

ARTICLE IV

DEVELOPMENT STANDARDS

SECTION 4.000: GENERAL REQUIREMENTS

No lot or parcel area, dimension, required setback or yard, or off-street parking or loading area that exists on or is created after the effective date of this Ordinance shall be reduced below the applicable standards required by this Ordinance.

SECTION 4.005: RESIDENTIAL AND COMMERCIAL ZONE STANDARDS

PURPOSE: In all RESIDENTIAL AND COMMERCIAL ZONES, the purpose of land use standards are the following:

- (1) To ensure the availability of private open space;
- (2) To ensure that adequate light and air are available to residential and commercial structures;
- (3) To adequately separate structures for emergency access;
- (4) To enhance privacy for occupants of residences;
- (5) To ensure that all private land uses that can be reasonably expected to occur on private land can be entirely accommodated on private land, including but not limited to dwellings, shops, garages, driveways, parking, areas for maneuvering vehicles for safe access to common roads, alternative energy facilities, and private open spaces;
- (6) To ensure that driver visibility on adjacent roads will not be obstructed;
- (7) To ensure safe access to and from common roads;
- (8) To ensure that pleasing views are neither unreasonably obstructed nor obtained;
- (9) To separate potentially incompatible land uses;
- (10) To ensure access to solar radiation for the purpose of alternative energy production.

SECTION 4.010: CLEAR-VISION AREAS

- (1) **PURPOSE:** The purpose of a CLEAR-VISION AREA is to ensure safe sight distance for drivers approaching street intersections.
- (2) A CLEAR-VISION AREA shall be maintained on the corners of all properties located at the intersection of two streets or private ways or a street or private way and a railroad.

- (3) A CLEAR-VISION AREA is a triangular area consisting of two equidistant sides which are lot lines measured from the point of intersection of the lot lines abutting streets; or, where the lot lines have rounded corners, such lines extended straight to their point of intersection, and then so measured; and a line joining the two non-intersecting ends at a distance from their intersection specified in Subsection (5) below.
- (4) A CLEAR-VISION AREA shall contain no planting, fence, wall, structure, parked cars, or other temporary or permanent obstructions exceeding thirty inches in height, measured from the top of the highest curb in the CLEAR-VISION AREA or, where no curb exists, from the highest established street center line grade adjacent to the CLEAR-VISION AREA. Trees exceeding this height may be located in this area, provided that all branches and foliage are removed to a height of eight feet above the specified grade.
- (5) The following measurements shall establish CLEAR-VISION AREAS:
 - (a) In agricultural or residential zones, the minimum distance shall be 25 feet or, at intersections including an alley, 10 feet.
 - (b) In all other zones, the minimum distance shall be 15 feet or, at intersections including an alley, 10 feet. When the angle of intersection between streets is 30 degrees or less, the distance shall be 25 feet.

SECTION 4.020: SIGNS

- (1) **PURPOSE:** The purpose of these supplemental regulations governing signs is to promote scenic values; to prevent unsafe driver distraction; to provide orientation and directions to visitors; to facilitate emergency response; and in general to provide for the placement of necessary SIGNS in appropriate areas. These provisions shall not be construed to preclude the placement of street address SIGNS in locations that can be readily seen by operators of emergency vehicles, provided that such placement does not impair efforts to maintain roads, drainage ways, or brush-free road right-of-ways. No SIGN shall be constructed within a required yard that will impair the use of an existing solar energy system on adjoining property.
- (2) No SIGN shall be placed in or extend over a required non-street side yard or street right-of-way, or within 10 feet of the front property line in a required front yard.
- (3) Any lighting for SIGN purposes shall be directed away from any adjacent residential use.
- (4) No flashing or moving SIGNS shall be located within 100 feet of a traffic control signal. No SIGN lighting shall present a traffic hazard.
- (5) In the F-1, SFW-20, SFW-10, RR, CSFR, CR-1, CR-2, CR-3, RMH, NT-RMD, RC, CC, and those unincorporated communities with adopted boundaries, RM and WDD zones, SIGNS, other than off-site advertising SIGNS, shall be limited to the following kinds, which may be directed towards each facing street or located at needed points of vehicular access where such access points are over 200 feet apart:
 - (a) A name plate or SIGN not exceeding two square feet for each dwelling.
 - (b) A temporary SIGN not exceeding eight square feet pertaining either to the lease, rental, or sale of the property upon which the SIGN is located, or to a construction project.

- (c) A SIGN not exceeding 64 square feet advertising a subdivision.
 - (d) A SIGN not exceeding 150 square feet, identifying a multi-family dwelling or motel in the CR-3 zone and those zones with adopted unincorporated community boundaries.
 - (e) A SIGN not exceeding 50 square feet identifying a non-residential use such as the sale of farm produce, a golf course, or a church.
 - (f) A SIGN not exceeding 24 square feet identifying a cottage industry.
 - (g) A SIGN not exceeding 50 square feet identifying a rural or light industry in the SFW-10 zone.
 - (h) A SIGN not exceeding 24 square feet directing traffic to places of interest to the public, such as tourist accommodations and recreation sites, which would otherwise be difficult to find. Such SIGNS shall be located within 600 feet of the intersecting roadway which provides access from the highway to the place of interest.
 - (i) SIGNS not exceeding a total area of 200 square feet for each commercial establishment in a RC, CC, commercial zones within unincorporated community boundaries where permitted, or WDD zone.
 - (j) A SIGN identifying a home occupation up to 12 square feet in size.
 - (k) A SIGN or SIGNS not exceeding a total of 200 square feet identifying a mobile home park, recreational campground, primitive campground, commercial farm, or community identification.
 - (l) A SIGN not exceeding 16 square feet for a bed & breakfast enterprise. SIGNS for bed & breakfast enterprises, which are greater than 16 square feet but less than 24 square feet may be approved according to the provisions of Article VI.
- (6) In the F zone, the following SIGNS are permitted:
- (a) SIGNS pertaining solely to uses permitted and conducted within the F (FOREST) zone.
 - (b) Road identification SIGNS.
 - (c) Intermittent flashing lights are only permitted where necessary to provide warning for a traffic hazard.
 - (d) SIGNS allowed in a FOREST zone shall not be located in, or extend over, a public right-of-way except for road identification SIGNS and highway regulatory SIGNS.
- (7) In the EC-1, EC-2 and ED zones, the following SIGNS are permitted:
- (a) SIGNS pertaining solely to uses permitted and conducted in the zone in which the SIGNS are located.
 - (b) Placement of SIGNS shall not involve any regulated activities.
 - (c) A temporary SIGN not exceeding eight square feet in area pertaining either to the lease, rental or sale of the property or to a construction project.

- (d) A SIGN exceeding 100 square feet for each recreational use in the EC-1 zone.
 - (e) A SIGN not exceeding 200 square feet for each recreational, commercial or industrial use in the EC-2 or ED zones.
- (8) SIGNS larger than those permitted by this Section may be allowed only after consideration according to the provisions of Article VI.

SECTION 4.021: OFF-SITE ADVERTISING SIGN STANDARDS

- (1) **PURPOSE:** The purpose of the supplemental regulations for OFF-SITE ADVERTISING SIGNS is to provide standards to safeguard property and public welfare, to preserve locally recognized values of community appearance, and to reduce hazards to motorists and pedestrians traveling on public streets.
- (2) **General Requirements:**
- (a) No OFF-SITE ADVERTISING SIGN shall exceed 600 square feet in size.
 - (b) All required setback of the underlying zone shall be maintained. A SIGN may be located within a clear-vision area if the bottom of the SIGN is not located less than 8 feet above the existing grade, and the SIGN support is not obstructive.
 - (c) The maximum height of the SIGN structure, including any protrusions, shall be 24 feet measured from the existing grade.
 - (d) No person shall erect, construct, or maintain any SIGN upon property or building without the consent of the owner of the property or building if any, or their authorized representatives.
 - (e) SIGNS may only be illuminated by a concealed light source, and shall not flash, blink, fluctuate, or produce glare.

SECTION 4.030: OFF-STREET PARKING AND OFF-STREET LOADING REQUIREMENTS

- (1) **PURPOSE:** The purpose of requirements for off-street parking and loading areas is to relieve traffic congestion; to ensure customer convenience and safety; to provide safe access to parked vehicles; and to help ensure safe and timely response of emergency vehicles.
- (2) **PARKING SPACE:** A single parking space shall be at least 8 feet by 20 feet in size.
- (3) **TIMING OF COMPLIANCE:** At the time any structure or use is erected or enlarged, or the use of any parcel or structure is changed, all required off-street parking spaces and loading areas provided in conjunction with an existing use shall not be reduced below the minimum requirements of this Ordinance.
- (4) **PARKING FOR MULTIPLE USES:** In the event several uses occupy a single structure or parcel of land, the total parking requirements shall be the sum of the requirements of the several uses computed separately. Joint use of the same parking and loading spaces by more than one use may be permitted, provided that the hours of operation of the separate uses do not overlap, and that satisfactory legal evidence is presented to the Department to establish the joint uses.

- (5) **USE OF REQUIRED PARKING AREAS:** Parking areas required by this Section are designated for the operable vehicles of residents and their guests, and the owner, customer, patrons, and employees of commercial or industrial activities only. Vehicle or material storage, or the parking of vehicles used to conduct an activity, shall require additional parking areas.
- (6) **DRAINAGE:** Areas used for standing and maneuvering of vehicles shall have a surface that is suitable for all-weather use, and shall be drained so as to avoid the flow of water across public sidewalks and streets.
- (7) **BUFFERING NON-RESIDENTIAL PARKING AREAS:** Non-residential parking and loading areas adjacent to a residential use shall be enclosed along the residential use by a sight-obscuring fence that is from five to six feet in height, except where vision clearance is required.
- (8) **CURBING:** Parking spaces along the boundaries of a lot shall be contained by a curb or bumper rail that is at least four inches high and is set back at least four and one-half feet from the property line.
- (9) **LIGHTING:** Artificial lighting shall not create or reflect substantial glare into any adjacent residential zone or use.
- (10) **PROXIMITY TO TRAFFIC:** Parking areas for four or more vehicles shall be of sufficient size to allow the backing and maneuvering of vehicles entirely out of the flow of traffic.
- (11) **SCHOOL DRIVEWAY:** A one-way driveway for loading and unloading children shall be located on the site of any school having a capacity of more than 25 students.
- (12) **OFF-STREET LOADING AREAS:** Activities that receive or distribute materials or merchandise by truck shall install and utilize loading docks in sufficient numbers and size to accommodate loading requirements without the disruption of nearby traffic. Parking areas required by this Ordinance may only be used for loading operations during periods of the day when not required for patron or customer parking.
- (13) **PARKING SPACE REQUIREMENTS:** Requirements for types of building and uses not specifically listed herein shall be determined by the Department, based upon the requirements for comparable uses either listed below or active elsewhere in the county.
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 - (a) **RESIDENTIAL:** Two spaces for the first dwelling unit, and one space for each additional dwelling unit.
 - (b) **BOARDING, LODGING, OR ROOMING HOUSE:** One space for each guest accommodation.
 - (c) **MOTEL, HOTEL OR GROUP COTTAGES:** One space for every unit.
 - (d) **HOSPITAL, NURSING HOME OR SIMILAR INSTITUTION:** One space for every three beds.
 - (e) **CHURCH, CLUB, OR SIMILAR PLACE OF ASSEMBLY:** One space for every six seats, or one space for every 50 square feet of floor area used for assembly.

- (f) LIBRARY: One space for every 300 square feet of floor area.
- (g) DANCE HALL OR SKATING RINK: One space for every 100 square feet of floor area.
- (h) BOWLING ALLEY: Five spaces for each lane.
- (i) EATING AND DRINKING ESTABLISHMENT: One space for every 150 square feet of floor area.
- (j) SERVICE OR REPAIR SHOP, RETAIL STORE HANDLING BULKY MERCHANDISE SUCH AS AUTOMOBILES AND FURNITURE: One space for each 600 square feet of floor area.
- (k) BANK, OFFICE: One space for each 500 square feet of floor area.
- (l) RETAIL STORES OR MEDICAL OR DENTAL CLINIC: One space for each 200 square feet of floor area.
- (m) WAREHOUSE, STORAGE AND WHOLESALE BUSINESS: One space for each 2,000 square feet of floor or storage area.
- (n) MANUFACTURING ESTABLISHMENT: One space for each 1,000 square feet of floor area.

SECTION 4.040: GENERAL PROVISIONS REGARDING ACCESSORY USES

- (1) An ACCESSORY USE shall comply with all requirements for a principal use, except as this Ordinance specifically allows to the contrary, and shall comply with the following limitations:
 - (a) A guest house may be maintained as a dwelling, provided it contains no cooking facilities.
 - (b) An ACCESSORY STRUCTURE that is separate from the main building may be located in the required rear and side yard, except in the required street side yard of a corner lot, provided that it is at no point located closer than three feet to a property line.
 - (c) Storage of recreation vehicles, boats, and utility trailers is permitted as an accessory use in any zone when stored in accordance with Section ~~5.040~~ 4.040 (1) (b).
- (2) An ACCESSORY STRUCTURE may be constructed on a lot or parcel that is neither the site of a primary residential use, nor contiguous with the site of the primary use, provided that the owner of the primary use secures approval for an ACCESSORY STRUCTURE or use according to the provisions of Article VI.

SECTION 4.060: ACCESS

Every lot and parcel shall abut a street other than an alley, an approved private way, or an approved private ACCESS easement, for at least 25 feet.

SECTION 4.070: DUAL USE OF REQUIRED OPEN SPACE

No lot area, yard, or off-street parking or loading area which is required by this Ordinance for one use shall be a required lot area, yard, or off-street parking or loading area for another use, unless otherwise specifically allowed by this Ordinance.

SECTION 4.080: DISTANCE BETWEEN BUILDINGS

A minimum distance of six feet shall be maintained between a building designed for dwelling purposes and any other freestanding buildings located on the same property.

SECTION 4.100: GENERAL EXCEPTION TO LOT SIZE REQUIREMENTS

A lot or parcel, as recorded in the office of the County Clerk prior to the adoption of this Ordinance, which complies with the standards then in effect, but which does not now meet the dimensional lot standards of the zone in which the property is located, may nevertheless be occupied by a one-family dwelling if the lot or parcel meets all other applicable Ordinance requirements, including setbacks, provided that lots smaller than 3,000 square feet meet the following additional requirements.

- (1) A property survey of the lot shall be performed and all corners shall be monumented by a registered surveyor prior to submittal of a permit for construction/location and a copy of the survey shall be submitted with the application and other required material.
- (2) Prior to the County's issuance of any permits affecting the use of real property, an applicant owning a small lot shall combine all or part of an adjacent property with the small lot for any consideration of any applicable County permit or land use law. For purposes of this Section, the following definitions apply:
 - (a) "Applicant" means any legal person (or persons) who:
 - i. Owns a small lot in fee simple, and
 - ii. Also owns real property adjacent to the small lot.
 - (b) "Small lot" means any real property less than 3,000 square feet.
 - (c) This Section shall be interpreted liberally to carry its intent to require proposed buildable lots to meet as nearly as possible or exceed a particular zone's minimum lot size requirement based upon identical owners of adjacent real properties.
- (3) Not more than 50% of the lot area shall be covered with any structure of any height.
- (4) Front and rear setbacks in combination must be at least 30 feet, with each minimum of 10 feet.
- (5) No portion of a structure shall be located closer than six (6) feet to any structure on an adjacent lot.
- (6) The permitted living space as determined by the Building Official shall be no more than 50% of the square footage of the lot or 1,200 square feet, whichever is larger. Additionally, up to 600 square feet is permitted for an enclosed garage or storage area. This garage or storage area may be enlarged if there is an equivalent reduction in living space.

- (7) An approved Road Approach Permit must be obtained from the Tillamook County Public Works Department.
- (8) The proposed structure shall meet all other requirements of the County's Land Use Ordinances, including off-street parking; except where contradicted by other provisions of this Section.

SECTION 4.110: EXCEPTIONS TO YARD SETBACK REQUIREMENTS

- (1) **PURPOSE:** The purpose of the EXCEPTIONS described in this Section is to provide a measure of ministerial relief from the requirements for yards in certain areas or zones when those requirements are unnecessarily restrictive.
- (2) **AVERAGING FRONT YARDS:** The following EXCEPTIONS to the front yard requirement for a dwelling, mobile home or recreation vehicle are authorized for a lot or parcel in any zone. The required front yard for a dwelling need not exceed:
 - (a) The average depth of the front yards of all dwellings within 100 feet of both sides of the proposed dwelling; or
 - (b) The average of the depth of the front yard of the nearest dwelling within 100 feet on either side of the proposed dwelling, and the required front yard of the zone.
- (3) **SIDE YARDS TEN PERCENT OF LOT WIDTH:** The required width of a non-street side yard may be reduced to 10 percent of the width of the lot, but not to less than 3 feet, unless a Variance for a lesser distance is approved.
- (4) **HAWK CREEK HILLS:** Front yards in the Hawk Creek Hills and the First Addition to Hawk Creek Hills Subdivisions need not exceed 5 feet.
- (5) **SMALL LOT EXCEPTIONS:** In the RR, CSFR, RC, CC, CR-1, CR-2, CR-3, RMH and RMD zones and including those communities with adopted community growth boundaries, a front or rear yard, but not both, may be ten feet, provided the following apply to the subject parcel:
 - (a) The parcel is 7500 square feet or less in size.
 - (b) At least one side yard is ten feet or more wide.
 - (c) Required off-street parking is provided.
 - (d) The right-of-way width at the front of the lot is at least thirty feet. In the case of right-of-ways under 30 feet in width, a ten-foot yard may be approved if it is approved by the Public Works Department.
 - (e) The lot is not a corner lot. If the lot is a corner lot and meets the above criteria, the front yard may be 15 feet.
- (7) **PROJECTIONS FROM BUILDINGS:** Architectural features such as cornices, eaves, canopies, gutters, signs, chimneys, and flues shall not project more than 18 inches into a required yard unless evidence is presented to the Department that such projections increase the energy efficiency of the building, either by

the capture of solar radiation of by providing shading for cooling, in which case they shall not project more than 24 inches into a required yard.

(8) DECKS, PORCHES, AND STEPS:

- (a) Decks may be constructed within setback areas provided that the intruding portion:
 - i. Of the floor does not exceed 30 inches in height above finished grade, and
 - ii. Any fixed benches, railings or other attachments do not exceed 40 inches above finished grade, and
 - iii. Maintains a minimum of half the required front yard setback, a minimum of 10 foot street side yard setback on a corner lot, and a minimum of 3 feet for rear yard and non street side yard setbacks.
- (b) All other uncovered decks, porches, or steps shall not project more than 24 inches into a required yard.
- (c) Decks which extend into the required setbacks shall not be enclosed, nor covered, without using the procedures set forth in Article VIII. The existence of a deck within the required setbacks shall not be used as justification to extend a building into the required setbacks.

(9) ZERO TO THREE FOOT SETBACK: Where a side or rear yard is not required, and a structure is not to be erected at the property line, it shall be set back at least three feet from the property line.

(10) OCEANFRONT SETBACKS - See Section 3.085 (4) (a) (ib).

(11) WATER QUALITY SETBACKS - See Section ~~4.080~~ 4.140 (1) (2) and (3).

(12) CLEAR VISION: These provisions may not be interpreted to allow parking or structures

SECTION 4.120: GENERAL EXCEPTIONS TO BUILDING HEIGHT LIMITATIONS

- (1) Projections such as chimneys, spires, elevator shaft housings, flagpoles, devices or structures for the capture of solar energy, towers for wind energy conversion systems and windmills, and other structures not used for human occupancy are not subject to the BUILDING HEIGHT LIMITATIONS of this Ordinance, unless such projection shades an existing solar energy system on an adjoining property to such as extent as to affect the efficiency of that system.
- (2) In the airport overlay zone, no structure or tree shall exceed 150 feet in height.

SECTION 4.130: DEVELOPMENT REQUIREMENTS FOR GEOLOGIC HAZARD AREAS

- (1) The following are GEOLOGIC HAZARD AREAS to which the standards of this Section apply:
 - (a) Active landslides identified in Oregon Department of Geology and Mineral Industries (DOGMI) Bulletins 74 and 79;

- (b) Inactive landslides, landslide topography and mass movement topography identified in DOGMI bulletins 74 and 79 where slopes are greater than 19 percent;
 - (c) Areas prone to mudflows identified in DOGMI Bulletin 79;
 - (d) Brallier Peat soils identified in Soil Survey, Tillamook Area, Oregon (USDA, Soil Conservation Service, 1964) and the unpublished Soil Conservation Service soils survey for coastal Tillamook County;
 - (e) Ocean front lots on bluffs in areas where erosion and sliding are identified as problems in the Goal 18 element of the Comprehensive Plan;
 - (f) Other locally known areas of GEOLOGIC HAZARD based on evidence of past occurrences.
 - (g) As required for development.
- (2) All development within GEOLOGIC HAZARD areas shall comply with the following standards:
- (a) Vegetation removal shall be the minimum necessary to accommodate the use.
 - (b) Temporary measures shall be taken to control runoff and erosion of soils during construction. Such measures include temporary stabilization (mulching or sodding) sediment basins or other performance equivalent structures required by the Planning Department.
 - (c) Exposed areas shall be planted in permanent cover as soon as possible after construction.
 - (d) Storm water shall be directed into drainages with adequate capacity so as not to flood adjacent or downstream properties. Finished grades should preferably be designed to direct water flows along natural drainage courses.
 - (e) Additional requirements contained in a Geologic report required by this Section shall be followed.
- (3) A GEOLOGIC HAZARD report is required prior to approval of planned developments, coast resorts, subdivisions and partitions governed by the Land Division Ordinance, building permits, mobile home permits, sand mining, occurring in areas identified in (1) with the following exception:
- (a) For building or mobile home or manufactured home permits in areas identified in (1) (b), reports are needed for lots 20,000 square feet or larger only where the proposed structure is to be situated on slopes greater than 29 percent or if (1) (f) applies.
- (4) A report prepared for a subdivision, planned development or partition pursuant to the requirements of this Section, may be used to satisfy these requirements for subsequent building, mobile home or manufactured home permits providing that the original report provided recommendations on building placement and construction and that these recommendations are followed.
- (5) The GEOLOGIC HAZARD report shall be prepared, stamped and signed by both an Oregon Registered Geologist and a qualified Oregon Registered Engineer or by an Oregon Certified Engineering Geologist. Structural recommendations shall be prepared, stamped and signed by an Oregon Registered Engineer trained and proficient in preparing structural calculations and diagrams. The Planning Director or his designee shall determine the boundary limits of the study area. The GEOLOGIC HAZARD report shall

be prepared and submitted on forms deemed acceptable by the County and shall include plan and sectional diagrams of the area showing property boundaries and the geographic information required by (6) below.

- (6) The GEOLOGIC HAZARD analysis shall include the following:
 - (a) In landslide areas [(1) (a) and (1) (b)];
 - i. Soils and bedrock types,
 - ii. Slope,
 - iii. Orientation of bedding planes in relation to the dip of the surface slope,
 - iv. Soil depth,
 - v. Other relevant soils engineering data,
 - vi. Water drainage patterns, and
 - vii. Identification of visible landslide activity in the immediate area.
 - (b) In areas prone to mudflow [(1) (c)];
 - i. History of mud or debris flow, and
 - ii. Areas likely to be affected by future mudflow.
 - (c) In Brallier peat soils [(1) (d)];
 - i. Boring log,
 - ii. Bearing capacity, and
 - iii. Drainage patterns.
 - (d) Ocean front bluffs subject to coastal erosion and sliding [(1) (e)];
 - i. Information required by (6) (a) above, and
 - ii. History of coastal erosion in the area.
- (7) The GEOLOGIC HAZARDS report shall recommend development standards that will protect development on the property and surrounding properties. These should include standards for:
 - (a) Development density (when more than one use is possible),
 - (b) Locations for structures and roads,
 - (c) Land grading practices, including standards for cuts and fills,

- (d) Vegetation removal and re-vegetation practices,
 - (e) Foundation design (if special design is necessary),
 - (f) Road design (if applicable), and
 - (g) Management of storm water runoff during and after construction.
- (8) The GEOLOGIC HAZARD report shall include the following summary findings and conclusions:
- (a) The type of use proposed and the adverse effects it might have on adjacent areas;
 - (b) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use;
 - (c) Methods for protecting the surrounding area from any adverse effects of the development;
 - (d) Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;
 - (e) The proposed development is adequately protected from any reasonably foreseeable hazards including but not limited to GEOLOGIC HAZARDS, wind erosion, undercutting, ocean flooding and storm waves; and
 - (f) The proposed development is designed to minimize adverse environmental effects.

SECTION 4.140: REQUIREMENTS FOR PROTECTION OF WATER QUALITY AND STREAMBANK STABILIZATION

- (1) The following areas of riparian vegetation are defined:
- (a) Fifty (50) feet from lakes and reservoirs of one acre or more, estuaries, and the main stems of the following rivers where the river channel is more than 15 feet in width; Nestucca, Little Nestucca, Three Rivers, Tillamook, Trask, Wilson, Kilchis, Miami, Nehalem and North and South Fork Nehalem River.
 - (b) Twenty-five (25) feet from all other rivers and streams where the river or stream channel is greater than 15 feet in width.
 - (c) Fifteen (15) feet from all perennial rivers and streams where the river or stream channel is 15 feet in width or less.

For estuaries, all measurements are horizontal and perpendicular from the mean high water line or the line of non-aquatic vegetation, whichever is most landward. Setbacks for rivers, streams, and coastal lakes shall be measured horizontal and perpendicular from the ordinary high water line.

- (2) All development shall be located outside of areas listed in (1) above, unless:
- (a) For a bridge crossing; or

- (b) Direct water access is required in conjunction with a water dependent use; or
- (c) Because of natural features such as topography, a narrower riparian area protects equivalent habitat values; or
- (d) A minimal amount of riparian vegetation is present and dense development in the general vicinity significantly degrades riparian habitat values.

Setbacks may be reduced under the provisions of (c) and (d) above only if the threat of erosion will not increase and a minimum 20 foot setback is maintained. Determinations of habitat values will be made by the Oregon Department of Fish and Wildlife.

- (3) Exemptions from (2) above and from the applicable setback requirement for the front or rear yard that is opposite the riparian area may be granted without a variance for uses on:
 - (a) Lots located in areas identified in the Comprehensive Plan's Goal 2 exception element as "built and committed" and which existed as of the date of adoption of this Ordinance, and single family residential "lots of record" as defined and used in Chapter 884 Oregon Laws 1981 as amended, with a depth measured according to (1) above that is;
 - i. Less than 95 feet in places where the area of riparian vegetation is 50 feet wide; or
 - ii. Less than 70 feet in places where the area of riparian vegetation is 25 feet wide.
 - (b) Other lots in identified Abuilt and committed areas and other Alots of record≅ where the combination of setbacks required by this section result in a buildable lot depth of less than 45 feet.

Exemptions from the riparian setback shall be the minimum necessary to accommodate the proposed use after the yard opposite the riparian area has been reduced to a width of no less than ten feet.

- (4) All trees and at least 50 percent of the understory vegetation shall be retained within areas listed in (1) above, with the following exceptions:
 - (a) Removal of trees that pose an erosion or safety hazard to existing uses allowed by the underlying zone.
 - (b) The mowing, planting, or maintenance of existing lawn and pasture, including the control of noxious weeds.
 - (c) Vegetation removal necessary in conjunction with an approved in-water project or to provide direct access for a water-dependent use.
 - (d) Structural shoreland stabilization subject to the shoreline stabilization standards in Section 3.140.
 - (e) Vegetation removal for new bridge construction or routine repair, operation, or maintenance of bridges and highways.
 - (f) Vegetation removal necessary for maintenance of clear vision areas and the removal of roadside hazards.

- (g) Vegetation removal necessary for construction of a minor highway improvement within an existing right-of-way.

Forest operations for which notification is required by ORS 527.670 (2) shall be governed by the Oregon Forest Practices Act.

SECTION 4.150: DEMOLITIONS OR ALTERATIONS OF HISTORIC STRUCTURES

- (1) Demolitions of HISTORIC STRUCTURES identified in the Comprehensive Plan inventory of HISTORIC BUILDINGS:
 - (a) The Planning Department shall hold applications for demolition for 45 days before issuing the permit.
 - (b) During the 45 day period, the Planning Department shall take the following action: Notify the State Historic Preservation Office and the Pioneer Museum of the proposed demolition; advertise in a newspaper of general circulation the nature of the request and the historical values that would be lost; inform the applicant of the historic character of the building and the incentive associated with historic preservation.
 - (c) If after 45 days the Planning Department finds that there is no reasonable possibility for protecting the building, the demolition permit shall be issued.
- (2) Alterations of the following buildings identified in the Comprehensive Plan as having significant historic and architectural merit: Isom/Fox Cottage, Povey Cottage, Wentz Cottage, Doyle Cottage, Churchill Cottage, Tillamook Naval Air Station Blimp Hangars.
 - (a) Exterior alterations (except painting), additions, and construction of auxiliary buildings shall be reviewed by the Planning Department and the Curator of the Pioneer Museum.
 - (b) Alterations shall be approved if proposed exterior materials and details are consistent with the building's historical character and maintenance of the building's predominant architectural features.

SECTION 4.160: PROTECTION OF ARCHAEOLOGICAL SITES

- (1) The Planning Department shall review building permits and other land use actions that may affect known ARCHAEOLOGICAL SITES. If it is determined that the proposed action may affect the integrity of an ARCHAEOLOGICAL SITE, the Planning Director shall consult with the State Historic Preservation Office on appropriate measures to preserve or protect the site and its contents. No permit shall be issued until either the State Historic Preservation Office determines that the proposed activity will not adversely affect the ARCHAEOLOGICAL SITE, or the State Historic Preservation Office has developed a program for the preservation or excavation of the site.
- (2) Indian cairns, graves and other significant archaeological resources uncovered during construction or excavation shall be preserved intact until a plan for their excavation or reinterment has been developed by the State.

SECTION 4.170: MIXED USE DEVELOPMENT (MUD)

- (1) **PURPOSE:** The purpose of a MIXED USE DEVELOPMENT is to allow greater freedom, diversity and cohesiveness in the planning and integrated development of relatively large tracts of land for a range of uses which could not effectively be accommodated under the provisions of this Ordinance. The use of these provisions is dependent upon three conditions:
 - (a) That a specific development proposal cannot effectively be reviewed under the provisions of the zone within which it is proposed;
 - (b) That the individual proposed uses are not incompatible with the established surrounding land uses; and
 - (c) That the proposal involves at least three different types of land use within a single site plan. For the purposes of a MIXED USE DEVELOPMENT review, a "type of land use" is one which differs in nature or character from other uses contained within a single development proposal.
- (2) **APPLICABILITY:** These provisions cannot be utilized without the submission of an acceptable plan, with satisfactory assurance that it can be carried out, and a preliminary determination by the Department that the three conditions listed in (1) above have been met. A MUD is considered a Conditional Use in the RR, CSFR, CR-1, CR-2, CR-3, RC, CC and RI and unincorporated community zones where permitted. However, in the RR zone, only parcels within a Community Growth Boundary will be considered for a MUD proposal. Additional RR zoned properties may be designated for a MUD through a Plan Amendment according to the provisions of Article IX of this Ordinance. All permitted uses listed in the RR, CSFR, CR-1, CR-2, CR-3 and RC and unincorporated community zones are permitted in a MUD in any of these zones. All permitted uses in the CC and RI zones, as well as those in the RR, CSFR, CR-1, CR-2, CR-3 and RC and unincorporated community zones where permitted are permitted in a MUD in the CC and RI zones.
- (3) **STANDARDS:** Standards pertaining to lot size, density, off-street parking, yards, building heights, or other aspects of development shall be governed by the standards of the underlying zone or zones in which the MUD is proposed. The requirements of all applicable overlay zones must be met by the proposed development. Where Variances from applicable standards are required, they shall be considered under the provisions of Article VIII at the time of Planning Commission review. Where applicable standards conflict, the more restrictive shall apply. Preliminary review of proposals involving the division of land shall take place, at the time of Planning Commission review, under the provisions of the Tillamook County Land Division Ordinance.

All standards for use, as identified for RC, CC, RI, and CI shall apply where appropriate.

- (4) **MIXED USE DEVELOPMENT PROCEDURES AND CRITERIA:** The following procedures and criteria shall govern a request to review and approve a MUD proposal:
 - (a) The applicant shall arrange a pre-application meeting with the Department so as to determine the standards, requirements, and procedures governing a MUD request, and to inform the Department of the nature of the proposed development.
 - (b) The applicant shall submit a complete preliminary development plan to the Department for review, along with six (6) copies of a report summarizing the proposal. The plan shall include the following information:

- i. A map showing the entire parcel, the proposed land uses and building locations, and the vehicular and pedestrian circulation patterns. Such a map shall be of such detail to indicate that all applicable Ordinance standards and requirements can be met.
 - ii. A topographic map rendered in the same scale as the map in (1) above.
 - iii. Housing unit densities for areas of residential development.
 - iv. Proposed uses and ownership and maintenance arrangements for all areas to be left in open space, and the ownership status of all streets.
 - v. Proposed property lines upon the completion of the project.
 - vi. A preliminary grading and drainage plan.
 - vii. The method of water supply and sewage disposal.
 - viii. An outline of proposed deed restrictions, if any.
 - ix. A discussion of the economic justification for proposed land uses which are in conflict with the zoning on the parcel, and the relations of such uses to all other uses proposed within the MUD.
 - x. The proposed time frame for completion of the entire development.
 - xi. A Geologic Hazard report where required by the Land Use Ordinance.
 - xii. A map indicating flood hazard areas if required by this Ordinance.
 - xiii. Filing and review fees, which shall be established by order of the Board of County Commissioners, and which shall be non-refundable despite Planning Commission action. Such fees shall not be applied to any concurrent application.
- (c) The Planning Department shall distribute the preliminary plan, for review and comment, to those agencies and departments which it deems necessary to determine the feasibility and adequacy of the plan. Such agencies and departments shall be given at least 21 days for review.
- (d) Following the preliminary review as described above, the Department shall notify the applicant of changes which have been suggested or would be required by the agencies and departments reviewing the plan.
- (e) After the Department's notification of what changes are considered necessary in order to meet the purposes of all applicable Ordinances and to protect the rights of property owners surrounding the proposed development, the developer shall submit, for Planning Commission review, a final proposal of the project. Planning Commission review will not take place until the complete plan is submitted.
- (f) The Commission shall apply the following criteria in the consideration of all MUD requests:
- i. The proposed plan is internally cohesive and is consistent with Comprehensive Plan Policies for the vicinity.

- ii. There are special development objectives that the project will satisfy which warrant review under these provisions.
 - iii. The parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, and natural features.
 - iv. Proposed uses which are not otherwise permitted by the zoning on the parcel are accessory uses within the entire development.
 - v. The proposed use will not have a substantial impact upon adjacent uses, nor will it alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for permitted uses listed in the underlying zone.
 - vi. The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.
- (5) In approving a MUD proposal, the Planning Commission may impose whatever conditions are necessary in order to ensure that the purposes of this Ordinance are met.
- (6) The approved site plan for a MIXED USE DEVELOPMENT cannot be substantially amended or altered unless approved by the Planning Commission under the provisions of Article VI of this Ordinance. Determination of the substance of such changes or amendments shall be the responsibility of the Planning Director.

SECTION 4.180: HOME OCCUPATION PERFORMANCE STANDARDS

- (1) **PURPOSE:** To provide for occupational activities in residences or their accessory structure, as provided by ORS 215.448, while assuring compatibility with existing and permitted uses within the area affected by the home occupation.
- (2) **APPLICABILITY:** HOME OCCUPATIONS are allowed outright or conditionally, depending upon the intensity of the use and the zone within which they are located. In the F-1, F and SFW-20 zones, a HOME OCCUPATION includes a "Foster Family Home" and a "Bed and Breakfast Enterprise".
- (3) **STANDARDS:**
- (a) All HOME OCCUPATIONS shall meet the following standards or conditions in addition to other applicable ordinance requirements:
 - i. The HOME OCCUPATION is operated by the resident of the property upon which the activity is located, within the residence or accessory structures.
 - ii. The HOME OCCUPATION will employ no more than five full- or part-time persons.
 - iii. The HOME OCCUPATION will not interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located.

- iv. Where HOME OCCUPATIONS are allowed conditionally, conditions of approval shall limit retail sales, signs, traffic, noise, obnoxious odors, hazardous activities, and other identifiable adverse off-site impacts.
 - v. The existence of a HOME OCCUPATION shall not be used as justification for a zone change.
- (b) HOME OCCUPATIONS permitted outright shall meet the following additional standards or requirements:
- i. Those employed in the HOME OCCUPATION must be members of the family residing on the premises.
 - ii. There shall be no activities that give the outward appearance or manifest the characteristics of a retail business, such as signs other than those permitted under Section 4.020, advertising of the dwelling as a business location, more than six customers daily entering the business premises, more than two customer vehicles at a time, noise that adversely affects neighbors, obnoxious odors, hazardous activities, or other adverse off-site impacts.
 - iii. Complaints from neighbors may be cause for requiring a Conditional Use review of the activity.
- (4) REVIEW: The Director shall review all Conditional Use Permits approving HOME OCCUPATIONS every 12 months following the date of approval, and may allow the use to continue if the HOME OCCUPATION continues to comply with Ordinance requirements.