

ADDITIONS IN BOLD AND UNDERLINED

~~DELETIONS IN STRIKEOUT~~

Staff comments in grey highlight.

**Chapter 16.06
COMMERCIAL RETAIL – CR ZONE**

16.06.010 Uses.

A. The following uses, when developed under the applicable development standards in this title, are permitted in the CR zone:

1. Dwelling units* or lodging rooms* in conjunction with a commercial use.
2. Offices for any use listed in SIC Division C – Construction.
3. Commercial printing, SIC 275.
4. Post offices, SIC 43.
5. Travel agency, SIC 4724.
6. Communications, SIC 48, except transmission towers*.
7. Building materials, hardware, retail nurseries and garden supply, SIC 52, except SIC 527, mobile home dealers.
8. General merchandise stores, SIC 53.
9. Food stores, SIC 54.
10. Auto and home supply stores, SIC 553.
11. Apparel and accessory stores, SIC 56.
12. House furniture, furnishings and equipment stores, SIC 57.
13. Eating and drinking places except mobile food vendors, SIC 58.
14. Miscellaneous retail, SIC 59, except SIC 598, fuel dealers, provided all display is within a building.
15. Finance, insurance and real estate, SIC 60, 61, 63, 64, 65, 66 and 67.
16. Hotels, rooming houses*, and other lodging places, SIC 70 except campgrounds* and recreational vehicle parks*.
17. Public utility*.
18. Personal services, SIC 72, except SIC 7217, carpet and upholstery cleaning, and SIC 7218, industrial launderers.
19. Business services, SIC 73, except SIC 7342, disinfecting and pest control services, and SIC 7353, heavy construction equipment rental.
20. Signs subject to Chapter 16.31 MCC.
21. Watch, clock and jewelry repair, SIC 763.
22. Landscape counseling and planning, SIC 0781.
23. Motion picture distribution and allied services, SIC 782.
24. Motion picture theaters, SIC 783, except SIC 7838, drive-in.
25. Video tape rental, SIC 784.
26. Dance studios, schools, and halls, SIC 791.
27. Theatrical producers (except motion pictures), bands, orchestras and entertainers, SIC 792.
28. Bowling centers, SIC 793.
29. Miscellaneous amusement and recreation services, SIC 799, except SIC 7992, golf courses, and SIC 7996, amusement parks.
30. Health services, SIC 80, except SIC 806, hospitals.
31. Ambulance service.
32. Legal services, SIC 81.
33. Educational service, SIC 82.
34. Social services, SIC 83, including nursing care facility*.
35. Museums, art galleries, botanical and zoological gardens, SIC 84.
36. Membership organizations, SIC 86.
37. Engineering, accounting, research management, and related services, SIC 87.
38. Miscellaneous services, SIC 89.
39. Executive offices, SIC 911.
40. Executive and legislative combined, SIC 913.
41. Finance, taxation, and monetary policy, SIC 93.
42. Administration of human resources programs, SIC 94.
43. Administration of environmental quality and housing programs, SIC 95.
44. Administration of economic programs, SIC 96.
45. National security and international affairs, SIC 97.
46. Public buildings and structures such as fire stations and public utility facilities*.
47. Uses permitted in Chapter 16.25 MCC.
48. The following uses subject to the special standards in Chapter 16.26 MCC:
 - a. Gasoline service stations, SIC 554 (see MCC 16.26.520).

- b. Used merchandise store (see MCC 16.26.480) provided all display is within a building.
 - c. Religious organizations* and membership organizations, SIC 86 (see MCC 16.26.600).
 - d. Veterinary services, SIC 074 (see MCC 16.26.420).
 - e. Recreational vehicle parks* (see MCC 16.26.400).
 - f. Bed and breakfast establishments (see MCC 16.26.260).
 - g. Mixed use buildings (see MCC 16.26.460).
 - h. Automobile dealers, SIC 55, except SIC 553, 554 (see MCC 16.26.580).
 - i. Automotive parking, SIC 7521 (see MCC 16.26.580).
 - j. Mobile food vendor* (see MCC 16.26.570).
49. **In the City of Lyons Urban Growth Boundary, on a lot or parcel that existed on [date of adoption of this ordinance], a single-family residence.**

Optional: Permits a residence on a commercially zoned parcel in the Lyons urban area. This area characterized by an historic mixture of commercial and residential uses in the commercial zone.

Chapter 16.19 FLOODPLAIN OVERLAY ZONE

16.19.100 General provisions.

The following regulations apply to all unincorporated lands in identified floodplains as shown graphically on the zoning maps. The floodplain comprises those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled the “Flood Insurance Study for Marion County, Oregon and Unincorporated Areas” dated ~~January 19, 2000, with accompanying floodway and flood insurance rate maps, and amendments taking effect on August 15, 1979; August 19, 1987; September 30, 1993; December 19, 1995; June 19, 1997; and January 2, 2003,~~ and subsequent FEMA issued letter of map amendments and letter of map revisions related to these adopted studies and maps. The floodplain also comprises areas identified and mapped by Marion County that were not studied by the Flood Insurance Study. The report and maps are incorporated in the overlay zone by this reference and are on file with the Marion County planning division. When base flood elevation data have not been provided, the zoning administrator shall have the authority to determine the location of the boundaries of the floodplain where there appears to be a conflict between a mapped boundary and the actual field conditions, provided a record is maintained of any such determination.

A. Duties of the zoning administrator shall include, but not be limited to:

1. Review all development permits to determine that the permit requirements of this title have been satisfied.
2. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
3. Review building permits where elevation data is not available either through the FIS or from another authoritative source, to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.
4. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of MCC 16.19.140(J) are met.
5. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structures contain a basement.
6. For all new or substantially improved floodproofed structures:
 - a. Verify and record the actual elevation (in relation to mean sea level); and
 - b. Maintain the floodproofing certifications required in MCC 16.19.140(C).
7. Maintain for public inspection all records pertaining to the provisions of this title, including elevation certificates.

Mandatory: Corrects code reference to the county’s flood insurance study.

16.19.110 Uses.

Within a FP (floodplain) overlay zone no uses, structures, recreational vehicles and premises shall be used or established

except as provided in the applicable underlying zone and the provisions of this overlay zone. Except as provided herein all uses and floodplain development shall be subject to issuance of a conditional use permit (floodplain development permit) as provided in MCC 16.19.130.

A. The following uses are exempt from the regulations of this overlay zone:

1. Signs, markers, aids, etc., placed by a public agency to serve the public.
2. Streets, driveways, parking lots and other open space use areas where no alteration of topography will occur.
3. Minor repairs or alterations to existing structures provided the alterations do not increase the size or intensify the use of the structure, and do not constitute “substantial improvement” as defined in MCC 16.19.010(FF).
4. Customary dredging associated with channel maintenance consistent with applicable state or federal law. This exemption does not apply to the dredged materials placed within a floodplain.
5. Placement of utility facilities necessary to serve established and permitted uses within floodplain areas, such as telephone poles. This exemption does not apply to buildings, substations, or other types of utility facilities development in the floodplain.
6. Flagpoles.
7. Except in a floodway, open wire fencing (no more than one horizontal strand per foot of height) and open rail fencing (rails occupy less than 10 percent of the fence area and posts are spaced no closer than eight feet apart).
8. Accessory structures smaller than 50 square feet in size that do not require a building permit.

9. A highway-ready recreation vehicle may be located on a lot or parcel without a dwelling in a floodplain or floodway only during the non-flood season (June 1st through September 30th), subject to the requirements in MCC 16.26.410.

Optional: Moves an approved use from procedures section to exemptions section.

B. Prior to obtaining a building permit for any residential, commercial or industrial structure within an area identified by FEMA or Marion County as being within a 500-year floodplain, the applicant shall comply with the requirement in MCC 16.19.130(C).

C. New dwellings and manufactured homes, and replacement dwellings that are not being replaced in the same location as the original dwelling, are prohibited in the floodplain if there is an area on the subject property that is located outside of the floodplain where the dwelling can be placed. An exception to this prohibition may be granted if a floodplain development permit, and variance meeting the criteria in MCC 16.19.170, are obtained.

D. *Repealed by Ord. 1369.*

E. Siting of new critical facilities are prohibited within the floodway and 100- and 500-year floodplains. **For a critical facility needed within a hazard area in order to provide essential emergency response services in a timely manner, an** ~~An~~ exception to this prohibition may be granted for development in the 500-year floodplain if a floodplain development permit, and variance meeting the criteria in MCC 16.19.170, are obtained. This prohibition does not apply to water dependent uses.

Optional: Clarifies standards by which an emergency facility could be approved in a floodplain.

16.19.130 Conditional use procedures and requirements.

A. Except as provided in MCC 16.19.110, a conditional use permit (floodplain development permit) shall be obtained before construction or development begins within the floodplain overlay zone. The conditional use permit shall include conditions ensuring that the flood protection standards in MCC 16.19.140 are met.

B. When base flood elevation data and floodway data have not been provided in accordance with MCC 16.19.100, the applicant, with the assistance of the zoning administrator, shall obtain and reasonably utilize any base flood elevation data or evidence available from a federal, state or other source in order to determine compliance with the flood protection standards. If data are insufficient, the zoning administrator may require that the applicant provide data derived by standard engineering methods.

C. Prior to obtaining a building permit the owner shall be required to sign and record in the deed records for the county a declaratory statement binding the landowner, and the landowner's successors in interest, acknowledging that the property and the approved development are located in a floodplain.

D. Prior to obtaining a building permit, commencing development or placing fill in the floodplain, the applicant shall submit a certification from a registered civil engineer demonstrating that a development or fill will not result in an increase in floodplain area on other properties and will not result in an increase in erosive velocity of the stream that may cause channel scouring or reduce slope stability downstream of the development or fill.

E. The applicant shall provide an elevation certificate signed by a licensed surveyor or civil engineer certifying that the actual elevations of all new or substantially improved manufactured homes, dwellings and structures meet the requirements of MCC 16.19.140(A), (B) and (C) where applicable, as follows:

1. Prior to construction (based on construction drawings); and
2. Once the floor elevation can be determined (based on the building under construction); and
3. Prior to occupancy (based on finished construction).

Unless requested by FEMA, elevation certificates shall not be required for the following uses:

1. Water dependent uses, such as boat ramps, docks, wells and well covers.
2. Improvements resulting from cut or fill operations, such as berms, bank improvements, ponds and dams.
3. Small scale facilities necessary to serve other uses, such as kiosks and open picnic shelters.
4. Grading, such as for roadways, even where alteration of topography occurs.

~~F. A highway ready recreation vehicle may be located on a lot or parcel without a dwelling in a floodplain or floodway only during the nonflood season (June 1st through September 30th), subject to the requirements in MCC 16.26.410.~~

Optional: Moves an approved use from procedures section to exemptions section.

G. In addition to other information required in a conditional use application, the application shall include:

1. Land elevation in mean sea level data at development site and topographic characteristics of the site.
2. Base flood level expressed in mean sea level data on the site, if available.
3. Plot plan showing property location, floodplain and floodway boundaries where applicable, boundaries and the location and floor elevations of existing and proposed development, or the location of grading or filling where ground surface modifications are to be undertaken.
4. Any additional statements and maps providing information demonstrating existing or historical flooding conditions or characteristics which may aid in determining compliance with the flood protection standards of this overlay zone. [Ord. 1346 § 4 (Exh. B), 2014; Ord. 1301 § 4 (Exh. A), 2010; Ord. 1167 § 5, 2002; Ord. 1094 § 6, 1998; Ord. 863 § 5, 1990. UZ Ord. § 19.13.]

16.19.140 Flood protection standards.

In all areas of identified floodplain, the following requirements apply:

A. Dwellings, Manufactured Homes and Related Accessory Structures. New residential construction, substantial improvement of any residential structures, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after adoption of this title shall:

6. Construction where the crawl space is below grade on all sides may be used. Designs for meeting these requirements must either be certified by a registered professional engineer or architect, or must meet the following standards, consistent with FEMA Technical Bulletin 11-01 for crawl space construction:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

- b. The bottom of all openings shall be no higher than one foot above grade;
- c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters;
- d. Interior grade of the crawl space shall not exceed two feet below the lowest adjacent exterior grade;
- e. The height of the crawl space when measured from the interior grade of the crawl space (at any point on grade) to the bottom of the lowest horizontal structural member of the lowest floor shall not exceed four feet;
- f. An adequate drainage system that removes floodwaters from the interior area of the crawl space shall be provided; and

g. The velocity of floodwaters at the site shall not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types shall be used; and,

g. h. Below-grade crawl space construction in accordance with the requirements listed above will not be considered basements for flood insurance purposes. However, below-grade crawl space construction in the special flood hazard area is not the recommended construction method because of the increased likelihood of problems with foundation damage, water accumulation, moisture damage, and drainage. Applicants shall be advised that buildings constructed with below-grade crawl spaces will have higher flood insurance premiums than buildings that have the preferred crawl space construction (the interior grade of the crawl space is at or above the adjacent exterior grade).

Mandatory: Adds reference to floodwater velocity standard that applies when crawlspace construction is used in floodplain.

Chapter 16.25 PERMITTED USES GENERALLY

16.25.200 Permitted secondary and accessory structures and uses.

The following secondary and accessory uses and structures shall be permitted on a lot with a primary use and are subject to the limitations and requirements in Chapters 16.24, 16.25, 16.26, 16.27, and 16.28 MCC, and the requirements in any applicable overlay zone:

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

1. Decks and patios (open, covered, or enclosed);
2. Storage building for firewood, equipment used in conjunction with dwelling and yard maintenance, personal property (except vehicles) not in conjunction with any commercial or industrial business other than a home occupation;
3. Vegetable gardens, orchards and crop cultivation for personal use, including greenhouses. No sale of produce is permitted;
4. Sauna;
5. Hobby shop;
6. Shelter for pets;
7. Fallout shelters;
8. Swimming pools and hot tubs;
9. Guest facility*:
 - a. Only one guest facility is allowed per contiguous property ownership; and
 - b. Total combined maximum floor area shall not exceed 600 square feet, including all levels and basement floor areas; and
 - c. No stove top, range, or conventional oven is allowed; and

- d. All water, sewer, electricity and natural gas services for the guest facility shall be extended from the primary dwelling services; no separate meters for the guest facility shall be allowed; and
- e. The guest facility shall be located within 100 feet of the primary use dwelling on the same property measured from the closest portion of each structure; and
- f. The guest facility shall use the same septic system as the primary use dwelling, except when a separate system is required by the building inspection division due to site constraints, or failure of the existing system, or where the size or condition of the existing system precludes its use, additional drain lines may be added to an existing system, when appropriate; and
- g. The guest facility shall not be occupied as a dwelling unit; and
- h. The guest facility shall not have an address;

10. Rooming* or boarding* of up to two persons in a dwelling;

11. Pets*, provided a conditional use permit is required if there are more than 10 mammals over four months old. No birds or furbearing animals, other than pets, and no livestock, poultry, other than hens as outlined in Chapter 6.15 MCC, or beekeeping are permitted in residential zones;

12. One recreational vehicle space* (see MCC 16.26.410);

13. Additional kitchens in a dwelling provided all kitchens in the dwelling are used by only one family and provided the kitchens are not located in separate dwelling units; **and are connected by open, livable space between the kitchens (i.e., no doorways exist between the kitchens and no area between kitchens consists of unfinished or non-livable space, such as a garage). One additional kitchen in a dwelling unit may be constructed inside an existing dwelling, or as an addition to a dwelling, as part of a suite of rooms consisting of a kitchen, one or more bathrooms, one or more bedrooms, and other domestic rooms if the suite of rooms is connected to the main dwelling by a door in a common wall.**

Optional: Permits kitchens connected both by “open, livable” space and in a domestic suite. Covenant should not be required since planning reviews plans when building is constructed

14. Offering to sell five or less vehicles* owned by the occupants of the dwelling in any calendar year;

15. Garages* and carports* for covered vehicle parking;

16. Child foster home*;

17. Sleeping quarters for domestic employees of the resident of the dwelling or mobile home.

B. Fences are a permitted accessory or secondary use in all zones subject to the requirements in Chapter 16.28 MCC.

C. Transit stop shelters and school bus stop shelters are a permitted secondary use in all zones. Shelters shall not be located within a required vision clearance area and shall not be located more than 10 feet from a street right-of-way.

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

1. The vehicles are owned by the occupant of the lot or domestic employees of the occupant; and

2. Vehicles parked outdoors in a residential zone may be parked in a space within the front yard meeting the requirements for required parking in MCC 16.30.140; or, they may be parked elsewhere on the lot where accessory buildings are permitted provided the parking area is screened by a six-foot-high sight-obscuring fence, wall or hedge from other lots in a residential zone. On a lot in the RS zone, not more than three vehicles shall be parked within required yards adjacent to streets; and

3. Vehicles parked on a lot in a residential zone shall be for the personal use of the occupants of the dwelling or the personal use of an employee of an approved conditional use home occupation. One vehicle used in conjunction with other employment may be parked on the lot; provided, that in the RS, RL, and RM zones the vehicle shall be parked in an

enclosed structure if it is rated at more than one ton capacity.

Scrivener's error: Corrects reference in code.

Chapter 16.28

DEVELOPMENT STANDARDS FOR SECONDARY, ACCESSORY AND TEMPORARY STRUCTURES

16.28.020 Accessory and secondary structure location and allowable coverage.

A. Structures accessory or secondary to a use allowed on property in a residential designation may be located in a side or rear yard provided:

1. The lot coverage by all accessory or secondary structures located in the required rear yard, except fences or retaining walls, shall total no more than 25 percent of the required rear yard; and
2. The accessory or secondary structure shall be set back at least one foot from any alley, or roadway adjacent to the rear lot line.

B. Structures accessory or secondary to a use allowed on property in a residential designation may not be located in the required front yard. **Structures located in the non-required front yard shall meet the setbacks for the primary structure.**

C. Structures accessory or secondary to a use allowed on property in a commercial, industrial or public designation, exclusive of fences and retaining walls, shall comply with required yards and setbacks for primary structures and shall be set back at least one foot from any alley or roadway. Accessory or secondary structures for a farm use in the UT zone shall not be located closer than 100 feet to a lot line adjacent to a residential zone.

Optional: Clarifies setbacks that apply to structures in non-required front yard.

Chapter 16.38

LEGISLATIVE AMENDMENTS

16.38.010 Initiation.

Legislative amendments may be initiated by the board or planning commission by resolution. An interested party may request that the planning commission or board initiate a legislative amendment. Legislative amendments shall only be initiated by the board or planning commission when the proposed change is in the public interest and will be of general public benefit. If the board initiates the amendments, the resolution shall prescribe whether the hearings officer, planning commission or board shall conduct the hearing. If the planning commission initiates the amendments, the resolution shall prescribe whether the hearings officer or planning commission shall conduct the hearing.

Whenever an amendment is initiated by the board the resolution may be referred to the director, planning commission or hearings officer for its recommendations without holding a hearing on the matter, unless directed by the board to hold a hearing. On these matters, the planning commission may choose to hold a hearing at its discretion.

In every case of a proposed amendment, the director shall fix a date for a public hearing before the board, planning commission or hearings officer and shall cause notice to be given as provided in this chapter. After the public hearing, the director, planning commission or hearings officer may refer its recommendations to the board.

Optional: Clarifies that the Board may send a matter to the planning commission or hearings officer for a recommendation without a hearing.

Chapter 16.49

DEFINITIONS

16.49.171 Mobile food vendor.

"Mobile food vendor" means:

~~A. Within the city of Woodburn's urban growth boundary a "mobile food vendor" means a vehicle, trailer, wagon or temporary structure, as defined by the State Building Code, used for the preparation and/or sale of food and/or beverages.~~

~~B. Within the Salem/Keizer urban growth boundary a "mobile food vendor" means any kiosk, shed, shelter, trailer, vehicle or~~

wagon which is used for the purpose of preparing, processing or converting food for immediate consumption as a drive in, drive through, curb or walk up service. It does not include a street vendor's cart or a peddler's vehicle or conveyance. [Ord. 1204 § 4, 2004. UZ Ord. § 49.1

“Mobile food vendor” means a vehicle, trailer, wagon or temporary structure, as defined by the State Building Code, used for the preparation and/or sale of food and/or beverages. It does not include a street vendor’s cart or a peddler’s vehicle or conveyance.

Mandatory: Corrects definition to mobile food vendor to match current county code.

16.49.007 Accessory dwelling unit.

“Accessory dwelling unit” means an interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling as permitted in MCC 16.25 and meeting the standards for development in MCC 16.26.

Mandatory: Incorporates definition consistent with SB 1051 (2017).

Chapter 17.110 GENERAL PROVISIONS

17.110.270 Home occupation.

“Home occupation” means any business or professional activity engaged in the production of income by a resident of a dwelling or dwelling unit as a subordinate use of the building and its premises, and in conformance with the provisions of this title. A home occupation may include a limited home occupation, conditional home occupation or a home occupation in a resource zone. Such term does not include the lease or rental of a dwelling unit or the rooming or boarding of persons on the same premises nor does it include a use meeting the standards of a home office in Chapter 17.425 **126** MCC or a marijuana business licensed pursuant to applicable law.

Scrivener’s error: Corrects reference in code.

17.110.840 Amendment of text only.

Any amendment of this title that amends, supplements or changes only the text hereof shall be initiated by the board, hearings officer or by the planning commission by resolution. **If the board initiates the amendments, the resolution shall prescribe whether the hearings officer, planning commission or board shall conduct the hearing. If the planning commission initiates the amendments, the resolution shall prescribe whether the hearings officer or planning commission shall conduct the hearing.** Whenever an amendment is initiated by the board the resolution may be referred to the director, planning commission or hearings officer for its recommendations **without holding a hearing on the matter, unless directed by the board to hold a hearing. On these matters, the planning commission may choose to hold a hearing at its discretion.**

In every case of a proposed amendment, the director shall fix a date for a public hearing before the board, planning commission or hearings officer and shall cause notice to be given as provided in Chapter 17.111 MCC. After the public hearing, the director, planning commission or hearings officer may refer its recommendations to the board.

Optional: Clarifies that the Board may send a matter to the planning commission or hearings officer for a recommendation without a hearing.

Chapter 17.112 FUTURE RIGHT-OF-WAY LINES

17.112.020 Special street setbacks.

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

B. Except as provided herein structures, including but not limited to utilities, retaining walls, fences and curbing and paved surfaces shall not be located within the special setbacks specified in subsection (F) of this section. Any portion of a structure lawfully established within a special street setback prior to adoption of this title shall be considered a nonconforming

structure. Other yard areas and setbacks specified adjacent to streets shall be in addition to the special setbacks required by this section. These setback distances shall be measured at right angles to the centerline of the established right-of-way. Parking requirements shall be met outside of the special setback area.

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

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

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

F. Special Setback Requirements.

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

a. State highway: 50 feet.

b. Principal arterial: 50 feet.

c. Arterial: 50 feet.

d. Major collector: 40 feet.

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

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

~~a. Oregon 99E from the northern city limits of the city of Salem to the northeast boundary of Marion County: 70 feet.~~

b. Cordon Road adjacent to the urban growth boundary of Salem and up to Hazelgreen Road: 60 feet.

c. North Fork Road from Oregon 22 to Gates Hill Road: 50 feet.

d. State Street from Howell Prairie Road to Cascade Highway: 40 feet.

e. Sunnyview Road from Howell Prairie Road to Cascade Highway: 40 feet.

f. Macleay Road from 65th Avenue to Howell Prairie Road: 40 feet.

g. Riverside Road from River Road to Sidney Road: 40 feet.

h. Sidney Road from Riverside Road to Buena Vista Road: 40 feet.

i. Buena Vista Road from Sidney Road to Buena Vista Ferry: 40 feet.

Optional: ODOT confirmed it does not require a 70 foot centerline setback. Removing this special setback would mean the standard 50 foot state highway setback would apply.

**Chapter 17.116
ADJUSTMENTS**

17.116.020 Criteria for granting an adjustment.

A. The director, planning commission, hearings officer or board may permit and authorize an adjustment to those standards listed in MCC 17.116.030 when it appears from the application and the facts presented that:

1. The proposed development will not have a significant adverse impact upon adjacent existing or planned uses and development; and
2. The adjustment will not have a significant adverse effect upon the health or safety of persons working or residing in the vicinity; and
3. The adjustment is the minimum necessary to achieve the purpose of the adjustment and is the minimum necessary to permit development of the property for the proposed use; and
4. The intent and purpose of the specific provision to be adjusted is clearly inapplicable under the circumstances; or, the proposed development maintains the intent and purpose of the provision to be adjusted.

B. Adjustment to Special Setback Standards in the AR, EFU, SA, FT, and TC Zones. The director, planning commission, hearings officer or board may permit and authorize an adjustment to the special setback standards listed in MCC 17.128.050(A), 17.136.070(A), 17.137.070(A), 17.138.060(A) and 17.139.070(A) as outlined in those sections. The criteria in subsection (A) of this section do not apply to adjustments granted under this subsection. **The limits for adjustments in 17.116.030 do not apply to adjustments granted under this subsection.**

Optional: Clarifies that the limits for adjustments do not apply to adjustments for the special setback in resource zones. The limits were not intended to apply, but appear to without the proposed amendment.

17.116.030 Limits for adjustments.

The director, planning commission, hearings officer or board may grant only the minimum adjustment and shall certify on the order authorizing the adjustment that such adjustment is the minimum. Modifications exceeding these limits shall be processed as a variance under Chapter 17.122 MMC. The adjustment shall not exceed the following limits:

- A. Lot Area. Maximum possible adjustment of two percent of the minimum lot area required but not more than 1,000 square feet. Adjustments to the state-mandated minimum lot sizes are prohibited.
- B. Percentage of Lot Coverage. A maximum adjustment of two percent more than permitted but not more than 500 square feet.
- C. Front Yard and Any Yard Adjacent to a Street. A maximum adjustment of 20 percent of the required front yard depth but in no instance shall this permit a yard depth of less than 10 feet adjacent to a street.
- D. Side Yards. A maximum adjustment of three feet but in no instance shall this permit a side yard depth of less than four feet for a one-story building or less than five feet for a two-story or two-and-one-half-story building.
- E. Rear Yard Depth. A maximum adjustment of either four feet for the building, or 10 feet if a yard area equal in area to that being covered is provided at some other place on the lot than a required yard area, but in no instance shall this permit a rear yard depth of less than five feet for a one-story building, five feet for a two-story building, or seven feet for a two-and-one-half-story building.
- F. Lot Width. A maximum of 10 percent of the required minimum width of 60 feet at the front building line.
- G. Subjects Not Included for Adjustment. The number of dwelling units permitted, parking requirements, vision clearance area and the use of property are not subjects for adjustments.
- H. Fences. Construction of fences with greater height or density than permitted within the required 10-foot fence setback to a property line adjacent to a street, as set forth in MCC 17.117.080, may be approved subject to a favorable report by the county engineer.
- I. Height. A height adjustment of not more than 10 feet may be allowed for residential accessory structures.

Chapter 17.119 CONDITIONAL USES

17.119.010 General concept.

A conditional use is an activity which is basically similar to other uses permitted in the zone, but due to some of the characteristics of the conditional use, which are not entirely compatible with the zone, such use could not otherwise be permitted in the zone. Review of the proposed conditional use by the director, planning commission or hearings officer will ensure that the use will be in consonance with the purpose and intent of the zone.

17.119.020 Application.

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

- A. The owner of the property that is the subject of the application;
- B. The purchaser of the property that is subject to the application when a duly executed written contract or earnest-money agreement, or copy thereof, is submitted with the application;
- C. A lessee in possession of the property subject to the application who submits written consent of the owner to make the application;
- D. The appropriate local government or state agency when the application is for a public works project;
- E. A governmental body that has initiated condemnation proceedings on the property that is subject to the application, but has not yet gained title; or
- F. A co-tenant if the property that is the subject of the application is owned by tenants in common.

The application for a proposed conditional use, or to enlarge, expand, or alter a conditional use, shall be on a form provided by the planning division and shall contain such information as the director, planning commission or hearings officer feels is necessary to fully assess the effect of the conditional use on the surrounding area.

17.119.025 Required signatures.

A. Applications shall include the following signatures:

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

B. Prima Facie Proof of Ownership. When any person signs as the owner of property or as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any owner, or when any person states that he or she is buying the property under contract, the director, planning commission, hearings officer and the board may accept these statements to be true, unless the contrary be proved, and except where otherwise in this title more definite and complete proof is required. Nothing herein shall prevent the director, planning commission, hearings officer or board from demanding proof that the signer is the owner, officer, attorney in fact, or agent.

17.119.030 Power to hear and decide conditional uses.

The planning commission, hearings officer, or board on its own motion may hear and decide only those applications for conditional uses, their expansion or alteration, that are listed in this title. The planning commission, hearings officer or board shall decide whether or not the conditional use may be placed in a zone and may impose the conditions listed below, subject to the restrictions and provisions of this title.

17.119.040 Hearings.

The planning commission or hearings officer shall hold a public hearing on the proposed conditional use as prescribed in MCC 17.119.150.

17.119.050 Conditional use and concurrent variances.

Variances may be processed concurrently and in conjunction with a conditional use application and when so processed will not require an additional public hearing.

17.119.060 Conditions.

The director, planning commission or hearings officer may prescribe restrictions or limitations for the proposed conditional use but may not reduce any requirement or standard specified by this title as a condition to the use. Any reduction or change of the requirements of this title must be considered as varying this title and must be requested and viewed as such. The director, planning commission or hearings officer shall impose conditions only after it has determined that such conditions are necessary for the public health, safety or general welfare, or to protect persons working or residing in the area, or the protection of property or improvements in the area. The director, planning commission or hearings officer may prescribe such conditions it deems necessary to fulfill the purpose and intent of this title.

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

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

- A. That it has the power to grant the conditional use;
- B. That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone;
- C. That any condition imposed is necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood.

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

~~MCC 17.122.070 through 17.122.130, relating to variances, shall apply where applicable to the granting of conditional uses.~~

17.119.100 Director review.

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

The director may, any time prior to the decision being final, reconsider the decision and issue a new or modified decision.

17.119.110 Decision review.

The director shall decide whether to approve or deny the conditional use based on the Marion County Comprehensive Plan and applicable criteria in this title. The decision should be made and notice thereof sent within 30 days of an application being determined to be complete. This administrative decision shall be final unless an appeal is taken as provided below.

17.119.120 Information from affected agencies.

Upon receipt of an application under MCC 17.119.100, a summary of the application shall be distributed to the public works department, assessor's office, building inspector, other affected agencies and the recognized area advisory committee with a request for comments or suggestions regarding those features that come within the scope of their activities.

17.119.130 Notification of decision.

Notice of the decision and information on the appeal process shall be sent to the applicant, the owner(s) of the subject property, the co-tenants of the subject property if the property is owned by tenants in common, affected agencies and members of the recognized area advisory committee requesting information, others requesting notification, and all landowners within the required notification area.

17.119.140 Appeal.

After the director's final action on the application, interested persons may appeal the decision no later than 15 days after the decision is mailed.

17.119.150 Public hearing and decision on appeals.

If the director's decision is appealed, the hearings officer or planning commission shall conduct a public hearing in accordance with Chapter 17.111 MCC. Notice of an appeal of the director's decision shall be mailed to the applicant, those requesting notice of a hearing and all landowners within the required notification area at least 20 days prior to the hearing date. The notice shall be consistent with the requirements in ORS 197.763(3). Failure to receive such notice by mail shall not affect the validity of the proceedings. The public hearing before the hearings officer or planning commission shall be de novo.

17.119.160 Appeal to the board.

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

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

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

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

D. If the board exercises its authority, pursuant to MCC 17.110.765, to make the initial determination on a land use application, the decision of the board is final and appealable only to the Oregon Land Use Board of Appeals.

17.119.170 Call up to the board.

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

17.119.180 Effective date of conditional use.

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

17.119.190 Conditional use right must be exercised to be effective.

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

17.119.200 Cessation of conditional use.

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

17.119.210 Transfer of conditional use.

Unless otherwise provided in the decision granting the conditional use permit, conditional use permits shall run with the land.

17.119.220 Resubmission of conditional use application.

No application which has been denied wholly or in part by the director, planning commission, hearings officer or by the board shall be resubmitted for a period of one year from such denial, unless consent for resubmission be given by the director, two-thirds of the members of the planning commission, the hearings officer or the board.

Optional: Conditional use chapter references process in variance chapter. Moves language directly into conditional use chapter to clarify process. Makes conditional use effective for two years and cessation after one year, which is consistent with current practice.

**Chapter 17.122
VARIANCES**

17.122.110 Transfer of variance.

~~Any valid variance granted pursuant to this title is transferable unless otherwise provided at the time of the granting of such variance.~~ Unless otherwise provided in the decision granting the variance, variances shall run with the land.

Optional: Clarifies language in the code.

17.122.120 Appeal to the board.

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

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

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

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

D. If the board exercises its authority, pursuant to MCC 17.110.765, to make the initial determination on a land use application, the decision of the board is final and appealable only to the Oregon Land Use Board of Appeals. [Ord. 1271 § 5, 2008; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 6, 2000. RZ Ord. § 122.120.]

Optional: Clarifies language in the code.

**Chapter 17.125
LIMITED USES**

17.125.140 Cider business.

A cider business may be established in the EFU, SA or FT zones subject to the following criteria:

A. As used in this section:

1. “Agri-tourism or other commercial events” includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of cider produced in conjunction with the cider business is a secondary purpose of the event.
2. “Cider” means an alcoholic beverage made from the fermentation of the juice of apples or pears. “Cider” includes but is not limited to flavored cider, sparkling cider and carbonated cider.
3. “Cider business” means a facility used primarily for the commercial production, shipping and distribution, wholesale or retail sales, tasting, crushing, making, blending, storage, bottling, administrative functions or warehousing of cider.
4. “Cidermaker” means a person who makes cider.
5. “On-site retail sale” includes the retail sale of cider in person at the cider business site, through a cider club or over the Internet or telephone.
6. “Orchard” means a piece of land planted with apple or pear trees.

B. A cider business may be established if the cider business produces:

1. Less than 100,000 gallons of cider annually and the cider business:
 - a. Owens an on-site orchard of at least 15 acres;
 - b. Owens a contiguous orchard of at least 15 acres;
 - c. Has a long-term contract for the purchase of all of the apples or pears from at least 15 acres of an orchard contiguous to the cider business; or
 - d. Obtains apples or pears from any combination of (a), (b), or (c); or
2. At least 100,000 gallons of cider annually and the cider business:
 - a. Owens an on-site orchard of at least 40 acres;
 - b. Owens a contiguous orchard of at least 40 acres;
 - c. Has a long-term contract for the purchase of all of the apples or pears from at least 40 acres of an orchard contiguous to the cider business;
 - d. Owens an on-site orchard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of orchards in Oregon that are located within 15 miles of the cider business site; or
 - e. Obtains apples or pears from any combination of (a), (b), or (c).

C. In addition to any other activities authorized for a cider business, a cider business established under this section may:

1. Market cider produced in conjunction with the cider business.
2. Conduct operations that are directly related to the sale or marketing of cider produced in conjunction with the cider business, including:
 - a. Cider tastings in a tasting room or other location on the premises occupied by the cider business;
 - b. Cider club activities;
 - c. Cidermaker luncheons and dinners;
 - d. Cider business and orchard tours;
 - e. Meetings or business activities with cider business suppliers, distributors, wholesale customers and cider industry members;
 - f. Cider business staff activities;
 - g. Open house promotions of cider produced in conjunction with the cider business; and
 - h. Similar activities conducted for the primary purpose of promoting cider produced in conjunction with the cider business.
3. Market and sell items directly related to the sale or promotion of cider produced in conjunction with the cider business, the marketing and sale of which is incidental to on-site retail sale of cider, including food and beverages:
 - a. Required to be made available in conjunction with the consumption of cider on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - b. Served in conjunction with an activity authorized by paragraph (2), (4) or (5) of this subsection.
4. Carry out agri-tourism or other commercial events on the tract occupied by the cider business as provided for below.
5. Host charitable activities for which the cider business does not charge a facility rental fee.
6. Site a bed and breakfast as a home occupation on the same tract, and in association with, the cider business.
 - a. The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and
 - b. The meals may be served at the bed and breakfast facility or at the cider business.

D. A cider business may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in this section. Food and beverage services authorized under this section may not utilize menu options or meal services that cause the kitchen facilities to function as a cafe or other dining establishment open to the public.

E. The gross income of the cider business from the sale of incidental items or services provided pursuant to subsection (C)(3) to (5) of this section may not exceed 25 percent of the gross income from the on-site retail sale of cider produced in conjunction with the cider business. The gross income of a cider business does not include income received by third parties unaffiliated with the cider business. At the request of the county, the cider business shall submit to the local government a written statement prepared by a certified public accountant that certifies the compliance of the cider business with this subsection for the previous tax year.

G. A cider business may carry out agri-tourism or other commercial events as provided for below:

- 1. Events on the first six days of the 18-day limit per calendar year are authorized by the local government through the issuance of a renewable multi-year license that:**
 - a. Has a term of five years; and**
 - b. Is subject to an administrative review to determine necessary conditions pursuant to subsection (H).**
- 2. The local government's decision on a license under (1) of this subsection is not:**
 - a. A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use Board of Appeals.**
 - b. A permit, as defined in ORS 215.402 or 227.160.**
- 3. Events on days seven through 18 of the 18-day limit per calendar year are authorized by the local government through the issuance of a renewable multi-year permit that:**
 - a. Has a term of five years;**
 - b. Is subject to an administrative review to determine necessary conditions pursuant to subsection (H);**
and
 - c. Is subject to notice as specified in ORS 215.416 (11) or 227.175 (10).**
- 4. The local government's decision on a permit under (3) of this subsection is:**
 - a. A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use Board of Appeals.**
 - b. A permit, as defined in ORS 215.402 or 227.160.**

H. Agri-tourism or other commercial events occurring as described in this section shall be subordinate to the production and sale of cider and not create significant adverse impacts to uses on surrounding land. The county may impose conditions on a license or permit issued for agri-tourism or other commercial events to ensure events do not create significant adverse impacts to uses. The conditions must be related to:

- 1. The number of event attendees;**
- 2. The hours of event operation;**
- 3. Access and parking;**
- 4. Traffic management;**
- 5. Noise management; and**
- 6. Sanitation and solid waste.**

I. A cider business operating under this section shall provide parking for all activities or uses of the lot, parcel or tract on which the cider business is situated.

J. The cider business shall comply with:

- 1. Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access and airport safety;**
- 2. Regulations of general applicability for the public health and safety; and**
- 3. Regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.**

K. For the purpose of limiting demonstrated conflicts with accepted farm and forest practices on adjacent lands, the cider business and all public gathering places shall be setback at least 100 feet from all property lines. The cider businesses shall provide direct road access and internal circulation for the cider business and all public gathering places. The setback may be reduced if it is determined, concurrently with any land use application or as provided in Chapter 17.116 MCC, that a lesser setback will meet the following review criteria:

- 1. The location of the site will have the least impact on nearby or adjoining forest or agricultural lands.**
- 2. The location of the site ensures that adverse impacts on forest operations and accepted farming practices on**

the tract will be minimized.

3. The amount of agricultural and forestlands used to site access roads, service corridors, and structures is minimized.

4. The risks associated with wildfire are minimized.

Mandatory: Enacted by SB 677 (2017). Permits cider business.

Chapter 17.126

PERMITTED USES GENERALLY

17.126.020 Permitted secondary and accessory structures and uses.

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

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

1. Decks and patios (open, covered, or enclosed);
2. Storage building for: firewood, equipment used in conjunction with dwelling and yard maintenance, personal property (except vehicles) not in conjunction with any commercial or industrial business other than a home occupation;
3. Vegetable gardens, orchards and crop cultivation for personal use, including greenhouses. No sale of produce is permitted;
4. Sauna;
5. Hobby shop;
6. Shelter for pets;
7. Fallout shelters;
8. Swimming pools and hot tubs;
9. Guest facilities not in a primary dwelling unit, provided:
 - a. Only one guest facility is allowed per contiguous property ownership; and
 - b. Total combined maximum floor area shall not exceed 600 square feet, including all levels and basement floor areas; and
 - c. No stove top, range, or conventional oven is allowed; and
 - d. All water, sewer, electricity and natural gas services for the guest facility shall be extended from the primary dwelling services; no separate meters for the guest facility shall be allowed; and
 - e. The guest facility shall be located within 100 feet of the primary use dwelling on the same property, measured from the closest portion of each structure; and
 - f. The guest facility shall use the same septic system as the primary use dwelling, except when a separate system is required by the building inspection division due to site constraints, or failure of the existing system, or where the size or condition of the existing system precludes its use, additional drain lines may be added to an existing system, when appropriate; and
 - g. The guest facility shall not be occupied as a dwelling unit; and
 - h. The guest facility shall not have an address;
10. Rooming or boarding of up to two persons in a dwelling unit;

11. Pets, provided a conditional use permit is required in the RS and AR zones if there are more than 10 mammals over four months old. No birds or furbearing animals, other than pets, and no livestock, poultry, or beekeeping are permitted in RS zones;

12. One recreational vehicle space subject to the requirements in MCC 17.126.040;

13. Additional kitchens in a dwelling unit, provided all kitchens in the dwelling unit are used by only one family ~~and subject to the recording of a covenant restricting the use to a single family dwelling;~~ **and are connected by open, livable space between the kitchens (i.e., no doorways exist between the kitchens and no area between kitchens consists of unfinished or non-livable space, such as a garage). One additional kitchen in a dwelling unit may be constructed inside an existing dwelling, or as an addition to a dwelling, as part of a suite of rooms consisting of a kitchen, one or more bathrooms, one or more bedrooms, and other domestic rooms if the suite of rooms is connected to the main dwelling by a door in a common wall.**

Optional: Permits kitchens connected both by “open, livable” space and in a domestic suite. Covenant should not be required since planning reviews plans when building is constructed

14. Offering to sell five or less vehicles owned by the occupants of the dwelling unit in any calendar year;

15. Garages and carports for covered vehicle parking;

16. Child foster home;

17. Residential home* (see MCC 17.110.190(C));

18. Sleeping quarters for domestic employees of the resident of the dwelling unit or mobile home;

19. Bed and breakfast establishments in AR zones, provided they do not include more than four lodging rooms and may employ no more than two persons (“person” includes volunteers, nonresident employees, partners or any other person);

20. Ham radio facilities.

21. In EFU, SA, FT and TC zones, a home office, provided:

a. The home office shall be carried on solely by the resident or residents of a dwelling on the subject property as an accessory use. No other persons shall be employed by the business.

b. The home office shall be continuously conducted in such a manner as not to create any public or private nuisance, including, but not limited to, offensive noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference. In a residential zone noise associated with the home office shall not violate Department of Environmental Quality or Chapter 8.45 MCC, Noise.

c. No sign or display on the premises is allowed that will indicate the presence of the home office.

d. The home office shall be conducted entirely within the dwelling or attached garage. There shall be no outside storage or display of materials, equipment, or merchandise used in, or produced in connection with, the home office.

e. No structural alterations shall be made to the dwelling or garage that would be inconsistent with future use of the building exclusively as a dwelling.

f. No visits by suppliers shall occur.

g. No customers or clients shall visit the property in the course of doing business.

Chapter 17.128 AR (ACREAGE RESIDENTIAL) ZONE

17.128.020 Permitted uses.

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

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

- a. The property owner shall obtain all required permits from Marion County Building Inspection to convert the existing residence to an accessory dwelling unit upon completion of the new single-family dwelling, including permits for sanitation and wastewater disposal and treatment.**
- b. The land containing the accessory dwelling cannot be divided from the land containing the new single-family dwelling.**
- c. The accessory dwelling unit cannot be renovated or remodeled so that the square footage of the accessory dwelling unit is more than 120 percent of the historic home's square footage at the time construction of the new single-family dwelling commenced.**
- d. The accessory dwelling cannot be rebuilt if the structure is lost to fire.**
- e. The property owner shall record a declaratory statement acknowledging compliance with the conditions in (b), (c) and (d) above.**

OPTIONAL: The new single-family dwelling shall be served by the same water supply source as the accessory dwelling unit.

Mandatory: Enacted by HB 3012 (2017). Permits a historic home to be converted to an ADU when home is replaced in an Acreage Residential zone.

17.128.030 Conditional uses.

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

- A. Kennels.
- B. Temporary use of a mobile home or recreational vehicle during certain hardship conditions, subject to MCC 17.120.040.

- C. Day nursery.
- D. Commercial uses in conjunction with farm use subject to MCC 17.128.045.
- E. Religious organizations and expansions not qualifying under MCC 17.128.020(~~J~~), and related conference and residence facilities.
- F. Schools, elementary and secondary (as defined in Chapter 17.110 MCC).
- G. Conditional home occupation (other than those home occupations listed in MCC 17.125.100) (see specific conditional uses, MCC 17.120.075).
- H. Wireless communications facilities (see specific conditional uses, MCC 17.120.080).

Scrivener's error: Corrects reference in code.

Chapter 17.136 **EFU (EXCLUSIVE FARM USE) ZONE**

17.136.040 Uses permitted subject to standards.

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

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

1. The structures shall be designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the state of Oregon, including processed food items, and the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand; and
2. Annual sales of the incidental items and fees from promotional activity, sales of farm crops produced outside the state of Oregon, and sales of prepared food items together cannot make up more than 25 percent of the total annual sales of the farm stand; and
3. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment;
4. As used in this section, "processed food items" means farm crops and livestock that have been converted into other products through canning, drying, baking, freezing, pressing, butchering or other similar means of adding value to the farm product, such as jams, syrups, apple cider, and similar animal products, but not prepared food items;
5. As used in this section, "prepared food items" means food products that are prepared for immediate consumption, such as pies, shortcake, milk shakes, smoothies, and baked goods;
6. Adequate off-street parking shall be provided and all vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways;
7. No farm stand building or parking is permitted within the right-of-way;
8. Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips;
9. Approval is required from the county public works department regarding adequate egress and access including compliance with vision clearance standards. All egress and access points shall be clearly marked;
10. All outdoor light fixtures shall be directed downward, and have full cutoff and full shielding to preserve views of the night sky and to minimize excessive light spillover onto adjacent properties, roads and highways;
11. Signs are permitted consistent with Chapter 17.191 MCC;
12. All required permits shall be obtained from the Marion County health department or the Department of Agriculture, as required;

13. When requested by the planning director, the farm stand operator/landowner shall submit a statement demonstrating how the farm stand complies with this policy, certified by the landowner's/operator's accountant or attorney as being accurate and complete;

14. A farm stand may not be used for the sale of marijuana products or to promote the sale of marijuana products or extracts.

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

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

1. New religious organizations and cemeteries in conjunction with religious organizations:

a. May not be established on high-value farmland.

b. New religious organizations and cemeteries in conjunction with religious organizations, not on high-value farmland, may be established. All new religious organizations and cemeteries in conjunction with religious organizations within three miles of an urban growth boundary shall meet the following standards:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

within a farm zone.

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

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

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

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

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

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

1. Except for an establishment for the slaughter, processing or selling of poultry or poultry products, the farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility. For an establishment for the slaughter, processing or selling of poultry or poultry products, all of the poultry must have been raised on the farm operation consistent with ORS 603.038.
2. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use nor devote more than 10,000 square feet to the processing activities within another building supporting farm use.
3. The processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits siting of the processing facility.
4. Division of a lot or parcel that separates a processing facility from the farm operation on which it is located shall not be approved.
5. A medical marijuana processor as defined in MCC 17.110.376 shall:
 - a. Be conducted entirely indoors; and
 - b. Emit no light visible to adjacent neighboring property owners or the public; and
 - c. Ensure odors are not detectable on adjacent neighboring properties.

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

1. Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use.
2. The site shall not include an aggregate surface or hard area surface unless the surface pre-existed the use.
3. As used in this section “model aircraft” means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and controlled by radio, lines or design by a person on the ground.
4. An owner of property used for the purpose authorized in this subsection may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator’s cost

to maintain the property, buildings and facilities.

~~H. Wildlife Habitat Conservation. A wildlife habitat conservation and management plan on a lot or parcel subject to the following:~~

- ~~1. The lot or parcel contains an existing legally established dwelling; or~~
- ~~2. Approval for the dwelling is obtained under provisions contained in MCC 17.136.030(A), (D) or 17.136.050(A);~~
- ~~3. The dwelling is situated on a legally created lot or parcel existing on November 4, 1993;~~
- ~~4. The lot or parcel is not predominantly composed of soils rated Class I or II, when not irrigated, or rated prime or unique by the Natural Resource Conservation Service, or any combination of such soils.~~

Mandatory: DLCD no longer includes wildlife habitat conservation plan as a land use action. The property owner coordinates with the Marion County Tax Assessor to implement a plan.

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

1. Technical and engineering feasibility;
2. The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
3. Lack of available urban and nonresource lands;
4. Availability of existing right-of-way;
5. Public health and safety; and
6. Other requirements of state and federal agencies.
 - a. Costs associated with any of the factors listed above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.
 - b. The owner of a utility facility approved under this section shall be responsible for restoring to its former condition as nearly as possible any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing upon a contractor the responsibility for restoration.
 - c. The applicant shall address the requirements of MCC 17.136.060(A)(1).
 - d. In addition to the provisions above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.
 - e. The provisions of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
 - f. If the criteria contained in this subsection (I) for siting a utility facility on land zoned for exclusive farm use are met for a utility facility that is a transmission line, the utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by

certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult. The requirement to consult under this section is in addition to and not in lieu of any other legally required consultation process. For the purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

(A) Technical and engineering feasibility;

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

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

(D) Public health and safety; or

(E) Other requirements of state or federal agencies.

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

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

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

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

K. Fire service facilities providing rural fire protection services.

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

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

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

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

Mandatory: Enacted by HB 2179 (2017). Permits onsite treatment of septage prior to application of biosolids on EFU land.

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

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

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

Mandatory: Enacted by SB 677 (2017). Permits cider business.

17.136.050 Conditional uses.

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

- A. Single-family dwelling or manufactured home not in conjunction with farm use, subject to the criteria and standards in MCC 17.136.060(B), 17.136.070 and 17.136.100.
- B. Temporary residence for hardship purposes subject to the requirements of MCC 17.120.040 with filing of the declaratory statement in MCC 17.136.100(C).
- C. Portable or temporary facility for primary processing of forest products subject to MCC 17.136.060(E).
- D. The following commercial uses:
 1. Home occupations, including bed and breakfast inns, subject to the criteria in MCC 17.136.060(C) with filing of the declaratory statement in MCC 17.136.100(C).

2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.136.040(F), and subject to MCC 17.136.060(D), but including a winery not permitted under MCC 17.136.040(B), but not including a medical marijuana processor as defined in MCC 17.110.376, subject to MCC 17.136.060(D).
3. Expansion of a lawfully established dog kennel with filing of the declaratory statement in MCC 17.136.100(C).
4. Room and board arrangements for a maximum of five unrelated persons in existing dwellings with filing of the declaratory statement in MCC 17.136.100(C).
5. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.
6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
7. Composting Facilities.
 - a. Existing composting operations and facilities that do not meet MCC 17.136.020(J) may be maintained, enhanced, or expanded on the same tract subject to meeting the performance and permitting requirements of the Department of Environmental Quality (DEQ) under OAR 340-093-0050 and 340-096-0060, subject to compost facility operators preparing, implementing and maintaining a site-specific odor minimization plan that:
 - i. Meets the requirements of OAR 340-096-0150;
 - ii. Identifies the distance of the proposed operation to the nearest residential zone;
 - iii. Includes a complaint response protocol;
 - iv. Is submitted to the DEQ with the required permit application; and
 - v. May be subject to annual review by the county to determine if any revisions are necessary.
 - b. New composting operations and facilities that do not meet MCC 17.136.020(J) may be established on land not defined as high-value farmland subject to the following:
 - i. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060; and
 - ii. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility; and
 - iii. On-site sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle;
 - iv. Compost facility operators must prepare, implement and maintain a site-specific odor minimization plan that:
 - (A) Meets the requirements of OAR 340-096-0150;
 - (B) Identifies the distance of the proposed operation to the nearest residential zone;
 - (C) Includes a complaint response protocol;
 - (D) Is submitted to the DEQ with the required permit application; and
 - (E) May be subject to annual review by the county to determine if any revisions are necessary.
8. Operations for the extraction and bottling of water, except in the sensitive groundwater overlay zone.
9. Agri-tourism events and activities excluding events that promote the use or sale of marijuana products or extracts, subject to the requirements in MCC 17.120.090.

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

E. The following mining and processing activities:

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

F. The following utility uses:

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

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

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

1. Expansion of a lawfully established private park, playground, hunting and fishing preserve or campground subject to MCC 17.136.060(G) with filing of the declaratory statement in MCC 17.136.100(C).
2. Expansion of a lawfully established community center, operated primarily by and for residents of the local rural community, where the land and facilities are owned and operated by a governmental agency or nonprofit community organization with filing of the declaratory statement in MCC 17.136.100(C).
3. Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035 or 660-034-0040, whichever is applicable, and consistent with ORS 195.120 and with filing of the declaratory statement in MCC 17.136.100(C).
4. Expansion of a lawfully established golf course on the same tract consistent with definitions in MCC 17.136.140(C), and with filing of the declaratory statement in MCC 17.136.100(C).
5. Living history museum subject to MCC 17.136.060(H)(2), and with filing of the declaratory statement in MCC 17.136.100(C).

I. Expansion of a lawfully established solid waste disposal site together with facilities and buildings for its operation (**see specific conditional uses, MCC 17.120.310 through 17.120.380**).

Mandatory: Incorporates reference into code.

J. The following transportation uses:

1. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
2. Reconstruction or modification of public streets involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
3. Improvement of public street related facilities, such as maintenance yards, weigh stations and rest areas where additional property or right-of-way is required but not resulting in the creation of new land parcels.

4. Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 12.

K. A replacement dwelling to be used in conjunction with farm use with filing of the declaratory statement in MCC 17.136.100(C), if the existing dwelling is listed in the Comprehensive Plan inventory and the National Register of Historic Places as historic property as defined in ORS 358.480.

L. Residential home or adult foster home, as defined in ORS 197.660 and MCC 17.110.477, in an existing dwelling and with filing of the declaratory statement in MCC 17.136.100(C).

M. A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(2).

N. Expansion of existing schools not for kindergarten through grade 12 established on or before January 1, 2009, on the same tract wholly within a farm zone subject to MCC 17.136.060(I).

Chapter 17.137 **SA (SPECIAL AGRICULTURE) ZONE**

17.137.040 Uses permitted subject to standards.

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

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

1. The structures shall be designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the state of Oregon, including processed food items, and the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand; and
2. Annual sales of the incidental items and fees from promotional activity, sales of farm crops produced outside the state of Oregon, and sales of prepared food items together cannot make up more than 25 percent of the total annual sales of the farm stand; and
3. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment;
4. As used in this section, "processed food items" means farm crops and livestock that have been converted into other products through canning, drying, baking, freezing, pressing, butchering or other similar means of adding value to the farm product, such as jams, syrups, apple cider, and similar animal products, but not prepared food items;
5. As used in this section, "prepared food items" means food products that are prepared for immediate consumption, such as pies, shortcake, milk shakes, smoothies, and baked goods;
6. Adequate off-street parking shall be provided and all vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways;
7. No farm stand building or parking is permitted within the right-of-way;
8. Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips;
9. Approval is required from the county public works department regarding adequate egress and access including compliance with vision clearance standards. All egress and access points shall be clearly marked;
10. All outdoor light fixtures shall be directed downward, and have full cutoff and full shielding to preserve views of the night sky and to minimize excessive light spillover onto adjacent properties, roads and highways;
11. Signs are permitted consistent with Chapter 17.191 MCC;

12. All required permits shall be obtained from the Marion County health department or the Department of Agriculture, as required;

13. When requested by the planning director, the farm stand operator/landowner shall submit a statement demonstrating how the farm stand complies with this policy, certified by the landowner's/operator's accountant or attorney as being accurate and complete;

14. A farm stand may not be used for the sale of marijuana products or to promote the sale of marijuana products or extracts.

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

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

1. New religious organizations and cemeteries in conjunction with religious organizations:

a. May not be established on high-value farmland.

b. New religious organizations and cemeteries in conjunction with religious organizations, not on high-value farmland, may be established. All new religious organizations and cemeteries in conjunction with religious organizations within three miles of an urban growth boundary shall meet the following standards:

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

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

iii. For the purposes of this subsection, "tract" means a tract as defined in MCC 17.137.130(F) in existence on May 5, 2010.

2. Existing religious organizations and cemeteries in conjunction with religious organizations:

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

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

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

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

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

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

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

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

iii. For the purposes of this subsection, "tract" means a tract as defined in MCC 17.137.130(F) in existence on May 5, 2010.

c. New schools must be determined to be consistent with the provisions contained in MCC 17.137.060(A)(1).

2. Existing schools primarily for the residents of the rural area in which the school is located:

- a. Existing schools on high-value farmland may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
- b. Existing schools not on high-value farmland may be maintained, enhanced, or expanded consistent with the provisions contained in MCC 17.137.060(A)(1).
- c. Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsections (D)(1)(b)(i) through (iii) of this section.

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

E. Filming Activities. On-site filming and activities accessory to filming, defined in MCC 17.137.130(A), if the activity:

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

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

1. Except for an establishment for the slaughter, processing or selling of poultry or poultry products, the farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility. For an establishment for the slaughter, processing or selling of poultry or poultry products, all of the poultry must have been raised on the farm operation consistent with ORS 603.038.
2. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use nor devote more than 10,000 square feet to the processing activities within another building supporting farm use.
3. The processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits siting of the processing facility.
4. Division of a lot or parcel that separates a processing facility from the farm operation on which it is located shall not be approved.
5. A medical marijuana processor as defined in MCC 17.110.376 shall:
 - a. Be conducted entirely indoors; and
 - b. Emit no light visible to adjacent neighboring property owners or the public; and
 - c. Ensure odors are not detectable on adjacent neighboring properties.

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

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

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

~~H. Wildlife Habitat Conservation. A wildlife habitat conservation and management plan on a lot or parcel subject to the following:~~

- ~~1. The lot or parcel contains an existing legally established dwelling; or~~
- ~~2. Approval for the dwelling is obtained under provisions contained in MCC 17.137.030(A), (D), (E) or 17.137.050(A).~~
- ~~3. The dwelling is situated on a legally created lot or parcel existing on November 4, 1993.~~
- ~~4. The lot or parcel is not predominantly composed of soils rated Class I or II, when not irrigated, or rated prime or unique by the Natural Resources Conservation Service, or any combination of such soils.~~

Mandatory: DLCD no longer includes wildlife habitat conservation plan as a land use action. The property owner coordinates with the Marion County Tax Assessor to implement a plan.

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

1. Technical and engineering feasibility;
2. The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for special agriculture in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
3. Lack of available urban and nonresource lands;
4. Availability of existing rights-of-way;
5. Public health and safety; and
6. Other requirements of state and federal agencies.
 - a. Costs associated with any of the factors listed above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.
 - b. The owner of a utility facility approved under this section shall be responsible for restoring to its former condition as nearly as possible, any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
 - c. The applicant shall address the requirements of MCC 17.137.060(A)(1).
 - d. In addition to the provisions above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in a special agriculture zone shall be subject to the provisions of OAR 660-011-0060.
 - e. The provisions of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
 - f. If the criteria contained in this subsection (I) for siting a utility facility on land zoned for exclusive farm use are met for a utility facility that is a transmission line, the utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks

after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult. The requirement to consult under this section is in addition to and not in lieu of any other legally required consultation process. For the purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

(A) Technical and engineering feasibility;

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

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

(D) Public health and safety; or

(E) Other requirements of state or federal agencies.

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

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

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

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

K. Fire service facilities providing rural fire protection services.

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

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

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

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

Mandatory: Enacted by HB 2179 (2017). Permits onsite treatment of septage prior to application of biosolids on EFU land.

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

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

4. There shall be no more than four testing trials per calendar year.

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

Mandatory: Enacted by SB 677 (2017). Permits cider business.

17.137.050 Conditional uses.

The following uses may be permitted in an SA zone subject to obtaining a conditional use permit and satisfying the criteria in MCC 17.137.060(A) and any additional criteria, requirements, and standards specified in this section:

- A. Single-family dwelling or mobile home not in conjunction with farm uses, subject to the criteria and standards in MCC 17.137.060(B), 17.137.070, and 17.137.100.
- B. Temporary residence for hardship purposes pursuant to MCC 17.120.040 with filing of the declaratory statement in MCC 17.137.100(C).
- C. Portable or temporary facility for primary processing of forest products subject to MCC 17.137.060(D).
- D. The following commercial uses:

1. Home occupations, including bed and breakfast inns, subject to the criteria in MCC 17.137.060(C) with filing of the declaratory statement in MCC 17.137.100(C).
2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.137.040(F) and subject to MCC 17.137.060(I), but including a winery not permitted under MCC 17.137.040(B), but not including a medical marijuana processor as defined in MCC 17.110.376, subject to MCC 17.137.060(I).
3. Dog kennels in conjunction with a dwelling occupied by the kennel operator with filing of the declaratory statement in MCC 17.137.100(C).
4. Room and board arrangements for a maximum of five unrelated persons in existing residences with filing of the declaratory statement in MCC 17.137.100(C).
5. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.
6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
7. Composting Facilities.
 - a. Existing composting operations and facilities that do not meet MCC 17.137.020(J) may be maintained, enhanced, or expanded on the same tract subject to meeting the performance and permitting requirements of the Department of Environmental Quality (DEQ) under OAR 340-093-0050 and 340-096-0060, subject to compost facility operators preparing, implementing and maintaining a site-specific odor minimization plan that:
 - i. Meets the requirements of OAR 340-096-0150;
 - ii. Identifies the distance of the proposed operation to the nearest residential zone;
 - iii. Includes a complaint response protocol;
 - iv. Is submitted to the DEQ with the required permit application; and
 - v. May be subject to annual review by the county to determine if any revisions are necessary.
 - b. New composting operations and facilities that do not meet MCC 17.137.020(J) may be established on land not defined as high-value farmland subject to the following:
 - i. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060; and
 - ii. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility; and
 - iii. On-site sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.
 - iv. Compost facility operators must prepare, implement and maintain a site-specific odor minimization plan that:
 - (A) Meets the requirements of OAR 340-096-0150;
 - (B) Identifies the distance of the proposed operation to the nearest residential zone;
 - (C) Includes a complaint response protocol;
 - (D) Is submitted to the DEQ with the required permit application; and
 - (E) May be subject to annual review by the county to determine if any revisions are necessary.

8. Operations for the extraction and bottling of water, except in the sensitive groundwater overlay zone.
9. Agri-tourism events and activities excluding events that promote the use or sale of marijuana products or extracts, subject to the requirements in MCC 17.120.090.
10. Dog training classes or testing trials not permitted under MCC 17.137.040(O).

E. The following mining and processing activities:

1. Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted in MCC 17.137.020.
2. Mining of aggregate and other mineral and other subsurface resources subject to ORS 215.298 and MCC 17.120.410 through 17.120.480.
3. Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement subject to MCC 17.137.060(H)(1) and 17.120.410 through 17.120.480.
4. Processing of other mineral resources and other subsurface resources subject to MCC 17.120.410 through 17.120.480.

F. The following utility uses:

1. Commercial utility facilities for the purpose of generating power, other than wind power generation or photovoltaic solar power generation, for public sale, subject to MCC 17.137.060(E).
2. Wind power generation facilities subject to MCC 17.120.100.
3. *Repealed by Ord. 1387.*
4. Transmission towers over 200 feet in height.

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

H. The following recreation uses subject to MCC 17.137.060(J):

1. Private parks, playgrounds, hunting and fishing preserves and campgrounds subject to MCC 17.137.060(F) and (H)(2) with filing of the declaratory statement in MCC 17.137.100(C).
2. Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035 or 660-034-0040, whichever is applicable, and consistent with ORS 195.120 and with filing of the declaratory statement in MCC 17.137.100(C).
3. Golf courses, as defined in MCC 17.137.130(C), and subject to the requirements in MCC 17.137.060(G) with filing of the declaratory statement in MCC 17.137.100(C).
4. Living history museum subject to MCC 17.137.060(H)(3) with filing of the declaratory statement in MCC 17.137.100(C).

I. Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, or for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with facilities and buildings for its operation, **(see specific conditional uses, MCC 17.120.310 through 17.120.380)**, subject to MCC 17.137.060(H)(2) with filing of the declaratory statement in MCC 17.137.100(C).

Mandatory: Incorporates reference into code.

J. The following transportation uses:

1. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
2. Reconstruction or modification of public streets involving the removal or displacement of buildings but not resulting in the creation of new land parcels.

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

4. Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 12.

K. A replacement dwelling to be used in conjunction with farm use with filing of the declaratory statement in MCC 17.137.100(C), if the existing dwelling is listed in the Comprehensive Plan inventory and the National Register of Historic Places as historic property as defined in ORS 358.480.

L. Residential home or adult foster home, as defined in ORS 197.660 and MCC 17.110.477, in an existing dwelling with filing of the declaratory statement in MCC 17.137.100(C).

M. Expansion of existing schools not for kindergarten through grade 12 established on or before January 1, 2009, on the same tract wholly within a farm zone subject to MCC 17.137.060(J).

Chapter 17.138 TC (TIMBER CONSERVATION) ZONE

17.138.035 Uses permitted subject to standards.

~~A. Wildlife Habitat Conservation. A wildlife habitat conservation and management plan on a lot or parcel subject to the following:~~

- ~~1. The lot or parcel contains an existing legally established dwelling; or~~
- ~~2. Approval for the dwelling is obtained under provisions contained in MCC 17.138.030(A), (B), (C) or (D);~~
- ~~3. The dwelling is situated on a legally created lot or parcel existing on November 4, 1993;~~
- ~~4. The lot or parcel is not predominantly composed of soils rated Class I or II, when not irrigated, or rated prime or unique by the Natural Resources Conservation Service, or any combination of such soils.~~

~~B. A. Parking of not more than seven dump trucks and not more than seven trailers on a tract when the use will not:~~

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

~~Mandatory: DLCD no longer includes wildlife habitat conservation plan as a land use action. The property owner coordinates with the Marion County Tax Assessor to implement a plan.~~

17.138.040 Conditional uses.

The following uses may be permitted in a TC zone subject to obtaining a conditional use permit and satisfying the criteria in MCC 17.138.050(A) and any additional criteria, requirements and standards specified in this section.

A. Temporary residence for hardship purposes pursuant to MCC 17.120.040, subject to the siting standards and requirements in MCC 17.138.060(A) and (B).

B. Home occupations, including bed and breakfast inns, subject to MCC 17.138.050(B) with the filing of the declaratory statement in MCC 17.138.060(B).

C. The following uses supporting forest operations:

1. Log scaling and weigh stations.
2. Permanent logging equipment repair and storage.
3. Forest management research and experimentation facilities, as defined in ORS 526.215 or where accessory to a forest operation.

4. Permanent facility for primary processing of forest products.

D. The following mining and processing activities:

1. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under MCC 17.138.020(R) (e.g., compressors, separators and storage serving multiple wells).
2. Mining and processing of aggregate as defined in ORS Chapter 517 subject to MCC 17.120.410 through 17.120.480.
3. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.

E. The following utility uses:

1. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
2. Television, microwave and radio communications facilities and transmission towers.
3. Power generation facility provided an exception is taken under OAR 660, Division 004 if it precludes more than 10 acres from commercial forest use.
4. Aids to navigation and aviation.
5. New electric transmission lines within a right-of-way not greater than 100 feet wide as specified in ORS 772.210.
6. New distribution lines (e.g., gas, oil, geothermal) within a right-of-way 50 feet or less in width.

F. Expansion of a legally established existing airport.

G. The following recreation uses:

1. Private parks and campgrounds subject to MCC 17.138.050(C) with filing of the declaratory statement in MCC 17.138.060(B).
2. Private seasonal accommodations for fee hunting or fishing operations subject to MCC 17.138.050(D) with filing of the declaratory statement in MCC 17.138.060(B).
3. Public parks and playgrounds including only those uses specified under OAR 660-034-035 or 660-034-0040, whichever is applicable, and consistent with ORS 195.120 and with filing of the declaratory statement in MCC 17.138.060(B).
4. A youth camp may be established in compliance with OAR 660-006-0031. The purpose is for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment. This subsection applies to youth camps established after July 12, 1999, and shall meet the criteria in MCC 17.138.050(E).

H. Disposal site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operations (**see specific conditional uses, MCC 17.120.310 through 17.120.380**).

Mandatory: Incorporates reference into code.

I. Reservoirs and water impoundments with filing of the declaratory statement in MCC 17.138.060(B).

J. Firearms training facility as provided in ORS 197.770.

K. The following transportation uses:

1. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
2. Reconstruction or modification of public streets involving the removal or displacement of buildings but not resulting in the creation of new land parcels.

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

4. Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 4 and any applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 12.

L. Fire stations for rural fire protection.

M. Cemeteries.

Chapter 17.139 FT (FARM/TIMBER) ZONE

17.139.040 Uses permitted subject to standards.

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

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

1. The structures shall be designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the state of Oregon, including processed food items, and the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand; and
2. Annual sales of the incidental items and fees from promotional activity, sales of farm crops produced outside the state of Oregon, and sales of prepared food items together cannot make up more than 25 percent of the total annual sales of the farm stand; and
3. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment;
4. As used in this section, "processed food items" means farm crops and livestock that have been converted into other products through canning, drying, baking, freezing, pressing, butchering or other similar means of adding value to the farm product, such as jams, syrups, apple cider, and similar animal products, but not prepared food items;
5. As used in this section, "prepared food items" means food products that are prepared for immediate consumption, such as pies, shortcake, milk shakes, smoothies, and baked goods;
6. Adequate off-street parking shall be provided and all vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways;
7. No farm stand building or parking is permitted within the right-of-way;
8. Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips;
9. Approval is required from the county public works department regarding adequate egress and access including compliance with vision clearance standards. All egress and access points shall be clearly marked;
10. All outdoor light fixtures shall be directed downward, and have full cutoff and full shielding to preserve views of the night sky and to minimize excessive light spillover onto adjacent properties, roads and highways;
11. Signs are permitted consistent with Chapter 17.191 MCC;
12. All required permits shall be obtained from the Marion County health department or the Department of Agriculture, as required;
13. When requested by the planning director, the farm stand operator/landowner shall submit a statement demonstrating how the farm stand complies with this policy, certified by the landowner's/operator's accountant or attorney as being accurate and complete;
14. A farm stand may not be used for the sale of marijuana products or to promote the sale of marijuana products or extracts.

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

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

1. New religious organizations and cemeteries in conjunction with religious organizations:

a. May not be established on high-value farmland.

b. New religious organizations and cemeteries in conjunction with religious organizations, not on high-value farmland, may be established. All new religious organizations and cemeteries in conjunction with religious organizations within three miles of an urban growth boundary shall meet the following standards:

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

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

iii. For the purposes of this subsection, "tract" means a tract as defined in MCC 17.139.130(F) in existence on May 5, 2010.

2. Existing religious organizations and cemeteries in conjunction with religious organizations:

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

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

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

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

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

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

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

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

iii. For the purposes of this subsection, "tract" means a tract as defined in MCC 17.139.130(F) in existence on May 5, 2010.

c. New schools must be determined to be consistent with the provisions contained in MCC 17.139.060(A)(1).

2. Existing schools primarily for the residents of the rural area in which the school is located:

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

b. Existing schools not on high-value farmland may be maintained, enhanced, or expanded consistent with the provisions contained in MCC 17.139.060(A)(1).

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

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

E. Filming Activities. On-site filming and activities accessory to filming, as defined in MCC 17.139.130(B), if the activity:

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

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

1. Except for an establishment for the slaughter, processing or selling of poultry or poultry products, the farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility. For an establishment for the slaughter, processing or selling of poultry or poultry products, all of the poultry must have been raised on the farm operation consistent with ORS 603.038.
2. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use nor devote more than 10,000 square feet to the processing activities within another building supporting farm use.
3. The processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits siting of the processing facility.
4. Division of a lot or parcel that separates a processing facility from the farm operation on which it is located shall not be approved.
5. A medical marijuana processor as defined in MCC 17.110.376 shall:
 - a. Be conducted entirely indoors; and
 - b. Emit no light visible to adjacent neighboring property owners or the public; and
 - c. Utilize an air filtration system to ensure odors are not detectable on adjacent neighboring properties.

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

1. Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use.
2. The site shall not include an aggregate surface or hard area surface unless the surface pre-existed the use.
3. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and controlled by radio, lines or design by a person on the ground.
4. An owner of property used for the purpose authorized in this subsection may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities.

~~H. Wildlife Habitat Conservation. A wildlife habitat conservation and management plan on a lot or parcel subject to the following:~~

- ~~1. The lot or parcel contains an existing legally established dwelling; or~~
- ~~2. Approval for the dwelling is obtained under provisions contained in MCC 17.139.030(A), (B), (C), (D), (E), (H), (I) or~~

17.139.050(A);

~~3. The dwelling is situated on a legally created lot or parcel existing on November 4, 1993;~~

~~4. The lot or parcel is not predominantly composed of soils rated Class I or II, when not irrigated, or rated prime or unique by the Natural Resources Conservation Service, or any combination of such soils.~~

Mandatory: DLCD no longer includes wildlife habitat conservation plan as a land use action. The property owner coordinates with the Marion County Tax Assessor to implement a plan.

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

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

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

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

c. The applicant shall address the requirements of MCC 17.139.060(A)(1).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Technical and engineering feasibility;

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

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

(D) Public health and safety; or

(E) Other requirements of state or federal agencies.

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

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

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

1. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.

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

K. Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249, and 215.251, the land application of reclaimed water, agricultural process

or industrial process water or biosolids **or the onsite treatment of septage prior to the land application of biosolids**, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in the farm/timber zone under this division. **For the purposes of this section, onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.**

Mandatory: Enacted by HB 2179 (2017). Permits onsite treatment of septage prior to application of biosolids on EFU land.

L. Parking of not more than seven dump trucks and not more than seven trailers on a tract when the use will not:

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

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

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

N. Cider business. A cider business subject to the standards in MCC 17.125.140.

Mandatory: Enacted by SB 677 (2017). Permits cider business.

17.139.050 Conditional uses.

The following uses may be permitted in an FT zone subject to obtaining a conditional use permit and satisfying the criteria in MCC 17.139.060(A) and any additional criteria, requirements and standards specified for the use.

A. Single-family dwelling or mobile home not in conjunction with farm uses on a lot or parcel predominantly devoted to farm use on January 1, 1993, meeting the criteria and standards in MCC 17.139.060(B) and 17.139.070.

B. Temporary residence for hardship purposes per MCC 17.120.040, meeting the standards and requirements in MCC 17.139.070.

C. The following uses supporting forest operations:

1. Log scaling and weigh stations.
2. Permanent logging equipment repair and storage.
3. Forest management research and experimentation facilities as defined in ORS 526.215 or where accessory to a forest operation.
4. Temporary portable facility for the primary processing of forest products, subject to MCC 17.139.060(I).

D. The following commercial uses:

1. Home occupations, including bed and breakfast inns, subject to MCC 17.139.060(C) and the requirements in MCC 17.139.070(B).
2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.139.040(F), and subject to MCC 17.139.060(L), but including a winery not permitted under MCC 17.139.040(B), but not including a medical marijuana processor as defined in MCC 17.110.376, subject to MCC 17.139.060(L).
3. Dog kennels in conjunction with a dwelling occupied by the kennel operator, subject to the requirements in MCC 17.139.070(B).

4. Room and board arrangements for a maximum of five unrelated persons in an existing dwelling, subject to the requirements in MCC 17.139.070(B).

5. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.

6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

7. Composting Facilities.

a. Existing composting operations and facilities that do not meet MCC 17.139.020(S) may be maintained, enhanced, or expanded on the same tract subject to meeting the performance and permitting requirements of the Department of Environmental Quality (DEQ) under OAR 340-093-0050 and 340-096-0060, subject to compost facility operators preparing, implementing and maintaining a site-specific odor minimization plan that:

- i. Meets the requirements of OAR 340-096-0150;
- ii. Identifies the distance of the proposed operation to the nearest residential zone;
- iii. Includes a complaint response protocol;
- iv. Is submitted to the DEQ with the required permit application; and
- v. May be subject to annual review by the county to determine if any revisions are necessary.

b. New composting operations and facilities that do not meet MCC 17.139.020(S) may be established on land not defined as high-value farmland subject to the following:

- i. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060; and
- ii. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility;
- iii. On-site sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle; and
- iv. Compost facility operators must prepare, implement and maintain a site-specific odor minimization plan that:
 - (A) Meets the requirements of OAR 340-096-0150;
 - (B) Identifies the distance of the proposed operation to the nearest residential zone;
 - (C) Includes a complaint response protocol;
 - (D) Is submitted to the DEQ with the required permit application; and
 - (E) May be subject to annual review by the county to determine if any revisions are necessary.

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

9. Agri-tourism events and activities that do not promote the use or sale of marijuana products or extracts, subject to the requirements in MCC 17.120.090.

10. Dog training classes or testing trials not permitted under MCC 17.139.040(M).

E. The following mining and processing activities:

1. Operations for the exploration for and production of oil, gas and geothermal resources as defined by ORS 520.005 and 522.005, including the placement and operation of compressors, separators and storage serving multiple wells and other customary production equipment otherwise permitted in this chapter.
2. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298 and MCC 17.120.410 through 17.120.480.
3. Processing as defined in ORS 517.750 of aggregate into asphalt or portland cement subject to the standards in MCC 17.139.060(D) and 17.120.410 through 17.120.480.
4. Processing of other mineral resources and other subsurface resources subject to MCC 17.120.410 through 17.120.480.
5. Temporary asphalt and concrete batching plants as accessory uses to specific highway projects.

F. The following utility uses:

1. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
2. Television, microwave and radio communications facilities and transmission towers over 200 feet in height.
3. Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than:
 - a. Ten acres from use as a commercial forest operation unless an exception is taken pursuant to OAR Chapter 660, Division 004.
 - b. Twelve acres from use as a commercial agricultural enterprise on high-value farmland unless an exception is taken pursuant to OAR Chapter 660, Division 004.
 - c. Twenty acres from use as a commercial agricultural enterprise on farmland that is not high-value unless an exception is taken pursuant to ORS 197.732 and OAR Chapter 660, Division 004.
4. Aids to navigation and aviation.
5. New electric transmission lines with right-of-way widths of up to 100 feet specified in ORS 772.210.
6. New distribution lines (gas or oil, for example) with right-of-way widths up to 50 feet.

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

H. The following recreation uses subject to MCC 17.139.060(M):

1. Private parks, playgrounds and campgrounds, subject to MCC 17.139.060(E) and (F), and subject to MCC 17.139.070(B).
2. Private seasonal accommodations for fee hunting or fishing operations, subject to MCC 17.139.060(E) and (G), and subject to MCC 17.139.070(B).
3. Destination resorts reviewed and approved pursuant to the destination resort siting requirements in ORS 197.435 through 197.465 and State Land Use Goal 8, subject to MCC 17.139.060(E) and 17.139.070(B).
4. Community centers, operated primarily by and for residents of the local rural community, where the land and facilities are owned and operated by a governmental agency or a nonprofit community organization, subject to MCC 17.139.070(B).
5. Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035 or 660-034-0040, whichever is applicable, and with filing of the declaratory statement in MCC 17.137.100(C) and consistent with ORS 195.120 and subject to MCC 17.139.070(B).
6. Golf courses, as defined in MCC 17.139.130(D) and subject to the requirements of MCC 17.139.060(H) and subject to MCC 17.139.070(B).

7. A “youth camp” may be established in compliance with OAR 660-006-0031. The purpose is for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment. This title applies to youth camps established after July 12, 1999, and shall meet the requirements in MCC 17.139.060(J).

8. Living history museum on a lot or parcel where the predominant use of the tract on January 1, 1993, was farm use, subject to MCC 17.139.060(K), with the filing of a declaratory statement in MCC 17.139.070(B).

I. Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, or for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation, (see specific conditional uses, MCC 17.120.310 through 17.120.380), subject to MCC 17.139.060(E) and 17.139.070(B).

Mandatory: Incorporates reference into code.

J. Reservoirs and water impoundments, subject to MCC 17.139.070(B).

K. Firearms training facility as provided in ORS 197.770.

L. The following transportation uses:

1. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
2. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
3. Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.
4. Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 12.

M. Fire stations for rural fire protection.

N. The propagation, cultivation, maintenance and harvesting of aquatic species.

O. A residential home or adult foster home as defined in ORS 197.660 and MCC 17.110.477, in an existing dwelling, subject to the requirements in MCC 17.139.070(B).

P. A replacement dwelling to be used in conjunction with farm use if the existing dwelling is listed in the Comprehensive Plan inventory and the National Register of Historic Places as historic property as defined in ORS 358.480 and subject to the requirements in MCC 17.139.070(B).

Q. Expansion of an existing, legally established airport.

R. Expansion of existing schools not for kindergarten through grade 12 established on or before January 1, 2009, on the same tract wholly within a farm zone subject to MCC 17.139.060(M).

Chapter 17.171 **P (PUBLIC) ZONE**

17.171.020 Uses.

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

A. Farm use, but not including a medical marijuana processor (see MCC 17.110.376), medical marijuana producer (see MCC 17.110.378), or a medical marijuana dispensary (see MCC 17.110.374);

B. Forest use;

C. Dwellings (including mobile homes) and other structures customarily provided in conjunction with farm or forest use subject to the criteria in MCC 17.139.030;

D. Utility facilities necessary for public service except public power generation;

E. ~~Wireless communications facilities, attached, subject to the following development standards:~~

~~1. Notwithstanding other height limitations in this title omni-directional (whip) antennas not exceeding 20 feet in height and directional/parabolic antennas not exceeding seven feet in diameter or width and 15 feet in height may be attached to or located on existing structures;~~

~~2. Antennas and associated equipment shall be surfaced in a nonreflective color to match the structure on which they are located. An equipment enclosure may be set back from the edge of a roof by a distance at least equal to its height in lieu of screening;~~

~~3. Equipment enclosures shall be located within the building on which they are located wherever possible; otherwise, equipment enclosures shall be fenced by a six-foot high fence, wall or hedge;~~

~~4. Antennas shall not be illuminated except as required by the Oregon State Aeronautics Division or the Federal Aviation Administration;~~

~~5. A wireless communications facility, attached, and equipment enclosure shall be removed by the facility owner or property owner within six months of the date it ceases to be operational;~~

F. Wireless communications facilities (~~see limited use, MCC 17.125.120~~);

G. Fire and emergency services stations and police substations; training facilities, administrative offices and living quarters for fire, emergency, and police services are permitted in conjunction with these uses, not to exceed 20 full-time persons and 200 day-use visitors.

Optional: Permits wireless communication facilities (cellular towers) without provision of items since there is no requirement for a land use review.

Chapter 17.172 SUBDIVISION AND PARTITION REQUIREMENTS

17.172.400 Sewage disposal.

All **new or refigured** lots or parcels, **10 acres or smaller in size**, shall be served by an authorized sewage disposal system. Subsurface sewage disposal for individual parcels shall meet the requirements of the Department of Environmental Quality (DEQ) and the Marion County building inspection division. Those subsurface sewage systems that are used by a community, sanitary district, industry, or incorporated area must be authorized by the Department of Environmental Quality (DEQ) via the Marion County building inspection division. Installation and maintenance shall be in accordance with the Department of Environmental Quality's regulations and requirements.

All new or reconfigured lots or parcel with an existing on-site septic system, that was authorized by an approving authority, shall be reviewed to determine that the existing system is either located entirely on the same lot or parcel containing the existing dwelling, or that proper easement is provided to allow the continued use and maintenance of the system.

Optional: Clarifies when a parcel served by a sewage disposal system (septic system) must be reviewed through permitting.

17.172.540 Conformance with regulations.

Unless a variance is granted as provided herein, partitions shall conform to applicable regulations contained in MCC 17.172.460~~140~~ through 17.172.660. The director shall determine if annexation to a fire, sewer or water district is required. If the director determines that annexation is required, annexation or a nonremonstrance agreement must be filed with the appropriate agency

Scrivener's error: Corrects references in code.

17.172.760 Conformance with regulations.

Unless a variance is granted as provided herein, the subdivision shall conform to applicable regulations contained in MCC 17.172.480 ~~140~~ through 17.172.660 and planned developments shall, in addition, conform to the regulations in MCC

17.121.200 through 17.121.250. The director shall determine if annexation to a fire, sewer or water district is required. If the director determines that annexation is required, annexation or a nonremonstrance agreement must be filed with the appropriate agency.

Scrivener's error: Corrects references in code.

Chapter 17.178 FLOODPLAIN OVERLAY ZONE

17.178.030 General provisions.

The following regulations apply to all unincorporated lands in identified floodplains as shown graphically on the zoning maps. The floodplain comprises those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled the "Flood Insurance Study for Marion County, Oregon, Unincorporated Areas" dated ~~January 19, 2000, with accompanying Floodway and Flood Insurance Rate Maps and amendments taking effect as of August 15, 1979, August 19, 1987, September 30, 1993, December 19, 1995, June 19, 1997, and January 2, 2003,~~ and subsequent letter of map amendments and letter of map revisions issued by FEMA pertaining to studies and maps previously adopted by the county. The floodplain also comprises areas identified and mapped by Marion County that were not studied by the flood insurance study. The report and maps are incorporated in the overlay zone by this reference and are on file with the Marion County planning division. When base flood elevation data have not been provided, the zoning administrator shall have the authority to determine the location of the boundaries of the floodplain where there appears to be conflict between mapped boundary and the actual field conditions, provided a record is maintained of any such determination.

A. Duties of the zoning administrator shall include, but not be limited to:

1. Review all development permits to determine that the permit requirements of this title have been satisfied.
2. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
3. Review building permits where elevation data is not available either through the FIS or from another authoritative source, to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.
4. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of MCC 17.178.060(J) are met.
5. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structures contain a basement.
6. For all new or substantially improved floodproofed structures:
 - a. Verify and record the actual elevation (in relation to mean sea level); and
 - b. Maintain the floodproofing certifications required in MCC 17.178.060(C).
7. Maintain for public inspection all records pertaining to the provisions of this title, including elevation certificates.

Mandatory: Corrects code reference to the county's flood insurance study.

17.178.040 Uses.

A. The following uses are exempt from the regulations of this overlay zone:

1. Signs, markers, aids, etc., placed by a public agency to serve the public.
2. Streets, driveways, parking lots and other open space use areas where no alteration of topography will occur.
3. Minor repairs or alterations to existing structures provided the alterations do not increase the size or intensify the use of the structure, and do not constitute "substantial improvement" as defined in MCC 17.178.020(GG).
4. Customary dredging associated with channel maintenance consistent with applicable state or federal law. This exemption does not apply to the dredged materials placed within a floodplain.
5. Placement of utility facilities necessary to serve established and permitted uses within floodplain areas, such as telephone poles. This exemption does not apply to buildings, substations, or other types of utility facilities development in the floodplain.
6. Flagpoles.
7. Except in a floodway, open wire fencing (no more than one horizontal strand per foot of height) and open rail fencing (rails occupy less than 10 percent of the fence area and posts are spaced no closer than eight feet apart).

8. Accessory structures smaller than 50 square feet in size that do not require a building permit.

9. A highway-ready recreational vehicle may be located on a lot or parcel without a dwelling in a floodplain or floodway only during the non-flood season (June 1st through September 30th), subject to the requirements in MCC 17.126.040.

Optional: Moves an approved use from procedures section to exemptions section.

B. Prior to obtaining a building permit for any residential, commercial or industrial structure within an area identified by FEMA or Marion County as being within a 500-year floodplain, the applicant shall comply with the requirement in MCC 17.178.050(C).

C. New dwellings and manufactured homes, and replacement dwellings that are not being replaced in the same location as the original dwelling, are prohibited in the floodplain if there is an area on the subject property that is located outside of the floodplain where the dwelling can be placed. An exception to this prohibition may be granted if a floodplain development permit and variance meeting the criteria in MCC 17.178.090 are obtained.

D. *Repealed by Ord. 1369.*

E. Siting of new critical facilities are prohibited within the floodway and 100- and 500-year floodplains. **For a critical facility needed within a hazard area in order to provide essential emergency response services in a timely manner, an** ~~An~~ exception to this prohibition may be granted for development in the 500-year floodplain if a floodplain development permit, and variance meeting the criteria in MCC 17.178.090, are obtained. This prohibition does not apply to water dependent uses.

Optional: Clarifies standards by which an emergency facility could be approved in a floodplain.

17.178.050 Conditional use procedures and requirements.

A. Except as provided in MCC 17.178.040 a conditional use permit (floodplain development permit) shall be obtained before construction or development begins within the floodplain overlay zone. The conditional use permit shall include conditions ensuring that the flood protection standards in MCC 17.178.060 are met.

B. When base flood elevation data and floodway data have not been provided in accordance with MCC 17.178.030, the applicant, with the assistance of the zoning administrator, shall obtain and reasonably utilize any base flood elevation data or evidence available from a federal, state or other source in order to determine compliance with the flood protection standards. If data are insufficient, the zoning administrator may require that the applicant provide data derived by standard engineering methods.

C. Prior to obtaining a building permit the owner shall be required to sign and record in the deed records for the county a declaratory statement binding the landowner, and the landowner's successors in interest, acknowledging that the property and the approved development are located in a floodplain.

D. Prior to obtaining a building permit, commencing development or placing fill in the floodplain the applicant shall submit a certification from a registered civil engineer demonstrating that a development or fill will not result in an increase in floodplain area on other properties and will not result in an increase in erosive velocity of the stream that may cause channel scouring or reduce slope stability downstream of the development or fill.

E. 1. The applicant shall provide an elevation certificate signed by a licensed surveyor or civil engineer certifying that the actual elevations of all new or substantially improved manufactured homes, dwellings and structures meet the requirements of MCC 17.178.060(A), (B) and (C), where applicable, as follows:

- a. Prior to construction (based on construction drawings); and
- b. Once the floor elevation can be determined (based on the building under construction); and
- c. Prior to occupancy (based on finished construction).

2. Unless requested by FEMA, elevation certificates shall not be required for the following uses:

- a. Water dependent uses, such as boat ramps, docks, wells and well covers.
- b. Improvements resulting from cut or fill operations, such as berms, bank improvements, ponds and dams.

c. Small scale facilities necessary to serve other uses, such as kiosks and open picnic shelters.

d. Grading, such as for roadways, even where alteration of topography occurs.

~~F. A highway ready recreational vehicle may be located on a lot or parcel without a dwelling in a floodplain or floodway only during the nonflood season (June 1st through September 30th), subject to the requirements in MCC 17.126.040.~~

Optional: Moves an approved use from procedures section to exemptions section.

G. In addition to other information required in a conditional use application, the application shall include:

1. Land elevation in mean sea level data at development site and topographic characteristics of the site.
2. Base flood level expressed in mean sea level data on the site, if available.
3. Plot plan showing property location, floodplain and floodway boundaries where applicable, boundaries and the location and floor elevations of existing and proposed development, or the location of grading or filling where ground surface modifications are to be undertaken.
4. Any additional statements and maps providing information demonstrating existing or historical flooding conditions or characteristics which may aid in determining compliance with the flood protection standards of this overlay zone. [Ord. 1326 § 4 (Exh. A), 2012; Ord. 1271 § 5, 2008; Ord. 1167 § 4, 2002; Ord. 1094 § 5, 1998; Ord. 761 § 2, 1987. RZ Ord. § 178.050.]

17.178.060 Flood protection standards.

In all areas of identified floodplain, the following requirements apply:

A. Dwellings, Manufactured Homes and Related Accessory Structures. New residential construction, substantial improvement of any residential structures, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after adoption of this title shall:

6. Construction where the crawlspace is below grade on all sides may be used. Designs for meeting these requirements must either be certified by a registered professional engineer or architect, or must meet the following standards, consistent with FEMA Technical Bulletin 11-01 for crawlspace construction:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
- b. The bottom of all openings shall be no higher than one foot above grade;
- c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters;
- d. Interior grade of the crawlspace shall not exceed two feet below the lowest adjacent exterior grade;
- e. The height of the crawlspace when measured from the interior grade of the crawlspace (at any point on grade) to the bottom of the lowest horizontal structural member of the lowest floor shall not exceed four feet;
- f. An adequate drainage system that removes floodwaters from the interior area of the crawlspace shall be provided;
~~and~~

g. The velocity of floodwaters at the site shall not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types shall be used; and,

~~g. h.~~ Below-grade crawlspace construction in accordance with the requirements listed above will not be considered basements for flood insurance purposes. However, below-grade crawlspace construction in the special flood hazard area is not the recommended construction method because of the increased likelihood of problems with foundation damage, water accumulation, moisture damage, and drainage. Applicants shall be advised that buildings constructed with below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction (the interior grade of the crawlspace is at or above the adjacent exterior grade);

Mandatory: Adds reference to floodwater velocity standard that applies when crawlspace construction is used in floodplain.

