 1) Upon receipt of a completed preliminary plat, the Planning Division shall set a date for a public hearing before the Planning Commission. Copies of the preliminary plat shall be furnished to all affected city, county, state and federal agencies and special districts for review and comment. Failure to provide written comment to the Planning Division within fifteen (15) working days thereof may be deemed a recommendation for approval unless an additional review period is requested by the jurisdiction and approved.
- 2) The preliminary plat, supplementary information and recommendations of the Planning staff and other reviewing agencies shall be submitted to the Commission for review at a public hearing. The Commission shall review the plat and other data submitted, taking action upon the proposal within sixty (60) days from the date of the first hearing at which the request was heard.
- 3) The Commission may approve, conditionally approve or disapprove the proposed subdivision. The Commission may attach as a condition of approval those conditions reasonably necessary to carry out the provisions of this Ordinance and may require the developer to post a bond of an amount set by the County Engineer, for all improvements or construction within the proposed subdivision. The Commission may also require the subdivider to file a map within 30 days of the date of conditional approval showing the design approved by the Planning Commission.
- 4) If the Commission has approved or conditionally approved a subdivision, it shall make specific findings indicating that sufficient water supply is available, that each lot has an approved sewage disposal site or will have access to an area for sewage disposal, and that an approved road system will provide access or will be constructed to provide access to each lot in the subdivision. In addition to those specific findings, the Commission shall make its findings in regard to the standards as set forth in Section 2.9140 to and including Section 2.9170 and Section 3.9600 to and including Section 3.9720 of this Ordinance, and the road standards as set forth in Section 3.9800.
- 5) Preliminary plat approval shall be binding on the Commission and the subdivider for the purpose of preparing the Final Plat, provided that there are no changes of the plan of the subdivision, and that it complies with all conditions as set forth by the Commission in its preliminary approval and Section 3.9600 to and including Section 3.9720 and road standards as set forth in Section 3.9800. Such approval of Preliminary Plat shall be valid for two (2) years from the date of the approval of the Preliminary Plat.

Section 2.9190. Granting of Extensions (Ord. 21-05)

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- 1) The Community Development Director may grant an extension of up to twelve (12) months to the Preliminary Plat approval and of up to twelve (12) months to any subdivision being developed in phases. The Director shall have the authority to attach whatever conditions are necessary to carry out the provisions of the Comprehensive Plan and this Ordinance but in no event shall more than two (2) extensions be granted by the Community Development Director. Any request for an extension shall be processed under a Type I procedure, 2.1010.
- 2) An applicant who is developing his subdivision in phases may seek an extension of time from the Director on the phase then under development. The Director upon the facts presented may grant an extension of time of up to twelve (12) months. This extension of time shall not affect any other phases not under development.
- 3) The granting of an extension by the Director shall be noted on two (2) copies of the preliminary plat, including any conditions imposed. One signed copy is to be given to the applicant while the other copy is retained in the Planning Division file.

Section 2.9200. Submission of Final Plat (Ord. 21-05)

Within two (2) years after approval of the preliminary plat, or within such time as set forth by the Commission under the provisions of Section 2.9190(2) of this Ordinance, the subdivider shall cause the subdivision to be surveyed and a plat prepared in accord with the approved preliminary plat. Before approval by any County official, the final plat shall be approved and signed by all persons and must also have the signature and seal of the registered professional land surveyor responsible for the laying out of the subdivision. All signatures must be with black India ink.

Section 2.9210. Form and Scale of Final Plat (Ord. 21-05)

- 1) The final plat offered for approval and recording shall be made pursuant to the standards in Section 3.9730 and shall be surveyed pursuant to ORS 92.
- 2) At the time of filing the final plat, the surveyor who made the plat shall furnish the County Clerk and/or County Surveyor with an exact copy of the final plat offered for recording. This copy shall be made with black India ink having the same or better characteristics of strength, stability and transparency, and shall have an affidavit that the tracing is an exact copy of the plat.
- 3) The scale on the final plat will be one (1) inch to one-hundred (100) feet or, one (1) inch to fifty (50) feet. The scale may be increased or decreased if necessary to fit the legal sized 18" x 24" plat, but in all cases the scale shall be in multiples of ten.
- 4) The applicant shall provide, at his/her own expense, up to 6 prints at the request of the Commission and/or Board.
- 5) Pursuant to ORS 92.080 and notwithstanding ORS 205.232 and 205.234, all plats subdividing or partitioning any land in any county in this state, and dedications of streets or roads or public parks and squares and other writing made a part of such subdivision or partition plats offered for record in any county

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in this state shall be made in permanent black India type ink upon material that is 18 inches x 24 inches in size with an additional three-inch binding edge on the left side when required by the County Clerk or the County Surveyor, that is suitable for binding and copying purposes and that has such characteristics of strength and permanency as may be required by the County Surveyor. All signatures on the original subdivision or partition plat shall be in permanent black India type ink. The subdivision or partition plat shall be of such a scale as required by the County Surveyor. The lettering of the approvals, the declaration, the surveyor's certificate, and all other information shall be of such a size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than one inch. The subdivision or partition plat may be placed on as many sheets as necessary, but a face sheet and an index page shall be included for subdivision or partitions plats placed upon three or more sheets.

- 6) In addition to standards and requirements of the Oregon Revised Statutes, the County Surveyor may set other requirements for surveys of final plats including but not limited to type of ink, how corrections are to be conducted, margins, scale, etc.

Section 2.9220. Information on Final Plat (Ord. 21-05)

The information shown on the final plat shall conform to the requirements in ORS 92.050 through 92.080 and shall also include the following:

- 1) The name of the subdivision, the date the plat was prepared, the scale, north point, legend and existing features such as highways and railroads.
- 2) Legal description of the subdivision boundaries.
- 3) Reference, by distance and bearings, to adjoining recorded surveys, if any, and referenced to a field book or map as follows:
 - (A) Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the subdivision.
 - (B) Adjoining corners of adjoining subdivision.
 - (C) Other monuments found or established in making the survey of the subdivision or required to be installed by provisions of this Ordinance.
 - (D) Exact location and width of streets and easements intersecting the boundary of the subdivision.
 - (E) Subdivision boundaries, lot or tract boundaries, and street right-of-way and centerlines with dimensions to the nearest 1/100th of a foot and bearings in degrees, minutes and seconds, pursuant to the requirements of ORS 92.
 - (F) Names and width of the portion of streets being dedicated, the width of any existing right-of-way, and the width on each side of the center line. For streets on curvature, curve data shall be based on the street center line. In addition to the center line dimensions, the radius, central angle, long chord bearing and distance shall be indicated.
 - (G) Easements denoted by fine dotted lines, clearly identified and, if already of record, there shall be written statement of the easement. The width of the

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easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication.

- (H) Locations and widths of drainage channels, railroad rights-of-way, reserve strips at the end of stubbed streets or along the edge of partial width streets on the boundary of the subdivision.
- (I) Location of all permanent monuments within the proposed subdivision.
- (J) Ties to any city, county, or adjacent subdivision's boundary lines.
- (K) Acreage of each parcel to the nearest 1/100th of an acre.
- (L) Any conditions specified by the Commission or Board upon granting preliminary approval.
- (M) A statement of water rights noted on the subdivision plat or partition plat.
- (N) A copy of the acknowledgment from the State Water Resources Dept. under ORS 92.122, if the person offering the subdivision or partition plat for filing indicates on the statement of water rights that a water right is appurtenant to the subdivision or partition.

Section 2.9230. Survey Requirements

A complete and accurate survey of the land to be subdivided shall be made by a registered professional land surveyor licensed to practice in the State of Oregon, in accordance with ORS 92.

Section 2.9240. Supplementary Information with Final Plat (Ord. 21-05)

- 1) **Evidence of Title.** The Commission shall require Evidence of Title accompanying the final plat by a letter or final plat report in the name of the subdivider. Such evidence shall indicate that the title company has issued a preliminary report for the same unit of land being subdivided and shall state that the final plat and certificates have been reviewed.
- 2) **Restrictive Covenants.** A copy of any Restrictive Covenant(s) is to be filed with the Final plat. On Final plats showing areas which will be jointly owned or used by the various owners in the subdivision, a covenant document will be mandatory as part of the Final plat. For other Final plats, the covenants are optional with the subdivider.
- 3) **Improvement Plans.** Improvement plans shall be submitted for various facilities that are to be constructed by the subdivider, including drainage plans, sewer plans, water plans, curb and gutter, sidewalk and street plans, and any other construction plans that may be required. These plans shall indicate design criteria, assumptions and computations for proper analysis in accordance with sound engineering practice. Where such plans are or would be the same as those included in the County's Standard Specifications, they may be submitted by reference to such Standard Specifications.

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- 4) Dedication of Land, Rights, Easements, and Facilities for Public Ownership, Use and Utility Purposes.
 - (A) Land for property dedicated for public purposes may be provided to the county by any of the following methods:
 - 1) By dedication on the land subdivision plat;
 - 2) By dedication on the partition plat, provided that the county indicates acceptance on the dedication of the face of the plat; or
 - 3) By a separate dedication or donation document on the form provided by the county.
 - (B) All streets, pedestrian ways, drainage channels, easements and other rights-of-way shown on the final plat as intended for public use, shall be offered for dedication for public use at the time the final plat is filed.
 - (C) Rights of access to and from streets, lots and parcels shown on the final plat shall not have final approval until such time as the County Engineer is satisfied that the required street improvements are completed in accordance with applicable standards and specifications. The applicant must petition separately to the Board for acceptance of any dedicated land, access rights or facilities. Acceptance of the Final Plat shall not be construed as approval of dedicated land rights, easements or other facilities.
 - (D) **Reserve Strips.** The Board may require a reserve strip in areas of the subdivision in order to control access.
 - (E) **Drainage Plan.** The final plat shall be accompanied by a drainage plan showing street grades, curbs, natural drainageways and other drainage works in sufficient detail to enable the engineer to determine the adequacy of provisions for drainage and the disposal of surface and storm waters within the subdivision and other adjoining areas. Subsequent changes to the drainage plan may be approved by separate action by the Board after receiving the recommendation by the County Engineer.
 - (F) **Common Open Space.** Maintenance of common open space shall be subject to Section 3.3060.
 - (G) **Road Standards.** New roads shall comply with the following standards:
 - 1) If a County Road is created, the right-of-way shall meet the standards from Table 3.2 – Right-of-way and Improvement Standards Table and the boundaries of the road right-of-way shall be surveyed and monumented. The road shall be improved to a standard established by the Board of Commissioners. All such roads shall be improved at least to the County's A-20 road standard.
 - 2) If a public road is created, the right-of-way shall meet the standards from Table 3.2 – Right-of-way and Improvement Standards Table and the boundaries of the road right-of-way shall be surveyed and monumented. The road shall be improved to the County's A-20 road standard at a minimum for new subdivisions. Existing subdivisions may qualify to construct a G-20 road if the existing roadways are not paved.

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An agreement shall be signed and recorded with the County Clerk outlining the responsibility of private parties maintaining the road improvements. These maintenance responsibilities shall be enforced by the individual parties or the County at its discretion.

- 3) If a private road or easement is created, the entire road easement shall meet the standards from Table 3.2 – Right-of-way and Improvement Standards Table and the boundaries of the road easement shall be surveyed and monumented in its entirety. The road shall be improved to the County's G-14 road standard at a minimum and one vehicle turnout shall be provided for every 400' of road and within 50' of each sight obscuring corner. If the travel surface width of the private road exceeds 20 feet no turnouts will be required. Easements which bind all involved property owners and which specify the perpetual non-exclusive nature of the road way easement shall be signed and recorded with the County Clerk. An agreement shall also be signed and recorded with the County Clerk outlining the responsibilities of the private parties maintaining the road improvements. These maintenance responsibilities shall be enforced by the individual parties and not by the County.
- 4) Any required road improvements shall meet the applicable road standards from Section 3.9800. Required road improvements shall be completed or bonded prior to the sale of any of the subdivided lots.

Section 2.9250. Agreement for Improvements (Ord. 21-05)

The subdivider shall improve or agree to improve lands dedicated for streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way to County Standards as a condition preceding the acceptance and approval of the Final plat.

Before the Commission approval is certified on the final plat, the subdivider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision; or he/she shall execute and file with the Board an agreement between himself and the County specifying the period within which required improvements and repairs shall be completed. The agreement shall provide that if the work is not completed within the period specified, the County may complete the work and recover the full cost and expense thereof from the subdivider.

A performance bond, as provided in Section 2.9260 of this Ordinance, shall be required with such agreement. Provisions for the construction of the improvements in phases and for an extension of time under specified conditions may be made upon prior agreement by, or application to, the Commission or Board.

Section 2.9260. Performance Bond (Ord. 21-05)

- 1) The subdivider shall file with the agreement to assure full and faithful performance thereof, one of the following:

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- (A) A surety bond executed by a surety company authorized to transfer business in the State of Oregon on a form approved by the County Counsel.
- (B) In lieu of a surety bond, (a) the subdivider may deposit with the County Treasurer cash money in an amount determined by the County Engineer, or (b) file certification by a bank or other reputable lending institution that money is being held to cover the costs of the improvements and incidental expenses. Said money will only be released upon authorization of the County Engineer.
- (C) Such assurance of full and faithful performance shall be for a sum determined by the County Engineer as sufficient to cover the cost of the improvements and repairs that may be required prior to acceptance including related engineering, and shall include an additional ten (10) percent to cover any inflationary costs which may be incurred during the construction period to the full and final completion of the project.
- (D) If the subdivider fails to carry out provisions of the agreement and the County has unreimbursed costs of expenses resulting from failure, the County shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expense incurred, the remainder shall be released. If the amount of the bond or cash deposit is less than the cost and expense incurred, the subdivider shall be liable to the County for the difference.
- (E) If subdivision extensions are granted, the bond may need to be revised.

Section 2.9270. Final Plat Approval (Ord. 21-05)

Upon receipt of the final plat, the exact transparent copy thereof, prints and supplementary information, the Community Development Director shall review the final plat and documents to determine that the plat conforms with the approved preliminary plat and that there has been compliance with provisions of the law and this Ordinance.

If the County Surveyor, Sanitarian, Engineer and the Community Development Director or the Commission determine that the final plat conforms fully with the approved preliminary plat and all applicable regulations and standards for final platting, the Community Development Director shall advise the Chairperson of the Commission. The Chairperson of the Commission may then have the plat signed in order of signatures listed below in this Ordinance, without further action by the Commission. If the final plat is not in such conformance, it shall be submitted to the Commission. When submitted to the Commission for review, approval of the final plat shall be by a majority of those present. If the plat is signed without further review by the Commission, the action shall be reported to the Commission at the next regular meeting. In the absence of the Chairperson, the duties and powers with respect to action of final plat shall revert to the Vice- Chairperson of the Commission.

Approval of a final plat by the Board of Commissioners shall constitute an acceptance

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by the public of the dedication of any street or way shown on the plat. Acceptance of a street or way by approval of the Final Plat shall not constitute an acceptance to maintain the street or way. Acceptance of the maintenance of any street or way accepted by approval of the final plat, shall be by a separate process of petitioning the Board of acceptance of road maintenance. Approval of the final plat shall not act as an acceptance by the public of any other land for public purposes.

Section 2.9280. Filing of Final Plat (Ord. 21-05)

The subdivider shall, without delay, submit the final plat for signature of the following County officials in the order listed:

- 1) Community Development Director;
- 2) County Surveyor, in accordance with the provisions of ORS 92.100;
- 3) County Assessor;
- 4) Board of Commissioners or its designee (upon consent of the Board);
- 5) Clerk.

Section 2.9290. Time Limit for Recording of a Plat

The Final Plat shall be recorded within thirty (30) days of the date that the signatures and approvals as required in Section 2.9280 of this Ordinance, has been obtained. In the event the Final Plat is not recorded within the time herein provided, it will be resubmitted to the Commission, which may require changes or alterations deemed necessary because of changed conditions within the general area of the subdivision.

Section 2.9300. Partial Platting

If desired by the subdivider, individual phases of an approved Preliminary Plat may be recorded with the approval of the Commission and in the same manner as a Final Plat.

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SECTION 2.9400. SITE PLAN REVIEW

Section 2.9410. Site Plan Review Requirements

Before a permit can be issued for development in a special purpose district or for a conditional development and use or a development and use permitted with review, a site plan for the total parcel and development must be approved by the Community Development Director or Planning Commission. Information on the proposed development shall include sketches or other explanatory information the Director may require or the applicant may offer that present facts and evidence sufficient to establish compliance with Sections 1.1040, 1.1050 and the requirements of this Section.

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SECTION 2.9500. TRANSPORTATION SYSTEM IMPACT REVIEW

The following section incorporates requirements for developments that have the potential to impact the county's transportation system.

Section 2.9510. Traffic Impact Study

- 1) Purpose.

The purpose of this section of the code is to implement Section 660-012-0060 of the State Transportation Planning Rule that requires the County to adopt a process to apply conditions to development proposals in order to minimize adverse impacts to and protect transportation facilities. This section establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a Traffic Impact Study; and who is qualified to prepare the Study.
- 2) When Required.

A Traffic Impact Study may be required to be submitted to the County with a land use application, when the following conditions apply:

 - (A) The road authority indicates in writing that the proposal may have operational or safety concerns along its facilities; or,
 - (B) A traffic impact study is required by the Oregon Department of Transportation (ODOT) pursuant to OAR 734-051; or,
 - (C) The development application involves one or more of the following actions:
 - 1) A change in zoning or a plan amendment designation; or
Change in use or intensity of use; or
Potential impact to residential or mixed-use areas; or
Potential impacts to key walking and biking routes, including but not limited to school routes and multimodal street improvements identified in the Transportation System Plan; or
 - 2) Any proposed development or land use action that ODOT states may have operational or safety concerns along a state highway; and
 - 3) The development shall cause one or more of the following effects, which can be determined by field counts, site observation, traffic impact analysis or study, field measurements, or crash history. The Institute of Transportation Engineers Trip Generation manual shall be used for determining vehicle trip generation:
 - (a) An increase in site traffic volume generation by 400 Average Daily Trips (ADT) or more (or as required by the County Engineer); or
 - (b) Location of existing or proposed driveways or access connections; or
 - (c) An increase in ADT hour volume of a particular movement to

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- and from the State highway by 20 percent or more; or
 - (d) An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day; or
 - (e) Potential degradation of intersection level of service (LOS); or
 - (f) The location of the access driveway does not meet minimum site distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the State highway, creating a safety hazard; or
 - (g) A change in internal traffic patterns that may cause safety problems, such as back up onto the highway or traffic crashes in the approach area.
- 3) Traffic Impact Study Requirements:
 - (A) Preparation. A Traffic Impact Study shall be prepared by a professional engineer in accordance with OAR 734-051-1070.
 - (B) Transportation Planning Rule Compliance.
 - (C) If the proposed development may cause one or more of the effects in Section 2.9510(2), above, or other traffic hazard or negative impact to a transportation facility, the Traffic Impact Study shall include recommended mitigation measures.
- 4) Approval Criteria:
 - (A) Criteria. When a Traffic Impact Study is required, approval of the development proposal requires satisfaction of the following criteria, in addition to other criteria applicable to the proposal:
 - 1) The proposed site design and traffic and circulation design and facilities, for all transportation modes, including any mitigation measures, are designed to:
 - (a) Have the least negative impact on all applicable transportation facilities; and
 - (b) Accommodate and encourage non-motor vehicular modes of transportation to the extent practicable; and
 - (c) Make the most efficient use of land and public facilities as practicable; and
 - (d) Provide the most direct, safe and convenient routes practicable between on- site destinations, and between on-site and off-site destinations; and
 - (e) Otherwise comply with applicable requirements of the Clatsop County Land and Water Development Use Ordinance and the Standards Document.
- 5) Conditions of Approval:
 - (A) In approving an action that requires a Traffic Impact Study, the County may condition that approval on identified mitigation measures.

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Section 2.9520. Amendments Affecting the Transportation System

- 1) Review of Applications for Effect on Transportation Facilities.

When a development application includes a proposed comprehensive plan amendment, zone change or land use regulation change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility. An amendment significantly affects a transportation facility if it would:

 - (A) Change the functional classification of an existing or planned transportation facility;
 - (B) Change standards implementing a functional classification system; or
 - (C) Result in any of the effects listed below in 1) through 3) based on projected conditions measured at the end of the planning period identified in TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.
 - 1) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; or
 - 2) Degradation of the performance of an existing or planned transportation facility such that it would not meet the performance standards in the TSP or comprehensive plan; or
 - 3) Degradation of the performance of an existing or planned transportation facility that is otherwise projected not to meet the performance standards identified in the TSP or comprehensive plan.
 - (D) Allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
 - (E) Reduce the performance standards of the facility below the minimum acceptable level identified in the Transportation System Plan.
- 2) Amendments That Affect Transportation Facilities.

If it is determined that there would be a significant effect, the approved amendments must ensure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility measured at the end of the planning period identified in the TSP through one or a combination of the remedies listed in (A) through (E) below, unless the amendment meets the balancing test in subsection (E) or qualifies for partial mitigation in (3) below. An amendment that is approved using (2)(E) or (3), must recognize that additional motor vehicle traffic congestion may result and that other facility providers would not be expected to provide additional capacity for

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motor vehicles in response to this congestion.

- (A) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
 - (B) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism pursuant to OAR 660-012-0060 or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the TSP planning period.
 - (C) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.
 - (D) Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.
 - (E) Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if the provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards.
- 3) Notwithstanding sections (1) and (2), an amendment may be approved that would significantly affect an existing transportation facility without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility in accordance with OAR 660-012-0060.