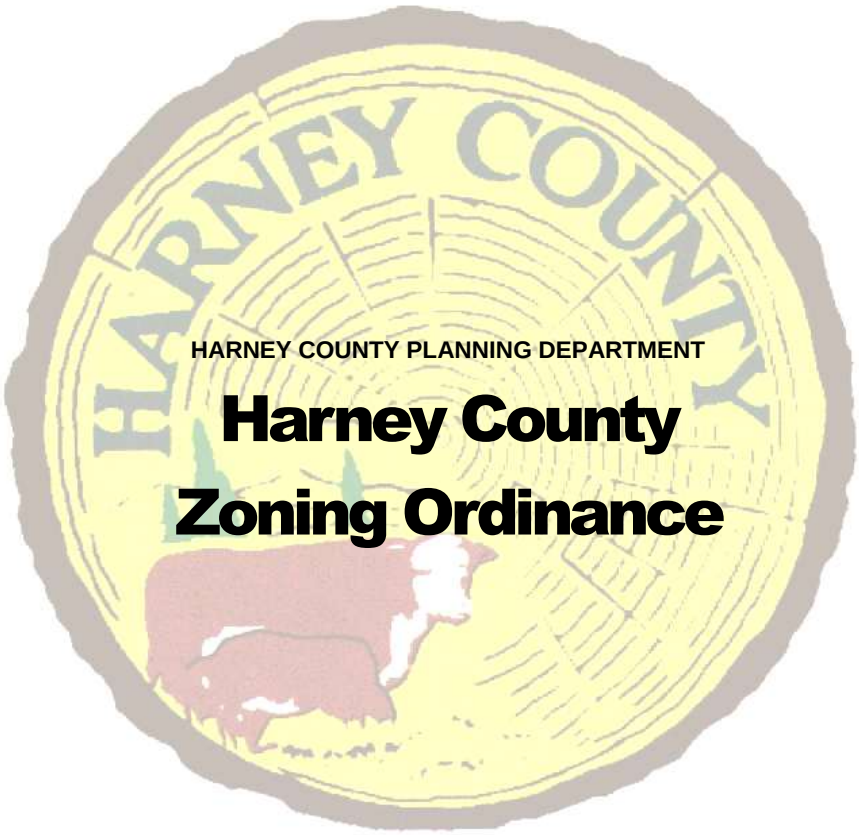

HARNEY COUNTY PLANNING DEPARTMENT

Harney County Zoning Ordinance

Harney County Courthouse
450 N. Buena Vista • Burns OR 97720
Phone 541-573-6655 • Fax 541-573-2762

REVISED: February 2014

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Article 1. Introduction Provisions

Sections:

1.010. Title
1.020. Purpose
1.030. Definitions adopted by reference
1.040. Definitions
1.050. Compliance with Ordinance

Section 1.010. Title

This ordinance shall be known as the Harney County Zoning Ordinance.

Section 1.020. Purpose

The several purposes of this ordinance are:

A. To serve with the subdivision ordinance as the primary implementation tools for the Harney County Comprehensive Plan;

B. To conform to the Oregon Statewide Land Use Goals and Guidelines;

C. To encourage the most appropriate use and development of land;

D. To conserve and stabilize the value of property;

E. To aid in the rendering of fire and police protection;

F. To provide adequate open space for light and air circulation;

G. To lessen the congestion of streets;

H. To encourage an orderly growth of the county;

I. To prevent undue concentrations of population;

J. To facilitate adequate provisions for community utilities and facilities such as water, sewage, electrical distribution system, transportation, schools, parks and other public requirements; and in general,

K. To promote public health, safety and general welfare.

One of the principal purposes of this ordinance is to provide for an orderly plan of development, in connection with which the following conclusions are deemed of primary importance.

Section 1.030. Definitions Adopted by Reference

In addition to the definitions in this Article, the following statutes and administrative rule are incorporated by reference. If any definition in this Code, conflicts with a definition included by reference, the definition of state statute shall prevail except where this Code is more restrictive.

A. Oregon Revised Statutes Chapter 92 – Subdivisions and Partitions

B. Oregon Revised Statutes Chapter 197 – Comprehensive Plan Coordination; Planning Districts

C. Oregon Revised Statutes Chapter 215 – County Planning; Zoning; and Housing Codes

D. Oregon Administrative Rule Division 33 – Agricultural Land

Section 1.040. Definitions

As used in this ordinance the following words and phrases shall mean:

1. Abutting. Adjoining with a common lot or parcel line, except for instances in which two or more lots or parcels adjoin only at a corner or corners, these shall not be considered as abutting unless the common lot or parcel line between the two lots or parcels measures eight or more feet in a single direction. See definition of contiguous.

2. Access. The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

3. Accepted farming practice. As used in this Code, means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a monetary profit, and customarily utilized in conjunction with farm use.

4. Accessory Use or Accessory Structure. A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use.

5. Advertising Structure. Framework, billboard, board or other physical structure, used for purpose of affixing or supporting an advertisement. It includes facade, wall, awning, roof or canopy of a building or columns, pylons or poles of a freestanding advertising device or fence, any associated illumination devices and any other necessary support structures. Signs along state highways shall be regulated by Oregon state statute as ODOT determines.

6. Aggregate Processing. The extraction, screening, and crushing of sand, gravel, and/or quarry material.

7. Aggregate Use. The extraction, screening, stockpiling, and crushing of sand, gravel, and/or quarry material.

8. Agriculture, Farming, Farm Use. As defined in ORS Chapter 215.203(2)(a), including the current employment of land, including that portion of such lands under buildings, supporting accepted farming practices for the primary purpose of obtaining a profit in money through:

    A. Raising, harvesting, and selling crops;

    B. The feeding, breading, management, and sale of livestock, poultry, fur-bearing animals, or honeybees;

    C. The produce of livestock poultry, fur-bearing animals, or honeybees;

D. Dairying and the sale of dairy products;

E. Any other agricultural or horticultural use, farm use, animal husbandry, or combination thereof; and,

F. Constituting a woodlot of less than 20 acres contiguous to and owned by the owner of land specially valued at true cash value for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use.

"Farm use" includes the preparation and storage of the agricultural products grown on and/or off-site for primary or secondary marketing. It does not include the use of land subject to the provisions of ORS Chapter 321, or the construction and use of dwellings customarily provided in conjunction with farm use. It does include:

a. Land subject to the soil-bank provisions of the Federal Agricultural Act of 1956, as amended (P.L. 84-540 70, Stat. 188);

b. Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry; and,

c. Land planted in orchards or other perennial prior to maturity.

9. Airport Approach. That area of approach and transition surface areas around airports where special land use and height regulations are established.

10. Airport Clear Zone. An area extending from each end of a runway that is kept clear of obstructions which may affect incoming and departing aircraft.

11. Airport Overlay Zone. An area in which special land use regulations are established to ensure the safety of the airport operation.

12. Airport, Commercial. An airport used by the general public and commercial airline operations including associated maintenance, operations, and support facilities.

13. Airport Hazard. Any obstacle or situation, which obstructs or interferes with the safe operation of an airport or landing field. This includes vegetation, structures, towers, glare, lights, and electrical interference.

14. Airport, Personal Use. An airstrip for airplanes and helicopter pads, including associated hangar, maintenance and service facilities, which are restricted except for any and all aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in conjunction with agricultural activities only. No aircraft may be based

on a personal-use airport other than those owned or controlled by the owner of the airstrip.

15. Airport Zone Boundary. An area adjacent to an airport within the boundaries of which there is significant impact from dust, fuel particles, noise, and related activities arising from the operation of an airport.

16. Alley. A public way providing a secondary means of access to abutting property.

17. Alteration. A change, addition, or modification in either construction or use of a building or structure.

18. Amendment. A change in the text or maps of applicable ordinances, resolutions, or related regulations pertaining to land use, including the Comprehensive Plan, the Goals and Policies, and the Land Development Code.

19. Aquaculture. The cultivation or growing in a water environment of some plant, animals or products, i.e. algae, tropical fish, catfish, prawns or other water organisms.

20. Auto Repair. Facilities for the general repair of automobiles, including rebuilding and reconditioning of engines, transmissions, mechanical parts, and brake and muffler shops. The repair of motorcycles and small engines is allowed in this type of facility.

21. Automobile wrecking yard. A premises used for the storage or sale of used automobile or truck parts or for the storage, dismantling, or abandonment of junk, obsolete automobiles, trailers, trucks, machinery, or parts thereof (see def. – Junkyard).

22. Auto, Boat, and Recreational Vehicle Sales Lot. Any property where the primary business is the display, sale, or rental of operative new or used motor vehicles, boats, trailers, or recreational vehicles. Repair or service facilities must be accessory to the primary sales function of the business.

23. Automobile Service Station. Any property where the primary business is the supply of motor fuel, oil, lubrication, and accessories to motor vehicles, including tune-up services and vehicle maintenance service.

24. Awning. Any stationary structure used in conjunction with a structure for the purpose of providing shelter and having a roof with supports with not more than one wall or storage cabinet substituting for a wall.

25. Bed and Breakfast Inn. A Bed and Breakfast Inn is an accessory use to a single-family residential dwelling, which is intended to provide temporary

accommodation and breakfast to travelers for a daily fee. No meal other than breakfast shall be provided. The owner and/or operator shall live on the site.

26. Berm. A constructed mound or small hill (see def. – Buffer).

27. Billboard. (See def. – Advertising structure)

28. Boarding House. A dwelling, or part thereof, other than a hotel, motel, or multiple-family dwelling, where lodging, with or without meals is provided, for compensation.

29. Boarding of Horses. The boarding of horses for profit shall include the following:

    A. The stabling, feeding and grooming for a fee or the renting of stalls for and the care of horses not belonging to the owner of the property; and

    B. Renting of related facilities, such as training arenas, corrals and exercise tracks.

    C. The boarding of horses for profit does not include the following:

        a. The mere pasturage of horses or the boarding of horses not owned by the property owner for the purpose of breeding with the owner's stock;

        b. The incidental stabling of not more than four (4) horses;

        c. The boarding of horses for friends or guests where no charge is made; and,

        d. Equestrian activities when the raising, feeding, training or grooming of horses is an agricultural use of the land by a property owner, qualifying for farm assessment under regulations of the State Department of Revenue.

30. Boat Yard. Any place or structure used for the construction, dismantling, sales, storage, service, repair, or maintenance of boats.

31. Bond. Any form of security, including a cash deposit, surety bond, collateral, property, or credit instrument submitted to guarantee performance by a developer, builder, or land owner.

32. Buffer. An area of land used to separate land uses and mitigate impacts from one to the other(s). A buffer may include site developments such as berms, walls, fences or other similar structures or may be composed of vegetation.

33. Buildable Area. The portion of a lot or parcel, excluding setbacks, where a structure may be erected.

34. Building. A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

35. Building, Agricultural. A structure whose use shall be primarily for storage of farm implements, crops, feed or similar farm products or to provide shelter for livestock, poultry or fowl.

36. Building Height. (See def. – Height of Building)

37. Building Line. A line on a plat or map indicating the limit beyond which buildings or structures cannot be erected.

38. Building Site. The ground area of a building or buildings, together with all open spaces required by this Code, and which generally has its principal frontage upon a public or private street.

39. Campground. A campground is an area devoted to overnight temporary use for vacation, recreation or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A tent, travel trailer or recreational vehicle may occupy a camping site. Separate sewer, water or electric hook-ups shall not be provided to individual campsites. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6-month period (OAR 660-33-0130(19)).

40. Camping Vehicle. (See def. – Recreational Vehicle)

41. Camping on Property. Camping on a parcel without service connections for a period of four (4) months in any twelve (12) month period will not be considered a permanent residence.

42. Caretakers Quarters. A manufactured dwelling or apartment limited to 1,000 square feet for a caretaker who is necessary for the protection of the main use on industrial property.

43. Caretakers Residence. A manufactured dwelling or home for a caretaker who is necessary for the protection of the main use on property zoned for forest use.

44. Carrying Capacity. The ability of land to support proposed development as determined by an evaluation of suitability for sewage disposal, the adequacy of the domestic groundwater supply (quantity and quality), the presence of adequate off-site roads, the suitability of soil and terrain to support on-site roads, the presence or absence of flood, fire or erosion hazards, and the applicability of other special land use concerns (e.g., watershed protection, protection of wildlife and fishery habitat, the presence of scenic easements, airport flight paths, the availability of emergency services, etc.).

45. Church. Building and premises used for the conduct of regular religious services; may include a residence for the pastor, but not including academic schools operated by a church.

46. Clinic, Medical, Dental or Optical. A facility for examination, consultation, and treatment of patients, including offices, laboratories, and outpatient facilities, but not including hospital beds for overnight care or treatment except for emergency or temporary care.

47. Club or Lodge. Buildings and facilities owned and operated for a fraternal, social, or recreational purpose, to which membership is required for participation, but is not operated primarily for profit and is recognized by the IRS as a tax exempt organization subject to Section 501(C)(3) of the Tax Code.

48. Commercial compensation. Any activity or use involving the exchange of products or services for compensation in the course of a business. "In the course of business" means the use or activity must involve repeated transactions, and does not include the isolated exchange of products or services for compensation. It is not necessary for a commercial use or activity to be conducted for profit in order to be commercial. It may include a trade for goods or services or the receipt of donations.

49. Commercial Activities in Conjunction with Farm use. The processing, packaging, treatment, and wholesale distribution and storage of a product primarily derived from farm activities on the premises. Also, retail sales of agricultural products, supplies, and services directly related to the production and harvesting of agricultural products. Such uses include the following:

    A. Storage, distribution, and sale of feed, fertilizer, seed, chemicals, and other products used for commercial agricultural uses;

    B. Farm product receiving plants, including processing, packaging, and reshipment facilities, excluding canneries;

    C. Livestock feed or sales yards;

D. Storage, repair, or sale of fencing, irrigation pipe, pumps, and other commercial farm-related equipment and implements;

E. Farm equipment storage and repair facilities;

F. Bulk storage and distribution facilities for fuels, pesticides, and fertilizers;

G. Veterinarian clinic;

H. Horticultural specialties such as nurseries or greenhouses for retail sales of plants and products;

I. Slaughtering of animals, including attendant retail and wholesale sales, which may be conducted outside an enclosed building;

J. Wineries which may include retail sales; and,

K. Other such uses, which may be construed as similar to the uses, listed above.

50. Commercial Feedlot. A lot or portion of property where 10 or more livestock are penned and fed for the purpose of preparing them for resale or slaughter, and in which the land area is incapable of producing sufficient forage to support the number of animals confined. This definition is intended to apply only to activities carried on as commercial enterprises; and, therefore does not apply to the feeding of animals accessory to a dairy use or other permitted use, or to the fattening of animals solely for the domestic use of the property owner, or to the penning and feeding of animals for display or show.

51. Commercial Power Generation Facility. An electrical power generating plant with a nominal electrical generating capacity of more than 25,000 megawatts, including but not limited to a thermal power plant, hydropower plant, combustion turbine power plant, geothermal power plant, or a nuclear installation disposal facility, and any facility handling a quantity of fissionable materials sufficient to form a critical mass. A commercial power generation facility includes related or supporting facilities including any structure adjacent to an energy facility, associated transmission lines, reservoirs, and intake structures built in conjunction with and used as part of the energy facility.

52. Communication Facility. A structure for the purpose of transmitting and receiving telegraph, telephone, microwave, television, radio, and other similar signals.

53. Community Building. A facility owned and operated by a governmental agency or a non-profit community organization, when the primary purpose of the facility is for education, recreation, social welfare, community improvements, or public assembly.

54. Community Sewer System. A sewage disposal system, which has service connections to at least 15 permanent dwelling units, including manufactured homes, within the unincorporated community (OAR 660-22-0100(2)).

55. Community Water System. A system that distributes potable water through pipes to at least 15 permanent dwelling units, including manufactured homes within the unincorporated community (OAR 660-22-0100(3)).

56. Comprehensive Plan. The Plan adopted by the Harney County Court for the guidance of growth and development of the County, which is prepared and adopted in conformance with ORS Chapter 92, ORS Chapter 197 and ORS Chapter 215.

57. Contiguous. Adjoining with a common boundary line, except that where two or more lots or parcels adjoin only at a corner or corners, they shall not be considered contiguous unless the common property line between the two parcels measures eight (8) or more feet in a single direction (see def. – Abutting).

58. Conditional Use. A use, which requires review and either approval, approval with conditions, or disapproval, by a Review or Hearing Body.

59. Convalescent Home, Nursing Home. Any certified and licensed institution which operates and maintains a facility providing convalescent and chronic care and keeping, for a period exceeding 24 hours for two or more ill or infirm patients not related to the administrator or owner by blood or marriage. Convalescent and chronic care includes all procedures commonly accepted in nursing and caring for the sick, but does not include surgical facilities.

60. County Maintained Road or Street. A road or street and appurtenances which has been accepted for County maintenance by order of the County Court under the authority of ORS 368.705, or any other provisions of law.

61. County Road. A public road under the jurisdiction of a county that has been designated as a county road under ORS 368.016.

62. Cultured Christmas Trees. As defined in ORS 215.203(3) and as an agricultural use as defined in this ordinance.

63. Current employment of land for Farm Use includes:

    A. Farmland, the operation or use of which is subject to any farm-related government program;

    B. Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;

C. Land planted in orchards or other perennials, other than land specified in paragraph (D) below, prior to maturity;

D. Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;

E. Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor graze-able, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;

F. Water impoundment(s) lying in or adjacent to and in common ownership with farm use land; and,

G. Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued at true cash value for farm use even if the land constituting the wood lot is not utilized in conjunction with farm use.

64. Day Care. The care, supervision and guidance on a regular basis of a child unaccompanied by a parent, guardian or custodian, provided to a child during a part of the 24 hours of a day, in a place other than the child's home with or without compensation. Day care does not include care as provided in ORS 418.805(3)(a-f).

65. Day Care Facility. Any facility that provides day care to children, including a day nursery, nursery school group, home of a family day care provider, or similar unit operating under any name but not included as provided for in ORS 657.250.

66. Dedication. An approved or accepted designation of land by the owner for public or general use.

67. De Novo. (Latin) A new hearing, which can take into account all previous testimony and any new testimony presented by the proponent and/or the opponent to an issue.

68. Density. The number of dwelling units to be contained within a specified land area.

69. Development. Any alteration of improved or unimproved real estate, including but not limited to a land division, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

70. Destination Resort. A self-contained development that provides for visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities (ORS 197.445).

71. Developed Recreational Facilities. Improvements constructed for the purpose of recreation which may include but are not limited to golf courses, tennis courts, swimming pools, marinas, ski runs and bicycle paths (ORS 197.435(1)).

72. Development Site. A tract of land consisting of one or more contiguous lots of record under common ownership, subject to a Development Permit.

73. Display Surface. The area made available by a sign structure for the purpose of displaying an information or advertising message.

74. Drainage Way. Natural or constructed watercourse, which transmits natural stream or storm runoff.

75. Driveway. A way of access for a vehicle to serve a limited number of users from a road or street, which is usually of narrow width and often in private ownership or subject to restricted public use.

76. Dwelling, multi-family. A building or portion thereof, designed for occupancy by three or more families living independently of one another.

77. Dwelling, single-family. A detached building containing one dwelling unit and designed for occupancy by one family only.

78. Dwelling, two-family. A detached building containing two dwelling units and designed for occupancy by two families.

79. Dwelling Unit. One or more rooms in a building designed for occupancy by one family and having not more than one cooking facility.

80. Easement. A grant of the right to use the property of another for a specific purpose; may either be appurtenant or in gross.

81. Eating/Drinking establishment. Businesses providing facilities for preparation and consumption of food and beverages, including alcoholic beverages.

82. Elderly Person. A person who is 62 years of age or older (ORS 443.510).

83. Employees. All persons working for another, for wages or salary.

84. Energy facility. Any operation generating electricity for public use by sale.

85. Family. One or more person related by blood, marriage, legal adoption or legal guardianship plus not more than five (5) additional persons, including foster and shelter care persons or, up to five (5) unrelated persons, all living together as a single housekeeping unit.

86. Family Day Care Provider. A day care provider who regularly provides day care in the provider's home in the family living quarters (ORS 657.250).

87. Final Plat. A map and other writings prepared in conformance with an approved tentative plan for a subdivision, planned unit development, partition, re-plat, or property line adjustment which is recorded with the County Clerk to complete the process for dividing land or adjusting property lines.

88. Fire Break. An area of non-combustible materials or slow burning plants.

89. Findings. As required in ORS 215.416(8), written statements of fact, conclusions, and determinations based upon the evidence at hand, presented relative to the criteria and standards for such review and accepted by the Review or Hearing Body in support of a final action.

90. Fire lane. A way cleared of obstacles so as to allow clear passage for vehicles during a fire emergency.

91. Fireworks. Fireworks shall be as defined in ORS 480.110(l), and as interpreted and enforced by Oregon State Law enforcement officials.

92. Flag lot. A unit of land created by a subdivision or partition and which includes narrow projection with a vehicle pathway to a public road.

93. Flood Hazard Area. An area highly prone to flooding for which the following terms have special significance:

    A. Base Flood. A standard statistical calculation used by engineers to represent the flood magnitude having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V;

    B. Flood Plain. The area adjacent to a stream that is subject to periodic flooding;

    C. Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot;

    D. Flood Fringe. The area of the flood plain lying outside the floodway, but subject to periodic flooding;

E. Shallow Flooding. A designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates pooling;

F. Special Flood Hazard. The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

94. Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

    A. The overflow of waters; and/or,

    B. The unusual and rapid accumulation of runoff of surface waters from any source.

95. Flood Insurance Rate Map (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

96. Flood Insurance Study. The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

97. Floor Area. The sum of the gross areas of all floors of a building, measured from the outside walls, excluding attic space having less than seven feet of headroom, or basement space with less than six feet of headroom.

98. Forest Operations. Any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620(6) and OAR 660-006-005(6).

99. Forest Use. The management, production, and harvesting of timber resources in accordance with the Oregon Forest Practices Rules, including:

    A. The production of trees and the processing of forest products;

    B. Open space to buffer conflicting uses (see also def. – Buffer);

    C. Watershed protection and wildlife and fisheries habitat;

    D. Soil protection from wind and water;

    E. Maintenance of clean air and water;

F. Outdoor recreational activities and related support services and wilderness values compatible with these uses; and,

G. Grazing land for livestock.

100. Forestry Building. A building in conjunction with, and necessary to, a forestry operation or forestry management use.

101. Foster Home. A family home or facility which is licensed by the State in which residential care is provided for five or fewer children or adults who are not related to the provider by blood or marriage.

102. Frontage. That portion of a parcel of property, which abuts a street or highway.

103. Fuel Break. An area of non-combustible materials or slow burning plants or the absence of vegetation around a structure.

104. Fuel Depot. Any lot or building used for the storage and/or marketing of fuel products.

105. Garage. A building or a portion of a building permanently constructed for the purpose of enclosing a motor vehicle.

106. Golf Course. An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more artificial hazards. A "golf course" for purposes of ORS 215.213(2), and OAR 660-033-0120(20), means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:

A. A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;

B. A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;

C. A non-regulation golf course is a golf course or golf course-like development that does not meet this definition, including but not limited to executive golf courses, par three golf courses, pitch and putt golf courses, miniature golf courses, and driving ranges;

D. Accessory uses provided as part of a golf course must be consistent with the following standards:

a. An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include parking, maintenance buildings, cart storage and repair, practice or driving range, clubhouse, restrooms, lockers, showers, food and beverage service, pro shop, and a practice or beginners course as part of an 18 hole or larger golf course. Accessory uses to a golf course do not include sporting facilities unrelated to golfing such as tennis courts, swimming pools, weight rooms, wholesale or retail operations oriented to the non-golfing public, and housing;

b. Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course for the purpose of playing golf. An accessory use that provides commercial services (e.g. food and beverage service, pro shop, etc.) shall be located in the clubhouse rather than in separate buildings.

107. Grade (ground level). The average elevation of the finished ground elevation at the centers of all walls of a building, except that if a wall is parallel to and within five feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground elevation.

108. Greenhouse. Building constructed chiefly of glass or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers or other plants and which shall be classified as an accessory building except in resource zones.

109. Green housing. The growing of flowers, vegetables, or ornamental plants in a greenhouse not being used in conjunction with an integrate part of a nursery operation.

110. Groundwater. Defined by ORS 537.515(5) as: "Any water, except capillary moisture, beneath the land surface or beneath the bed of any stream, lake, reservoir, or other body of surface water within the boundaries of this State, whatever may be the geological formation or structure in which such water stands, flows, percolates, or otherwise moves."

111. Guesthouse. An accessory structure, site constructed and built to the following specifications: no plumbing for a sink except for a bathroom and a wet bar; no 220 wiring or natural gas pipes to an outlet other than a water heater, furnace, or heating system; no kitchen facilities, or laundry facilities; and limited to a maximum of 1,000 square feet. There may be only one guesthouse in addition to the main residence per legal lot. A floor plan shall accompany the application for a Guesthouse.

112. Hardship. For the purpose of obtaining a variance, it is a condition, which arises out of the land, which may make it difficult for a person to construct a building or install improvements, which are in compliance with the provisions of this Code.

113. Height of Building. The vertical distance above finish grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitched or hip roof. The measurement shall be taken from the finish grade of the adjoining sidewalk or ground surface. The height of a stepped or terraced building is the maximum height of any segment of the building.

114. High Value Crop Area. An area in which there is a concentration of commercial farms capable of producing crops or products with a minimum gross value of $1,000 per acre per year. These crops and products include field crops, small fruits, berries, tree fruits, nuts or vegetables, dairying, livestock feedlots or Christmas Trees as these terms are used in the 1983 County and State Agricultural Estimates prepared by the Oregon State University Extension Service ORS 197.435(2).

115. High Value Farmland. For the purpose of locating a limited lot of record dwelling on farmland, High Value Farmland refers to soils that are:

    A. Irrigated and classified prime, unique, Class I or Class II; or,

    B. Not irrigated and classified prime, unique, Class I or Class II; and,

    C. Tracts growing specified perennials as demonstrated by the most recent aerial photography of the Natural Resources Conservation Service (NRCS) of the U.S. Department of Agriculture taken prior to 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards but not including seed crops, hay, pasture, or alfalfa (OAR 660-033-0020(8)(a)).

116. Home Occupation. Any lawful occupation carried on by a resident of a dwelling as an accessory use within the same dwelling, or in an accessory building as allowed by the Zone, and having no more than five full-time employees other than members of the immediate family.

117. Hotel. A building, which is designed, intended, or used for the accommodation of tourists, transients, and permanent guests for compensation and in which no provision is made for cooking in individual rooms or suites of rooms.

118. Industrial Use. The use of land primarily for the manufacture, processing, storage, or wholesale distribution of products, goods, or materials. It does not include commercial uses.

119. Industrial. The on-site production of goods and products. Industrial uses include manufacturing, production, processing, assembling, packaging, warehousing, shipping, and receiving of goods and materials, bulk storage of fuels and related materials, and similar uses.

120. Irrigated. Watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water from a water or irrigation district or other provider. For the purposes of OAR 660-33-0020(9), an area or tract within a water or irrigation district that was once irrigated shall continue to be considered "irrigated" even if the irrigation water was removed or transferred to another tract (OAR 660-33-0020(9)).

121. Junk. Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste or dismantled, wrecked, scrapped or ruined motor vehicles, or motor vehicle parts, iron, steel, or other old or scrap ferrous or non ferrous material, metal or non-metal materials (ORS 377.605(5)).

122. Junkyard. Any establishment or place of business where there is accumulated on the premises eight or more motor vehicles or an equivalent volume of junk that is maintained, operated or used for the storing, keeping, buying, or selling junk. The term includes automobile graveyards, garbage dumps and scrap metal processing facilities (ORS 377.605(6)).

123. Kennel. A use providing for the accommodation of four or more dogs, cats, or other household pets.

124. Kitchen. Any space within a building designed to be used for cooking and preparing food, may contain a sink (excluding bar sinks), range, stove, or microwave. The following criteria will be considered by the Planning Director in determining whether a space is designed as a kitchen;

    A. If the size and location of counter and cabinet will facilitate food storage, preparation, and cooking;

    B. If the number, size, and location of electrical outlets exceed those normally used for activities not associated with a kitchen;

    C. If the area is plumbed for a sink;

    D. If the area separated from the main living space so as to form a room which is not suitable for a bathroom.

125. Livestock. Domestic animals of types customarily raised or kept on farms for profit or other purposes.

126. Loading Area. An off-street space or berth for the temporary parking of commercial vehicles while loading or unloading.

127. Lodge. A facility providing temporary lodging in conjunction with outdoor recreational activities.

128. Lot. A single unit of land that is created by a subdivision of land (ORS 92.010(4)).

129. Lot area. The total horizontal area within the lot lines of a lot exclusive of streets, and easements of access to other property.

130. Lot, corner. A lot abutting on two or more streets other than an alley, at their intersection.

131. Lot line. The property line bounding a lot.

132. Lot line, front. The lot line separating the lot from a street other than an alley, and in the case of a corner lot, the shortest lot line along a street other than an alley.

133. Lot line, rear. The lot line, which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other shaped lot, a line 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.

134. Lot line, side. Any line that is not a front or rear lot line.

135. Lot width. The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

136. Major Life Activity. Self-care, ambulation, communication, transportation, education, socialization, employment and the ability to acquire and maintain adequate, safe and decent shelter.

137. Management Unit. That minimum acreage necessary to operate, lease or otherwise maintain land in agricultural use. A management unit is not necessarily an economic unit.

138. Manufactured Dwelling. A Manufactured Dwelling is the term used to describe all three of the following types of manufactured structures:

    A. Residential Trailer. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed before January 1, 1962 with a minimum size of at least eight feet by 32 feet;

B. Mobile Home. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction; or,

C. Manufactured Home. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards, (HUD standards), and regulations in effect at the time of construction.

D. "Manufactured dwelling" does not mean any building or structure constructed to conform to the State of Oregon Structural Specialty Code or the One and Two Family Dwelling Code adopted pursuant to ORS 455.100 to 455.450 and 455.610 to 455.630 or any unit identified as a recreational vehicle by the manufacturer (Added 11/1/00, Ord. 2000-42).

139. Manufactured Dwelling Park. Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. It does not include a lot or lots located within a subdivision being rented or leased for occupancy by a maximum of one manufactured dwelling per lot if the subdivision was approved by Harney County under an Ordinance or Code adopted pursuant to ORS 92.010 to 92.190.

140. Manufacturing. The fabrication, production, or making of goods by hand or machine to a useable form.

141. Map. A diagram, drawing, or other writing that depicts the arrangement of lots or parcels.

142. Mobile Home Park. Any place where four or more mobile homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Mobile Home Park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by a maximum of one mobile home per lot if the subdivision was approved by the local government unit having

jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190. (Only applies within U.G.B.)(ORS 197.295(5) and ORS 446.003(29)).

143. New Construction. Structures for which the "start of construction" commenced on or after the effective date of this Code.

144. Non-conforming lot or structure. A parcel of land or a structure which lawfully existed prior to adoption of this Code, but which does not meet the standards for lot area, dimension, setbacks or other criteria in this Code.

145. Non-conforming Use. Any use which lawfully existed prior to the adoption of this Code, but which does not conform with the permitted or conditional uses described in the Zone.

146. Non-conforming Use, Alteration Of. As specified in ORS 215.130(9), it shall mean the following:

    A. A change in the use of no greater adverse impact to the neighborhood; and,

    B. A change in the structure or physical improvements of no greater adverse impact to the neighborhood.

147. Organizational Camp. Any area designated by the person establishing, operating, managing or maintaining the same for recreational use by groups or organizations which include but are not limited to day camps, nature camps, summer camps, youth camps, scout camps, survival camps, athletic camps, camps which are operated and maintained under the guidance, supervision or auspices of religious, public and private educational systems and community service organizations (ORS 446.310(7)).

148. Overnight Lodging. Permanent, separately rentable accommodations, which are not available for residential use. Overnight lodging includes hotel or motel rooms, cabins, and timeshare units. Individually owned units may be considered overnight lodgings if they are available for overnight rental use by the general public for at least 45 days per calendar year through a central reservation and check in service. Tent sites, recreational vehicle parks, mobile homes, dormitory rooms and similar accommodations do not qualify as overnight lodgings for the purpose of this definition (ORS 197.435(5)).

149. Owner. An owner of property or the authorized agent of an owner.

150. Parcel. A single unit of land that is created by a partitioning of land (ORS 92.010(6)).

151. Partition. Either an act of partitioning land or an area or tract of land partitioned under the provisions of the Subdivision and Partition Ordinance (ORS 92.010(6)).

152. Partition Land. To divide land into two or three parcels of land within a calendar year, not including:

    A. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property, or the creation of cemetery lots;

    B. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning regulations;

    C. The division of land resulting from the recording of a subdivision or condominium plat; or,

    D. A sale or grant by a person to a public agency or public body for state highway, county road, city street, or other right-of-way purposes provided that such road or right of way complies with the applicable comprehensive plan and shall not constitute a separate parcel under this rule.

153. Picnic Park. Any recreation park which is for day use only and provides no recreation vehicle or overnight camping spaces.

154. Preserve. A tract of land or body of water used for the purpose of maintaining and protecting game and fish for private use in hunting or fishing.

155. Person. Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or any group or combination acting as a unit.

156. Property Line Adjustment. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance (ORS 92.010(12)).

157. Public Road. A road over which the public has a right of use that is a matter of public record.

158. Public Water System. A system for the provision to the public of piped water for human consumption. The system must have more than three service connections or supply water to a public or commercial establishment which operates a total of at least 60 days per year, and which is used by 10 or more individuals per day or is a facility licensed by the Environmental Health Division. A public water system may be further defined by the Environmental Health Division.

159. Ramada. A stationary structure having a roof extending over a manufactured dwelling; the structure may also extend over a patio or parking area for motor vehicles, which is used principally for protection from sun and rain.

160. Recreation Park. Any area designated by the person establishing, operating, managing or maintaining the same for picnicking or overnight camping by the general public or any segment of the public. "Recreation park" includes but is not limited to areas open to use free of charge or through payment of a tax or fee or by virtue of rental, lease, license, membership, association or common ownership and further includes, but is not limited to those areas divided into two or more lots, parcels, units or other interests for purposes of such use.

161. Recreational structure. A campground structure with or without plumbing, heating or cooking facilities intended to be used by any occupant on a limited-time basis for recreational, seasonal, emergency or transitional housing purposes and may include yurts, cabins, fabric structures or similar structures as further defined, by rule, or by the director (modified 11/1/00, Ord. 2000-42).

162. Recreational Vehicle. A vacation trailer or other unit with or without motive power, which is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes. The manufacturer shall identify the unit as a recreational vehicle (ORS 446.003(33))(modified 11/1/00, Ord. 2000-42).

163. Residential Facility. A facility licensed by or under the authority of the Dept. of Human Resources which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals (ORS 197.660(1)).

164. Residential Home. A home licensed under the authority of the Dept. of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related (ORS 197.660(2)).

165. Right-of-way. The area between boundary lines of a street or road.

166. Riparian Vegetation. Vegetation found on or near the banks of a river, stream, creek or other body of water.

167. Sanitary Land Fill. An area of land or an excavation in which wastes are placed for permanent disposal which must be in conformance with OAR Chapter 340, Division 94, and that is not a land application unit, surface impoundment, injection well, or waste pile.

168. Self Contained Development. A development for which community sewer and water facilities are provided onsite and are limited to meet the needs of the

development or are provided by existing public sewer or water service as long as all costs related to service extension and any capacity increases are borne by the development. A "self contained development" shall have developed recreational facilities provided on site (ORS 197.435(46)).

169. Scenic Easement. The right to control the use of land, including air space above the land, for the purpose of protecting the natural qualities of a designated area. This control does not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement.
170. Scenic Waterways. River, or segment of a river, that has been designated as such in accordance with ORS 390.805 to 390.925, or any subsequent Act, and includes related adjacent land (i.e. all land within one-fourth of one mile on each side of a river or segment of river within the scenic waterway, except land that, according to the judgment of the State Highway Department, does not affect the view from the waters within a scenic waterway).

171. School, Public and Private. An institution of learning which offers instruction as required by the State of Oregon to meet prescribed standards including kindergarten, elementary, secondary, higher education, vocational and trade schools.

172. Series Partition. A series of partitions of land within the State of Oregon resulting in the creation of four or more parcels over a period of more than one calendar year (ORS 92.305(10)).

173. Setback. A specified distance for the placement of a structure from, including but not limited to, a road, a right-of-way or easement, property line, other structure, septic system, well, river or other waterway, or natural or man-made resource.

174. Sign. An identification, description, illustration, or device which is affixed to or represented, directly or indirectly, upon a building, structure, or land, and which directs attention to a product, place, activity, person, institution or business (see def. – Advertising Structure).

175. Special Flood Hazard Area (SFHA). Areas subject to inundation from the waters of a 100-year flood (see def. – Flood Hazard Area (A)).

176. Start of Construction. (For Flood Administration Purposes) Includes substantial improvement, and shall refer to the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include the following: land preparation, including clearing, grading, and filling; the

installation of streets and/or walkways; excavation for a basement, footings, piers, or foundation or the erection of temporary forms; or the installation on the property of accessory buildings, including garages or sheds not occupied as dwelling units or not part of the main structure.

177. Street or Road. A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of lands, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining, or agricultural purposes.

178. Structural alteration. Any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.

179. Structure. Something constructed or built and having a fixed base, or fixed connection to the ground or another structure.

180. Subdivider. Any person who causes land to be subdivided into a subdivision, or who undertakes to develop a subdivision, but does not include a public agency or officer authorized by law to make subdivisions (ORS 92.305(13)).

181. Subdivided Land. Improved or unimproved land or lands divided, or created into interests or sold under an agreement to be subsequently divided or created into interests, for the purpose of sale or lease, whether immediate or future, into 11 or more undivided interests or four or more other interests. "Subdivided lands" and "subdivision" include but are not limited to a subdivision of land located within this state subject to an ordinance adopted under ORS 92.044 and do not include series partitioned lands. "Subdivided lands" and "subdivision" do not mean property located outside this state which has been committed to the condominium form of ownership in accordance with the laws of the jurisdiction within which the property is located (ORS 92.305(12)).

182. Subdivision. To divide land into four or more lots with a calendar year.

183. Subdivision Plat. A final map and other writings containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision.

184. Substantial Damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

185. Substantial Development. Actions taken by the permit holder, which encompass more than simple site preparation and grading. The permit holder shall have

accomplished significant physical development of the site, which may include the commencement of one or more services (sewer, septic system, water, storm drainage, parking, roads, etc.). If no physical improvements are required for the conditional use, operation of the project must have begun. The level of development must demonstrate a good faith commitment by the permit holder to beginning the project.

186. Substantial Improvement. Any repair, reconstruction, or improvement of a structure, beginning when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure, the cost of which equals or exceeds 50 percent of the market value of the structure as shown on the current Assessor's rolls or as determined by an M.A.I. qualified appraiser either:

    A. Before the improvement or repair is started; or,

    B. If the structure has been damaged and is being restored; before the damage occurred.

    The term does not, however, include either:

        a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or,

        b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

187. Substantial Interference. Interference which is caused by use of a groundwater source, which diminishes another groundwater source that is fully developed, to the extent that it will not supply its legally established use.

188. Tax Lot. An area of land utilized for tax assessment purposes. A tax lot shall not be construed to imply that the lot has been created in conformance with applicable land use regulations or that it can be independently developed or sold without conformance with all regulations.

189. Tentative Plan. A map and other writings submitted for review and approval for a subdivision, partition, replat or property line adjustment.

190. Tract. One or more contiguous lots or parcels in the same ownership.

191. Transfer Center. A facility where waste materials are taken from smaller collection vehicles and placed in larger vehicles for transport, including truck trailers, or railroad cars. Recycling and some processing may also take place at a transfer center.

192. Use. The primary or principal activity, structure or facility occurring on a lot or parcel of land. For the purposes of this Code, a change in tenancy is not considered a change in use. Further, a change of the use of a room in a single-family dwelling or duplex is not considered a change in use unless the change is to facilitate the operation of a home occupation or a bed and breakfast inn.

193. Utility Facility. Any major structure owned or operated by a public, private, or cooperative electric, fuel, communication, sewage, or water company for the generation, transmission, distribution, or processing of its products or for the disposal of cooling water, waste or by-products, and including power transmission lines, major trunk pipelines, power substations, dams, water towers, sewage lagoons, sanitary landfills and similar facilities, but excluding local sewer, water, gas, telephone and power distribution lines and similar minor facilities allowed in any zone.

194. Visitor-Oriented Accommodations. Overnight lodging, restaurants and meeting facilities, which are designed to provide for the needs of visitors rather than year round residence (ORS 197.435(5)).

195. Waste Tire. A tire that is no longer suitable for its original intended purpose because of weakness, damage, or defect (ORS 459.705(11)).

196. Waste Tire Store or Storage. The placing of waste tires in a manner that does not constitute disposal of the waste tires (ORS 459.705(7)).

197. Yard. An open space on a lot, which is unobstructed from the ground upward except as, otherwise provided in this ordinance.

198. Yard, front. A yard between side lot lines and measured horizontally at right angles to the front lot line from the nearest point of a building. Any yard meeting this definition and abutting on a street, other than an alley, shall be considered a front yard.

199. Yard, rear. A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building.

200. Yard, side. A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building.

201. Yard, street side. A yard adjacent to a street between the front yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building.

Section 1.050. Compliance with Ordinance

A lot may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied, or used only as this ordinance permits.

Article 2. Establishment Of Zones

Sections:

2.010. Classification of Zones
2.020. Location of Zones
2.030. Zoning Map
2.040. Zone Boundaries

Section 2.010. Classification of Zones

For the purposes of this ordinance, the following zones are hereby established.

Exclusive Farm and Range Use – 1	EFRU-1
Exclusive Farm and Range Use – 2	EFRU-2
Forest Use	FU
Airport Development Zone	AD-1
Airport Vicinity Overlay Zone	AVO
Rural Residential	R-1
Rural Recreational	R-2
Rural Service Center – Andrews	RSC-AN
Rural Commercial Area – Buchanan	RCA-BU
Rural Community – Crane	RC-CR
Rural Service Center – Diamond	RSC-DI
Rural Community – Drewsey	RC-DR
Rural Service Center – Fields	RSC-FI
Rural Service Center – Frenchglen	RSC-FR
Rural Commercial Area – Lawen	RCA-LA
Rural Commercial Area – Princeton	RCA-PR
Rural Commercial Area – Riley	RCA-RI
Rural Commercial Area – Wagontire	RCA-WA
Commercial and Industrial	C-1
Limited Use Combining Zone	LU
Mineral and Aggregate Resource Overlay Zone	MARO

Section 2.020. Location of Zones

The boundaries for the zones listed in this ordinance are indicated on the Harney County Zoning Map and any supporting recorded meets and bounds descriptions, which are hereby adopted by reference. The boundaries shall be modified in accordance with zoning map amendments, which shall be adopted by reference.

Section 2.030. Zoning Map

A zoning map amendment by Section 2.020 of this ordinance or by an amendment thereto shall be prepared by authority of the Planning Commission or be a modification by the County Court of a map or map amendment so prepared. The map or map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained in the office of the County Clerk as long as this ordinance remains in effect.

Section 2.040. Zone Boundaries

Unless otherwise specified, zone boundaries are section lines; subdivision lines; lot lines; centerlines of street or railroad rights-of-way; or such lines extended.

Article 3. Zoning Classifications Defined

Sections:

3.010. Exclusive Farm and Range Use – 1, EFRU-1
3.020. Exclusive Farm and Range Use – 2, EFRU-2
3.060. Forest Use, FU
3.070. Airport Development Zone, AD-1
3.080. Airport Vicinity Overlay Zone, AVO
3.090. Rural Residential, R-1
3.110. Rural Recreational, R-2
3.120.1 Rural Service Center – Andrews, RSC-AN
3.120.2 Rural Commercial Area – Buchanan, RCA-BU
3.120.3 Rural Community – Crane, RC-CR
3.120.4 Rural Service Center – Diamond, RSC-DI
3.120.5 Rural Community – Drewsey, RC-DR
3.120.6 Rural Service Center – Fields, RSC-FI
3.120.7 Rural Service Center – Frenchglen, RSC-FR
3.120.8 Rural Commercial Area – Lawen, RCA-LA
3.120.9 Rural Commercial Area – Princeton, RCA-PR
3.120.10 Rural Commercial Area – Riley, RCA-RI
3.120.11 Rural Commercial Area – Wagontire, RCA-WA
3.130. Commercial & Industrial Zone, C-1
3.140. Limited Use Combining Zone, LU
3.150. Mineral and Aggregate Resource Overlay Zone, MARO

Section 3.010. Exclusive Farm and Range Use – 1, EFRU-1

Sub-Sections:

1. **Uses Permitted**
2. **Uses Subject To Administrative Review**
3. **Conditional Uses Permitted**
4. **Dwellings Provided in Conjunction with Farm Use**
5. **Accessory Dwellings Provided in Conjunction with Farm Use**
6. **Dwellings Not Provided in Conjunction with Farm Use**
7. **Specific Review Criteria**
8. **Lot Size/Land Divisions**
9. **Standards**

It is the intent and purpose of the Exclusive Farm and Range Use – 1 Zone to be utilized in areas of Harney County that are primarily in agriculture use as indicated within the Harney County Comprehensive Plan. This zone shall serve to implement these Plan elements and Statewide Planning Goal – Agriculture 3.

It is further the intent and purpose to provide a zoning designation that will serve to protect the agricultural resources, by allowing only uses compatible to and supportive

of the resource, and also to provide a zoning designation in conformance with ORS 215.

It is further the intent and purpose to allow only lots of a minimum size that will permit operations appropriate for the continuation of the existing commercial agricultural operations in the area.

In an EFRU-1 Zone the following regulations shall apply:

1. Uses Permitted (Type I Decisions). In an EFRU-1 zone, the following uses and their accessory uses are permitted. These uses do not require land use approval. While some uses may prompt an inquiry to, and/or action by, the Planning Director, authorization of such uses does not require notice to adjacent property owners or other interested parties and does not constitute a land use decision pursuant to ORS 197.015(10).

A. Farm Use. As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the production of, livestock, poultry, fur bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines included but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3) or land described in ORS 321.267(1)(e) or 321.824.

B. Operations for the exploration of geothermal resources as defined by ORS 522.005(11), including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).

C. The propagation or harvesting of a forest product.

D. Climbing and passing lanes within the right-of-way existing as of July 1, 1987.

E. Temporary public roads or detours that will be abandoned and restored to original condition or use at such time as no longer needed.

F. Operations for the exploration for minerals as defined by ORS 517.750(7). Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).

G. Minor betterment of existing public roads and highway related facilities such as maintenance yards, weight stations and rest areas within the right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

H. Creation, restoration or enhancement of wetlands.

I. Alteration, restoration or replacement of a lawfully established dwelling that:

   a. Has intact exterior walls and roof structure;

   b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

   c. Has interior wiring for interior lights;

   d. Has a heating system;

   e. In the case that replacement is removed, demolished or converted to an allowable non-residential use within three months of completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for Harney County a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed record for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The Harney County Planning Director or the Director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph; and,

   f. Harney County shall require, as a condition of approval, that the landowner for the dwelling sign and record in the deeds records for the county a

document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

J. Seasonal farm worker housing as discussed in ORS 197.677 through 197.685.

K. A winery as described in ORS 215.452.

2. <u>Uses Subject To Administrative Review</u> (Type II Decisions). In the EFRU-1 Zone, the following uses and their accessory uses may be permitted if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Authorization of these uses does constitute a land use decision pursuant to ORS 197.015(10). Notice and an opportunity for a hearing must be provided in the manner described in ORS 215.416. These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.

A. Dwellings provided in conjunction with farm use pursuant to Section 3.010(4).

B. Accessory dwellings in conjunction with farm use pursuant to Section 3.010(5)(A).

C. Dwellings not provided in conjunction with farm use pursuant to Section 3.010(6)(A).

D. Churches and cemeteries in conjunction with churches:

a. New facilities may not:

I. Be established on high-value farmland; or,

II. Be established within three miles of an urban growth boundary.

b. Existing facilities may:

I. Be maintained, enhanced or expanded on the same tract subject to the review criteria of Section 3.010(7)(a).

E. 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 utility facility necessary for public service may be established as provided in ORS 215.275.

F. A facility for the primary processing of forest products, provided that such a facility does not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a facility may be approved for a one-year period, which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

G. Farm stands, if:

   a. The structures are designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and,

   b. 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.

H. A facility for the processing of farm crops. The processing facility must be located on a farm that provides at least one-quarter of the crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designed for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting a farm use. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility. Harney County shall not approve any division of a lot or parcel that separates a processing facility from the farm operation on which it is located.

I. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities 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 approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface pre-existed the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph 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. As used in this paragraph, "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 is controlled by radio, lines or design by a person on the ground.

J. Fire service facilities providing rural fire protection services.

K. Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505(1).

L. 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:

a. A public right of way;

b. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or,

c. The property to be served by the utility.

3. Conditional Uses Permitted (Type III Decisions). In the EFRU-1 Zone, the following uses and their accessory uses may be permitted if determined by the Planning Commission during a public hearing to satisfy the applicable criteria and provisions of law.

A. A dwelling on real property used for farm use if the dwelling is:

a. Located on the same lot or parcel as those terms are defined in ORS 92.010, as the dwelling of the farm operator;

b. To qualify, persons shall occupy a dwelling whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing;

c. The parcel is not subsequently divided; and,

d. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

B. Commercial activities in conjunction with farm use, but not including the processing of farm crops as described in Section 3.010(2)(H). Approval of this use is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

C. Personal-use airports for airplanes and helicopter pads, including associated hanger, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Department of Transportation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Department of Transportation. Approval of this use is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

D. Operations conducted for the mining and processing of geothermal resources as defined in ORS 522.005 or exploration, mining, and processing of aggregate and other mineral resources or other subsurface resources, and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 3.010(1)(B):

   a. Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

   b. Processing, as defined by ORS 517.750(11), of aggregate into asphalt or portland cement;

   c. Processing of other mineral resources and other subsurface resources; and,

   d. Approval of any use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(a), and any other applicable criteria or provision of law. Section 3.150 of this Ordinance may apply if the project meets the definition of a “significant site” (see Section 3.150(2)(X)).

E. Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards

described in ORS 215.296(1). As used in this paragraph, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

F. Private parks and campgrounds. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A tent, travel trailer or recreational vehicle may occupy campsites. Separate sewer, water or electric service hook-ups shall not be provided to individual campsites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six (6) month period. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

G. Parks, playgrounds or community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. A public park may be established consistent with the provisions of ORS 195.120. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

H. Golf Courses, as defined in Section 1.030, on land determined to not be high-value farmland, as defined in ORS 195.300. Approval of this use is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

I. Commercial utility facilities for the purpose of generating power for public use by sale. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A) & (B), and any other applicable criteria or provisions of law.

J. Home occupations carried on by the resident as an accessory use within dwellings or other buildings referred to in ORS 215.203(2)(b)(F) or (G) as provided in ORS 215.448. Approval of a use pursuant to this subsection is

subject to the review criteria of Section 3.010(7)(A) & (B), and any other applicable criteria or provisions of law.

K. One manufactured dwelling, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished, or in the case of an existing building, the building shall be removed, demolished or returned to an allowable non-residential use. The governing body or its designee shall provide for periodic review of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under Section 3.010(1)(I). Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A) & (B), and any other applicable criteria or provisions of law.

   a. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

L. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a Harney County inventory and the National Inventory of Historic Places as a historic property as defined in ORS 358.480(2).

   a. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

M. Transmission towers over 200 feet in height. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

N. Dog kennels not described in ORS 215.283(1)(j). Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

O. Residential homes as defined in ORS 197.660, in existing dwellings. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

a. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

P. The propagation, cultivation, maintenance and harvesting of aquatic or insect species. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

Q. Construction of additional passing lanes and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

R. 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. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(a), and any other applicable criteria or provisions of law.

S. Improvement of public roads and highway 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. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

T. Room and board arrangements for a maximum of five unrelated persons in existing residences.

U. Operations for the extraction and bottling of water.

V. Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.

W. A living history museum:

a. A living history museum related to resource-based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary.

b. As used in this paragraph:

I. "Living history museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and,

II. "Local historical society" means the local historical society recognized by the county governing body and organized under ORS chapter 65.

X. Wildlife habitat conservation and management plans.

Y. Guest Ranch. Notwithstanding ORS 215.283, a guest ranch may be established in conjunction with an existing livestock operation that qualifies as a farm use under ORS 215.203 and 3.010(1)(A). A guest ranch established under this subsection shall meet the following conditions:

a. Except as provided in paragraph c. of this subsection, the lodge, bunk house or cottages cumulatively shall:

I. Include not less than four nor more than ten (10) overnight guestrooms exclusive of kitchen areas, rest rooms, storage and other shared indoor facilities; and,

II. Not exceed a total of 12,000 square feet in floor area.

b. The guest ranch shall be located on a lawfully established parcel that is:

I. At least 160 acres;

II. Not within 10 air miles of an urban growth boundary containing a population greater than 5,000;

III. The parcel containing the dwelling of the person conducting the livestock operation; and,

IV. Not classified as high-value farmland as defined in ORS 215.710.

c. For each doubling of the initial 160 acres required under paragraph b. of this subsection, up to five additional overnight guestrooms and 3,000 square feet of floor area may be added to the guest ranch for a total of not more than 25 guestrooms and 21,000 square feet of floor area.

d. A guest ranch may provide recreational activities that can be provided in conjunction with the livestock operation's natural setting, including but not limited to hunting, fishing, hiking, biking, horseback riding, camping or swimming. Intensively developed recreational facilities such as golf courses as identified in ORS 215.283 shall not be allowed. A campground as described in ORS 215.283(2)(c) shall not be allowed in conjunction with a guest ranch, and a guest ranch shall not be allowed in conjunction with an existing golf course or with an existing campground under ORS 215.283(2)(c).

e. Food services shall be incidental to the operation of the guest ranch and shall be provided only for the guests of the guest ranch. The cost of the meals provided to the guests shall be included as part of the fee to visit or stay at the guest ranch. The sale of individual meals to persons who are not guests of the guest ranch shall not be allowed.

f. Approval of a guest ranch shall be subject to the provisions of Section 3.010(7)(a), and any other applicable criteria or provisions of law.

g. As used in this subsection:

   I. "Guest ranch" means a facility for overnight lodging incidental and accessory to an existing livestock facility that qualifies for farm use under ORS 215.203 and 3.010(1)(A). Guest ranch facilities may include a lodge, bunkhouse or cottage accommodations as well as passive recreational activities and food services as set forth in items b. and d. of this subsection.

   II. "Livestock" means cattle, sheep, horses and bison (Oregon Laws 1997, Chapter 728(1)).

h. Notwithstanding ORS 215.263, the governing body of Harney County or its designee shall not approve a proposed division of land in an exclusive farm use zone for a guest ranch as defined in item Y(g) of this subsection.

i. The governing body of Harney County or its designee shall not approve a proposed division of a lot or parcel that separates a guest ranch described in item Y(g) of this subsection from the dwelling of the person conducting the livestock operation (Oregon Laws 1997, Chapter 728).

Z. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located:

a. New facilities may not:

I. Be established on high-value farmland; or,

II. Be established within three miles of an Urban Growth Boundary.

b. Existing facilities may:

I. Be maintained, enhanced or expanded on the same tract subject to the review criteria of Section 3.010(7)(a).

AA. Dwellings not provided in conjunction with farm use pursuant to Section 3.010(6)(B).

BB. Expansion or replacement of an existing facility for an animal shelter as defined in ORS 609.500, if the shelter is tax exempt pursuant to section 501(c)(3) of the Internal Revenue Code as amended and in effect on January 1, 1999.

CC. Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of Harney County or its designee, in areas zoned for exclusive farm use subject to:

a. Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or,

b. ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission.

DD. Utility Facilities.

4. <u>Dwellings Provided In Conjunction With Farm Use</u> (Type II Decisions). In the EFRU-1 Zone, a dwelling in conjunction with farm use may be approved if one of the following (item A or B) is satisfied:

A. <u>Acreage Threshold</u>. A dwelling may be considered customarily provided in conjunction with farm use if:

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

b. The subject tract is currently employed for farm use, as defined in ORS 215.203;

c. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock at a commercial scale;

d. There is no other dwelling on the subject tract; and,

e. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

B. Farm Income Threshold. A dwelling may be considered customarily provided in conjunction with farm use if:

a. The subject tract is currently employed for farm use, as defined in ORS 215.203 that has produced $40,000 (1994) dollars in gross annual income from the sale of farm products in each of the last two years or three of the last five years;

b. Except as permitted by 3.010(1)(K) there is no other dwelling on the subject tract;

c. A person or persons who produced the commodities, which grossed the income, required in item 4(B)(a) would occupy the dwelling;

d. On determining the gross income required by item 4(B)(a) above, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned by the applicant, not leased or rented shall be counted; and,

e. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

5. Accessory Dwellings Provided In Conjunction With Farm Use (Type II Decisions). In the EFRU-1 Zone, an accessory dwelling may be provided in conjunction with an existing farm dwelling and may be approved subject to the following:

A. An accessory farm dwelling may be considered customarily provided in conjunction with farm use if it meets all of the following requirements:

a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator;

b. The accessory dwelling will be located:

I. On the same lot or parcel as the dwelling of the principal farm dwelling;

II. On the same tract as the principal farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or,

III. On a lot or parcel on which the principal farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the Harney County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to this subsection may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance is not or will not be required by the farm operator. The manufactured dwelling may remain if it is re-approved under 3.010(4);

c. There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling;

d. The principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203 and has produced $40,000 (1994 dollars) in gross annual income from the sale of farm products in each of the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and,

e. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document

binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

6. Dwellings Not Provided In Conjunction With Farm Use. In the EFRU-1 Zone two types of dwellings not provided in conjunction with farm use may be authorized.

A. Lot of Record Dwelling (Type II Decision). A dwelling not provided in conjunction with farm use may be approved if all of the following are satisfied:

a. The lot or parcel on which the dwelling will be established was lawfully created and was acquired and owned continuously by the present owner:

I. Since prior to January 1, 1985; or

II. By devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

III. For the purposes of this subsection, "owner" includes the spouse, child, parent, sibling, brother-in-law, sister-in-law, son-in-law, daughter-in-law, father-in-law, mother-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.

b. The tract on which the dwelling will be sited does not include a dwelling;

c. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no other dwelling may exist on another lot or parcel that was part of that tract;

d. The proposed dwelling is not prohibited by, and will comply with the provisions of the Harney County Comprehensive Plan and land use regulations and any other relevant provisions of law;

e. When the lot or parcel on which the dwelling will be sited lies within an area designated in the Harney County Comprehensive Plan as big game habitat, the siting of the dwelling shall be consistent with the Comprehensive Plan and land use regulations established to provide protection to the big game habitat resource;

f. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

g. The Harney County Planning Department shall notify the Harney County Assessor that they intend to approve the application;

h. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deed records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937; and,

i. When Harney County approves an application for a single-family dwelling under Section 3.010(6)(A) the approval may be transferred by the person who qualified under this subsection to any other person after the effective date of the land use decision. Transfers occurring pursuant to this paragraph may occur one time and one time only.

B. Non-farm Dwelling (Type III Decision). A single-family residential dwelling, not provided in conjunction with farm use, may be established upon findings that each of the following review criteria have been satisfied:

a. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

b. The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract; and,

I. The lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and,

II. The lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel, or portion of a lot or parcel, is presumed to be suitable for farm use if it is predominantly composed of Class I-VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or,

III. If the lot or parcel is under forest assessment, the dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of merchantable tree species

recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. If a lot or parcel is under forest assessment the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable." A lot or parcel, or portion of a lot or parcel, under forest assessment is presumed suitable for farm use if it is predominantly composed of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on surrounding lands;

c. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the overall land use pattern of the area, Harney County shall consider the cumulative impact of new non-farm dwellings on other lots or parcels similarly situated in the area. To address this standard the county shall:

   I. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres, or a smaller area not less than 1000 acres if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area;

   II. Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved under this section, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings under ORS 215.263(4) and 3.010(8). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern

that could result from approval of the possible non-farm dwellings under this paragraph; and,

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

d. The dwelling will be sited on a lot or parcel created before January 1, 1993;

e. The dwelling complies with such other conditions, as Harney County considers necessary;

f. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937; and,

g. Harney County shall not grant final approval of a non-farm dwelling under this subsection on a lot or parcel that is, or has been, receiving special assessment without evidence that the lot or parcel upon which the dwelling is proposal has been disqualified for special assessment at a value for farm use or other special assessment under ORS 308A.253, 321.257 to 321.367 and any additional tax imposed as the result of disqualification has been paid.

7. Specific Review Criteria. In the EFRU-1 Zone certain uses are subject to specific criteria, in addition to any other applicable criteria. The specific provisions of this subsection apply only when referenced within the list of uses included in subsections 3.010(2) and (3).

A. The use may be approved only where Harney County finds that the use will not:

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

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

8. Lot Size/Land Divisions. Any proposed division of land included within an exclusive farm use zone resulting in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the governing body or its designee of Harney County. The governing body of the county by ordinance shall require such prior review and approval for such divisions of land within exclusive farm use zones established within the county.

A. Farm Related Land Divisions (Type II Decisions). The governing body of Harney County may approve a proposed division of land to create parcels for farm use as defined in ORS 215.203 if it finds:

a. That the proposed division of land is appropriate for the continuation of the existing commercial agricultural enterprise within the area; or

b. The parcels created by the proposed division are not smaller than the minimum lot size acknowledged under ORS 215.780. The minimum lot size in the EFRU-1 Zone is 160-acres.

B. Non-farm Related Land Divisions (Type III Decisions). New parcels less than 160-acres may be created subject to the following standards:

a. The governing body of Harney County may approve a proposed division of land in an exclusive farm use zone for non-farm uses, except dwellings, set out in ORS 215.213(2) or 215.283(2) if it finds that the parcel for the non-farm use is not larger than the minimum size necessary for the use. The governing body may establish other criteria, as it considers necessary.

b. The governing body of Harney County may approve a division of land in an exclusive farm use zone for a dwelling not provided in conjunction with farm use only if the dwelling has been approved under ORS 215.213(3) or 215.284. The governing body of the county shall not approve a subdivision or series partition for a dwelling not provided in conjunction with farm use. The provisions of this subsection regarding a series partition apply only to applications for a land division submitted after July 1, 1997. For purposes of this subsection, "series partition" shall have the meaning given that term in ORS 92.305(11).

c. This section shall not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.

d. This section shall not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.

e. The governing body of Harney County may approve a proposed division of land in an exclusive farm use zone to create a parcel with an existing dwelling to be used:

I. As a residential home as described in ORS 197.660(2) only if the dwelling has been approved under ORS 215.213(3) or 215.284(1), (2), (3) or (4); and,

II. For historic property that meets the requirements of ORS 215.213(1)(q) and 215.283(1)(o).

f. The governing body of Harney County shall not approve a division of land for non-farm use under subsection (a), (b) or (f) of this section unless any additional tax imposed for the change in use has been paid, and,

g. Parcels used or to be used for training or stabling facilities shall not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.

9. Setback Standards.

A. The setback from all property lines shall be a minimum of 20 feet.

B. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of 100 feet measured at right angles to the high water line.

ORDINANCE HISTORY NOTES: The Exclusive Farm and Range Use-1 Zone provisions, Section 3.010 of the Harney County Zoning Ordinance was modified and adopted by the County Court on February 24, 1999 through a Periodic Review Work Task. The review and revision of this section subsequently occurred during May-June, 2000 as part (Work Task 2) of a voluntary Modified Revised Periodic Review Work Task via DLCD Grant No. TA-R-01-012. Section 3.010 was subsequently readopted by Harney County on August 16, 2000 and acknowledged by LCDC on May 10, 2002. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 3.020. Exclusive Farm and Range Use – 2, EFRU-2

Sub-Sections:

1. **Uses Permitted**
2. **Uses Subject To Administrative Review**
3. **Conditional Uses Permitted**
4. **Dwellings Provided in Conjunction with Farm Use**
5. **Accessory Dwellings Provided in Conjunction with Farm Use**
6. **Dwellings Not Provided in Conjunction with Farm Use**
7. **Specific Review Criteria**
8. **Lot Size/Land Divisions**
9. **Standards**

It is the intent and purpose of the Exclusive Farm and Range Use – 2 Zone to be utilized in areas of Harney County that are primarily in agriculture use as indicated within the Harney County Comprehensive Plan. This zone shall serve to implement these Plan elements and Statewide Planning Goal – Agriculture 3.

It is further the intent and purpose to provide a zoning designation that will serve to protect the agricultural resources, by allowing only uses compatible to and supportive of the resource, and also to provide a zoning designation in conformance with ORS 215.

It is further the intent and purpose to allow only lots of a minimum size that will permit operations appropriate for the continuation of the existing commercial agricultural operations in the area.

In an EFRU-2 Zone the following regulations shall apply:

1. Uses Permitted (Type I Decisions). In an EFRU-2 zone, the following uses and their accessory uses are permitted. These uses do not require land use approval. While some uses may prompt an inquiry to, and/or action by, the Planning Director, authorization of such uses does not require notice to adjacent property owners or other interested parties and does not constitute a land use decision pursuant to ORS 197.015(10).

A. Farm Use. As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur bearing animals, or honeybees, or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also

includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3) or land described in ORS 321.267(1)(e) or 321.415(5) [ORS 215.203(2)(a)].

B. Operations for the exploration of geothermal resources as defined by ORS 522.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).

C. The propagation or harvesting of a forest product.

D. Climbing and passing lanes within the right-of-way existing as of July 1, 1987.

E. Temporary public roads or detours that will be abandoned and restored to original condition or use at such time as no longer needed.

F. Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).

G. Minor betterment of existing public roads and highway related facilities such as maintenance yards, weight stations and rest areas within the right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

H. Creation, restoration or enhancement of wetlands.

I. Alteration, restoration or replacement of a lawfully established dwelling that:

   a. Has intact exterior walls and roof structure;

   b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

   c. Has interior wiring for interior lights;

   d. Has a heating system;

e. In the case of replacement is removed, demolished, or converted to an allowable non-residential use within three months of completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for Harney County a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed record for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The Harney County Planning Director or the Director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph; and,

f. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

J. Seasonal farm worker housing as defined in ORS 197.675.

K. A winery as described in ORS 215.452.

2. <u>Uses Subject To Administrative Review</u> (Type II Decisions). In the EFRU-2 Zone, the following uses and their accessory uses may be permitted if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Authorization of these uses does constitute a land use decision pursuant to ORS 197.015(10). Notice and an opportunity for a hearing must be provided in the manner described in ORS 215.416. These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.

A. Dwellings provided in conjunction with farm use pursuant to Section 3.020(4).

B. Accessory dwellings in conjunction with farm use pursuant to Section 3.020(5)(A).

C. Dwellings not provided in conjunction with farm use pursuant to Section 3.020(6)(A).

D. Churches and cemeteries in conjunction with churches:

   a. New facilities may not:

      I. Be established on high-value farmland; or,

      II. Be established within three miles of an urban growth boundary.

   b. Existing facilities may:

      I. Be maintained, enhanced or expanded on the same tract subject to the review criteria of Section 3.010(7)(a).

E. 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 utility facility necessary for public service may be established as provided in ORS 215.275.

F. A facility for the primary processing of forest products, provided that such a facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a facility may be approved for a one-year period, which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

G. Farm stands, if:

   a. The structures are designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and,

   b. 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.

H. A facility for the processing of farm crops. The processing facility must be located on a farm that provides at least one-quarter of the crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designed for

preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting a farm use. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility. Harney County shall not approve any division of a lot or parcel that separates a processing facility from the farm operation on which it is located.

I. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities 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 approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface pre-existed the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph 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. As used in this paragraph, "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 is controlled by radio, lines or design by a person on the ground.

J. Fire service facilities providing rural fire protection services.

K. Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

L. 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:

   a. A public right of way;

   b. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or,

   c. The property to be served by the utility.

3. <u>Conditional Uses Permitted</u> (Type III Decisions). In the EFRU-2 Zone, the following uses and their accessory uses may be permitted if determined by the Planning Commission during a public hearing to satisfy the applicable criteria and provisions of law.

A. A dwelling on real property used for farm use if the dwelling is:

a. Located on the same lot or parcel as those terms are defined in ORS 92.010, as the dwelling of the farm operator;

b. To qualify, persons shall occupy a dwelling whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing;

c. The parcel is not subsequently divided; and,

d. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

B. Commercial activities in conjunction with farm use, but not including the processing of farm crops as described in Section 3.020(2)(I). Approval of this use is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.

C. Personal-use airports for airplanes and helicopter pads, including associated hanger, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Department of Transportation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Department of Transportation. Approval of this use is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.

D. Operations conducted for the mining and processing of geothermal resources as defined in ORS 522.005 or exploration, mining and processing of aggregate and other mineral resources or other subsurface resources and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 3.020(1)(B):

a. Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

b. Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement;

c. Processing of other mineral resources and other subsurface resources; and,

d. Approval of any use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(a), and any other applicable criteria or provision of law. Section 3.150 of this Ordinance may apply if the project meets the definition of a "significant site" (see Section 3.150(2)(X)).

E. Private parks, playgrounds, hunting and fishing preserves and campgrounds. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this paragraph, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

F. Private parks and campgrounds. Except on lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A tent, travel trailer or recreational vehicle may occupy campsites. Separate sewer, water or electric service hook-ups shall not be provided to individual campsites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six (6) month period. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.

G. Parks, playgrounds or community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of

the local rural community. A public park may be established consistent with the provisions of ORS 195.120. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.

H. Golf Courses, as defined in Section 1.030, on land determined to not be high-value farmland, as defined in ORS 195.300. Approval of this use is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

I. Commercial utility facilities for the purpose of generating power for public use by sale. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A) & (B), and any other applicable criteria or provisions of law.

J. Home occupations carried on by the resident as an accessory use within dwellings or other buildings referred to in ORS 215.203(2)(b)(F) or (G) as provided in ORS 215.448. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A) & (B), and any other applicable criteria or provisions of law.

K. One manufactured dwelling, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished, or in the case of an existing building, the building shall be removed, demolished or returned to an allowable non-residential use. The governing body or its designee shall provide for periodic review of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under Section 3.020(1)(I). Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A) & (B), and any other applicable criteria or provisions of law.

   a. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

L. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a Harney County inventory and the National Inventory of Historic Places as a historic property as defined in ORS 358.480.

   a. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document

binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

M. Transmission towers over 200 feet in height. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.

N. Dog kennels not described in ORS 215.283(1)(j). Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.

O. Residential homes as defined in ORS 197.660, in existing dwellings. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.

   a. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

P. The propagation, cultivation, maintenance and harvesting of aquatic or insect species. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.

Q. Construction of additional passing lanes and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.

R. 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. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(a), and any other applicable criteria or provisions of law.

S. Improvement of public roads and highway 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. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(A), and any other applicable criteria or provisions of law.

T. Room and board arrangements for a maximum of five unrelated persons in existing residences.

U. Operations for the extraction and bottling of water.

V. Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.

W. A living history museum:

a. A living history museum related to resource based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary.

b. As used in this paragraph:

I. “Living history museum” means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and,

II. “Local historical society” means the local historical society recognized by the county governing body and organized under ORS chapter 65.

X. Wildlife habitat conservation and management plans pursuant to ORS 215.800 – 215.808.

Y. Guest Ranch. Notwithstanding ORS 215.283, a guest ranch may be established in conjunction with an existing livestock operation that qualifies as a farm use under ORS 215.203 and 3.020(1)(A). A guest ranch established under this subsection shall meet the following conditions:

a. Except as provided in paragraph c. of this subsection, the lodge, bunk house or cottages cumulatively shall:

I. Include not less than four nor more than ten (10) overnight guestrooms exclusive of kitchen areas, rest rooms, storage and other shared indoor facilities; and,

II. Not exceed a total of 12,000 square feet in floor area.

b. The guest ranch shall be located on a lawfully established parcel that is:

I. At least 160 acres;

II. Not within 10 air miles of an urban growth boundary containing a population greater than 5,000;

III. The parcel containing the dwelling of the person conducting the livestock operation; and,

IV. Not classified as high-value farmland as defined in ORS 215.710.

c. For each doubling of the initial 160 acres required under paragraph b. of this subsection, up to five additional overnight guestrooms and 3,000 square feet of floor area may be added to the guest ranch for a total of not more than 25 guestrooms and 21,000 square feet of floor area.

d. A guest ranch may provide recreational activities that can be provided in conjunction with the livestock operation's natural setting, including but not limited to hunting, fishing, hiking, biking, horseback riding, camping or swimming. Intensively developed recreational facilities such as golf courses as identified in ORS 215.283 shall not be allowed. A campground as described in ORS 215.283(2)(c) shall not be allowed in conjunction with a guest ranch, and a guest ranch shall not be allowed in conjunction with an existing golf course under ORS 215.283(2)(e) or with an existing campground under ORS 215.283(2)(c).

e. Food services shall be incidental to the operation of the guest ranch and shall be provided only for the guests of the guest ranch. The cost of the meals provided to the guests shall be included as part of the fee to visit or stay at the guest ranch. The sale of individual meals to persons who are not guests of the guest ranch shall not be allowed.

f. Approval of a guest ranch shall be subject to the provisions of Section 3.020(7)(a), and any other applicable criteria or provisions of law.

g. As used in this subsection:

I. "Guest ranch" means a facility for overnight lodging incidental and accessory to an existing livestock facility that qualifies for farm use under

ORS 215.203 and 3.020(1)(A). Guest ranch facilities may include a lodge, bunkhouse or cottage accommodations as well as passive recreational activities and food services as set forth in items b. and d. of this subsection.

II. "Livestock" means cattle, sheep, horses and bison (Oregon Laws 1997, Chapter 728(1)).

h. Notwithstanding ORS 215.263, the governing body of Harney County or its designee shall not approve a proposed division of land in an exclusive farm use zone for a guest ranch as defined in item Y(g) of this subsection.

i. The governing body of Harney County or its designee shall not approve a proposed division of a lot or parcel that separates a guest ranch described in item Y(g) of this subsection from the dwelling of the person conducting the livestock operation (Oregon Laws 1997, Chapter 728).

Z. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located:

a. New facilities may not:

I. Be established on high-value farmland; or,

II. Be established within three miles of an Urban Growth Boundary.

b. Existing facilities may:

I. Be maintained, enhanced or expanded on the same tract subject to the review criteria of Section 3.010(7)(a).

AA. Dwellings not provided in conjunction with farm use pursuant to Section 3.020(6)(B).

BB. Expansion or replacement of an existing facility for an animal shelter as defined in ORS 609.500, if the shelter is tax exempt pursuant to section 501(c)(3) of the Internal Revenue Code as amended and in effect on January 1, 1999.

CC. Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of Harney County or its designee, in areas zoned for exclusive farm use subject to:

a. Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or,

b. ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission.

DD. Utility Facilities.

4. <u>Dwellings Provided In Conjunction With Farm Use</u> (Type II Decisions). In the EFRU-2 Zone, a dwelling in conjunction with farm use may be approved if one of the following (item A or B) is satisfied.

A. <u>Acreage Threshold</u>. A dwelling may be considered customarily provided in conjunction with farm use if:

a. The parcel or which the dwelling will be located is at least 160 acres;

b. The subject tract is currently employed for farm use, as defined in ORS 215.203;

c. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock at a commercial scale;

d. Except as permitted by 3.020(1)(K), there is no other dwelling on the subject tract; and,

e. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

B. <u>Farm Income Threshold</u>. A dwelling may be considered customarily provided in conjunction with farm use if:

a. The subject tract is currently employed for farm use, as defined in ORS 215.203 that has produced $40,000 (1994) dollars in gross annual income from the sale of farm products in each of the last two years or three of the last five years;

b. Except as permitted by 3.020(1)(K) there is no other dwelling on the subject tract;

c. A person or persons who produced the commodities, which grossed the income, required in item 4(B)(a) would occupy the dwelling above;

d. On determining the gross income required by item 4(B)(a) above, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned by the applicant, not leased or rented shall be counted; and,

e. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

5. Accessory Dwellings Provided In Conjunction With Farm Use (Type II Decisions). In the EFRU-2 Zone, an accessory dwelling may be provided in conjunction with an existing farm dwelling may be approved subject to the following.

A. An accessory farm dwelling may be considered customarily provided in conjunction with farm use if it meets all of the following requirements:

a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and,

b. The accessory dwelling will be located:

I. On the same lot or parcel as the dwelling of the principal farm dwelling;

II. On the same tract as the principal farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or,

III. On a lot or parcel on which the principal farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the Harney County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to this subsection may not be occupied by a person or person who will not be principally engaged in the farm use of the land and whose assistance is not or will not be required by the farm operator. The manufactured dwelling may remain if it is re-approved under 3.020(4);

c. There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling;

d. The principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203 and has produced $40,000 (1994 dollars) in gross annual income from the sale of farm products in each of the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and,

e. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

6. Dwellings Not Provided In Conjunction With Farm Use. In the EFRU-2 Zone two types of dwellings not provided in conjunction with farm use may be authorized.

A. Lot of Record Dwelling (Type II Decision). A dwelling not provided in conjunction with farm use may be approved if all of the following are satisfied:

a. The lot or parcel on which the dwelling will be established was lawfully created and was acquired and owned continuously by the present owner:

I. Since prior to January 1, 1985; or,

II. By devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

III. For the purposes of this subsection, "owner" includes the spouse, child, parent, sibling, brother-in-law, sister-in-law, son-in-law, daughter-in-law, father-in-law, mother-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.

b. The tract on which the dwelling will be sited does not include a dwelling;

c. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no other dwelling may exist on another lot or parcel that was part of that tract;

d. The proposed dwelling is not prohibited by, and will comply with the provisions of the Harney County Comprehensive Plan and land use regulations and any other relevant provisions of law;

e. When the lot or parcel on which the dwelling will be sited lies within an area designated in the Harney County Comprehensive Plan as big game habitat, the siting of the dwelling shall be consistent with the Comprehensive Plan and land use regulations established to provide protection to the big game habitat resource;

f. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

g. The Harney County Planning Department shall notify the Harney County Assessor that they intend to approve the application;

h. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deed records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937; and,

i. When Harney County approves an application for a single-family dwelling under Section 3.020(6)(A) the approval may be transferred by the person who qualified under this subsection to any other person after the effective date of the land use decision. Transfers occurring pursuant to this paragraph may occur one time and one time only.

B. Non-farm Dwelling (Type III Decision). A single-family residential dwelling, not provided in conjunction with farm use, may be established upon findings that each of the following review criteria have been satisfied:

a. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

b. The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract; and,

I. The lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and,

II. The lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel, or portion of a lot or parcel, is presumed to be suitable for farm use if it is predominantly composed of Class I-VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or,

III. If the lot or parcel is under forest assessment, the dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. If a lot or parcel is under forest assessment the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable." A lot or parcel, or portion of a lot or parcel, under forest assessment is presumed suitable for farm use if it is predominantly composed of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on surrounding lands.

c. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the overall land use pattern of the area, Harney County shall consider the cumulative impact of new non-farm dwellings on other lots or parcels similarly situated in the area. To address this standard the county shall:

I. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres, or a smaller area not less than 1000 acres if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and

is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area;

II. Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved under this section, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings under ORS 215.263(4) and 3.010(8). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this paragraph; and,

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

d. The dwelling will be sited on a lot or parcel created before January 1, 1993;

e. The dwelling complies with such other conditions, as Harney County considers necessary;

f. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937; and,

g. Harney County shall not grant final approval of a non-farm dwelling under this subsection on a lot or parcel that is, or has been, receiving special assessment without evidence that the lot or parcel upon which the dwelling is proposal has been disqualified for special assessment at a value for farm use or other special assessment under ORS 308A.253, 321.257 to 321.367

and any additional tax imposed as the result of disqualification has been paid.

7. Specific Review Criteria. In the EFRU-2 Zone certain uses are subject to specific criteria, in addition to any other applicable criteria. The specific provisions of this subsection apply only when referenced within the list of uses included in subsections 3.020(2) and (3).

A. The use may be approved only where Harney County finds that the use will not:

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

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

8. Lot Size/Land Divisions. Any proposed division of land included within an exclusive farm use zone resulting in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the governing body or its designee of Harney County. The governing body of the county by ordinance shall require such prior review and approval for such divisions of land within exclusive farm use zones established within the county.

A. Farm Related Land Divisions (Type II Decisions). The governing body of Harney County may approve a proposed division of land to create parcels for farm use as defined in ORS 215.203 if it finds:

a. That the proposed division of land is appropriate for the continuation of the existing commercial agricultural enterprise within the area; or,

b. The parcels created by the proposed division are not smaller than the minimum lot size acknowledged under ORS 197.251 (ORS 215.780). The minimum lot size in the EFRU-2 Zone is 80-acres.

B. Non-farm Related Land Divisions (Type III Decisions). New parcels less than 160-acres may be created subject to the following standards:

a. The governing body of Harney County may approve a proposed division of land in an exclusive farm use zone for non-farm uses, except dwellings, set out in ORS 215.213(2) or 215.283(2) if it finds that the parcel for the non-farm use is not larger than the minimum size necessary for the use. The governing body may establish other criteria, as it considers necessary;

b. The governing body of Harney County may approve a division of land in an exclusive farm use zone for a dwelling not provided in conjunction with farm use only if the dwelling has been approved under ORS 215.213(3) or 215.284(3) or (4). The governing body of the county shall not approve a subdivision or series partition for a dwelling not provided in conjunction with farm use. The provisions of this subsection regarding a series partition apply only to applications for a land division submitted after July 1, 1997. For purposes of this subsection, "series partition" shall have the meaning given that term in ORS 92.305;

c. This section shall not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established;

d. This section shall not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property;

e. The governing body of Harney County shall not approve any proposed division of a lot or parcel described in ORS 215.213(1)(e) or (k), 215.283(1)(e) or (2)(k) or 215.284(1), or a proposed division that separates a processing facility from the farm operation specified in ORS 215.213(1)(y) or 215.283(1)(v);

f. The governing body of Harney County may approve a proposed division of land in an exclusive farm use zone to create a parcel with an existing dwelling to be used:

   I. As a residential home as described in ORS 197.660(2) only if the dwelling has been approved under ORS 215.213(3) or 215.284(1), (2), (3) or (4); and,

   II. For historic property that meets the requirements of ORS 215.213(1)(q) and 215.283(1)(o).

g. The governing body of Harney County shall not approve a division of land for non-farm use under subsection (a), (b) or (f) of this section unless any additional tax imposed for the change in use has been paid; and,

h. Parcels used or to be used for training or stabling facilities shall not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.

9. Setback Standards

A. The setback from all property lines shall be a minimum of 20 feet.

B. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of 100 feet measured at right angles to the high water line.

ORDINANCE HISTORY NOTES: The Exclusive Farm and Range Use-2 Zone provisions, Section 3.020 of the Harney County Zoning Ordinance was modified and adopted by the County Court on February 24, 1999 through a Periodic Review Work Task. The review and revision of this section subsequently occurred during May-June, 2000 as part (Work Task 2) of a voluntary Modified Revised Periodic Review Work Task via DLCD Grant No. TA-R-01-012. Section 3.020 was subsequently readopted by Harney County on August 16, 2000 and acknowledged by LCDC on May 10, 2002. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 3.060. Forest Use, FU

Sub-Sections:

1. **Definitions**
2. **Uses Permitted**
3. **Uses Subject To Administrative Review**
4. **Conditional Uses Permitted**
5. **Specific Review Criteria**
6. **Single-Family Dwellings**
7. **Sitting Standards for Dwellings and Structures**
8. **Fire Sitting Standards for Dwellings and Structures**
9. **Land Divisions**
10. **Setback Requirements**

The purposes of the Forest Use Zone are to conserve and protect designated lands for forest uses including protection of watershed, fish and wildlife habitat, unusual or unique recreational opportunities as well as timber management and to minimize potential hazards or damage from fire, pollution, erosion or urban development and to allow for the management of farm and ranch parcels.

1. Definitions: For the purpose of this section, the following definitions apply:

A. Definitions contained in ORS 197.015 and the Statewide Planning Goals.

B. Auxiliary: A use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on-site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

C. Commercial Tree Species: Tree species recognized under rules adopted under ORS 527.715 for commercial production.

D. Cubic Foot Per Acre: The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

E. Cubic Foot Per Tract Per Year: The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method

for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

F. Date of Creation and Existence: When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.

G. Forest Operation: Any commercial activity relating to the growing or harvesting or any forest tree species as defined in ORS 527.620(6).

H. Lot: shall have the meaning set forth in ORS 92.010(4) and "parcel" shall have the meaning set forth ORS 215.010.

I. Temporary: Unless otherwise defined, “temporary” means not to exceed six (6) months.

J. Tract: One or more contiguous lots or parcels in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.

2. Uses Permitted (Type I Decisions). In the Forest Use Zone the following uses are permitted. These uses do not require land use approval. While some uses may prompt an inquiry to, and/or action by the Planning Director, authorization of such uses does not require notice to adjacent property owners or other interested parties and does not constitute a land use decision pursuant to ORS 197.015(10).

A. Forest operations or forest practices including, but not limited to, reforestation of forestland, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;

B. Temporary on-site structures, which are auxiliary to and used during the term of a particular forest operation;

C. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities;

D. For the purposes of subsection (2) of this rule “auxiliary” means a use or alteration of a structure or land, which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest’s entire growth

cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded;

E. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources;

F. Farm use as defined in ORS 215.203(2);

G. Local distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups;

H. Temporary portable facility for the primary processing of forest products;

I. Exploration for mineral and aggregate resources as defined in ORS Chapter 517;

J. Private hunting and fishing operations without any lodging accommodations;

K. Towers and fire stations for forest fire protection;

L. Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans including public road and highway projects as described in ORS 215.213(1)(m) through (p) and 215.283(1)(k) through (n);

M. Water intake facilities, canals and distribution lines for farm irrigation and ponds;

N. Caretaker residences for public parks and fish hatcheries;

O. Uninhabitable structures accessory to fish and wildlife enhancement;

P. Temporary forest labor camps;

Q. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head;

R. Disposal site for solid waste that has been ordered and established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation; and,

S. Alteration, restoration or replacement of a lawfully established dwelling that:

   a. Has intact exterior walls and roof structures;

b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

c. Has interior wiring for interior lights;

d. Has a heating system; and,

e. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

3. Uses Subject To Administrative Review (Type II Decisions). In the Forest Use Zone, the following uses and their accessory uses may be permitted if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Authorization of these uses does constitute a land use decision pursuant to ORS 197.015(10). Notice and an opportunity for a hearing must be provided in the manner described in ORS 215.416. Review of these uses may be referred to the Planning Commission if deemed appropriate by the Planning Director:

A. Single-family dwellings pursuant to subsection 3.060(6) of this section.

B. Television, microwave and radio communication facilities and transmission towers subject to the review criteria of subsection 3.060(5) of this section and any other applicable provisions of law.

C. Fire stations for rural fire protection subject to the review criteria of subsection 3.060(5) of this section and any other applicable provisions of law.

D. Reservoirs and water impoundments subject to the review criteria of subsection 3.060(5) of this section and any other applicable provisions of law.

4. Conditional Uses Permitted (Type III Decisions). In the Forest Use Zone, the following uses and their accessory uses may be permitted if determined by the Hearings officer or Planning Commission during a public hearing to satisfy the criteria of subsection 3.060(5) of this section and any other applicable provisions of law. Notice of the hearing must be provided in the manner described in ORS 215.416.

A. Permanent facility for the primary processing of forest products.

B. Permanent logging equipment repair and storage.

C. Log scaling and weigh stations.

D. Disposal site for solid waste approved by the governing body of Harney County 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 operation.

E. Private parks and campgrounds. Campgrounds in private parks shall only be those allowed by this subsection. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds are not allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732(1)(b) and OAR Chapter 660, Division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A tent, travel trailer or recreational vehicle may occupy campsites. Separate sewer, water or electric service hook-ups shall not be provided to individual campsites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six (6) month period.

F. Public parks including only those uses specified under OAR 660-034-0035.

G. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520 and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.

H. Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than ten acres from use as a commercial forest operation unless an exception is taken pursuant to OAR Chapter 660, Division 4.

I. Aids to navigation and aviation.

J. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.

K. Firearms training facility.

L. Cemeteries.

M. Private seasonal accommodations for fee hunting operations may be allowed subject to subsections 3.060(5), (7) & (8) of this section and the following requirements:

   a. Accommodations are limited to no more than 15 guestrooms as that term is defined in the Oregon Structural Specialty Code;

   b. Only minor incidental and accessory retail sales are permitted;

   c. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and,

   d. A governing body may impose other appropriate conditions.

N. New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width.

O. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.

P. Home occupations as defined in ORS 215.448.

Q. A manufactured dwelling, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative as manufactured dwelling is defined in ORS 215.213(K) and 215.283(L). The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured dwelling will use a public sanitary sewer system, such condition will not be required. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this subsection is not eligible for replacement under this rule. Governing bodies shall review the permit authorizing such manufactured homes every two years. When the hardships end, governing bodies or their designate shall require the removal of such manufactured homes. Oregon Department of Environmental Quality review and removal requirements also apply to such manufactured homes. As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

R. Expansion of existing airports.

S. Public road and highway projects as described in ORS 215.213(2) and (10) and 215.283(2)(q) through (s) and (3).

T. Private accommodations for fishing occupied on a temporary basis may be allowed subject to subsections 3.060(5), (7) and (8) of this section and the following requirements:

   a. Accommodations limited to no more than 15 guestrooms as that term is defined in the Oregon Structural Specialty Code;

   b. Only minor incidental and accessory retail sales are permitted;

   c. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;

   d. Accommodations must be located within ¼ mile of fish bearing Class I waters; and,

   e. A governing body may impose other appropriate conditions.

U. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.

V. Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.465 and Goal 8, Recreational Needs.

W. Utility Facilities.

5. Specific Review Criteria. In the Forest Use Zone certain uses are subject to specific criteria. The specific criteria included in this subsection apply to those uses as referenced in the text of this section. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forestlands:

A. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forestlands;

B. The proposed use will not significantly increase fire hazard, fire suppression costs, or risks to fire suppression personnel; and

C. A written statement recorded with the deed or written contract with Harney County or its equivalent is obtained from the landowner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in paragraphs (3)(d) and (4)(e), (p), (s), (q) and (t) of this section.

6. Single-Family Dwellings (Type II Decisions). In the Forest Use Zone a single-family dwelling may be established pursuant to the independent opportunities and standards listed below:

A. Large Tract Dwelling. A single-family dwelling may be established if:

a. The tract consists of at least 240 contiguous acres and a deed restriction is filed pursuant to paragraph 3.060(6)(E); or

b. There are 320 acres in one ownership that are not contiguous but are located in Harney County, or a combination of Harney, Crook, Deschutes, Lake, Malheur and Grant counties and zoned for forest use. A deed restriction shall be filed pursuant to paragraph 3.060(6)(E) for all tracts that are used to meet the acreage requirements of this paragraph.

B. Lot of Record Dwelling. A single-family dwelling may be established if:

a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in paragraph 3.060(6)(B)(d) below:

I. Since prior to January 1, 1985; or,

II. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

b. The tract on which the dwelling will be sited does not include a dwelling;

c. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993; and no dwelling exists on another lot or parcel that was part of that tract;

d. For purposes of paragraph 3.060(6)(B)(a) above, An “owner” includes the spouse, child, parent, sibling, brother-in-law, sister-in-law, daughter-in-law, father-in-law, mother-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members;

e. The dwelling is located on a tract in eastern Oregon that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001(5) that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be:

I. A United States Bureau of Land Management road; or

II. A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

f. A dwelling authorized under paragraph 3.060(6)(B) shall comply with the following requirements:

I. When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based; and,

II. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.

C. Template Dwellings. A single-family dwelling may be established if the lot or parcel is predominantly composed of soils that are:

a. Capable of producing 0 to 20 cubic feet per acre per year of wood fiber; and,

I. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

II. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

b. Capable of producing 21 to 50 cubic feet per acre per year of wood fiber; and,

I. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and,

II. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

c. Capable of producing more than 50 cubic feet per acre per year of wood fiber; and,

I. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and,

II. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

d. Lots or parcels within urban growth boundaries shall be regulated by the intra-governmental agreement between the affected municipality and the county;

e. A proposed dwelling is not allowed if the tract on which the dwelling will be sited already includes a dwelling;

f. Except as provided by paragraph (g) of this subsection, if the tract proposed for a dwelling abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and ¼ mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road; and,

g. If a tract 60 acres or larger described under subsection (c) of this section abuts a road or perennial stream, the measurement shall be made in accordance with paragraph (f) of this subsection. However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and:

I. Be located within a 160-acre rectangle that is one mile long and ¼ mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or

II. Be within ¼ mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.

III. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

D. A proposed dwelling under this subsection is not allowed:

a. If it is prohibited by or will not comply with the requirements of the acknowledged Harney County Comprehensive Plan or acknowledged Harney County Zoning Ordinance or other provisions of law;

b. Unless it complies with the requirements of subsections 3.060(7) and (8); and,

c. Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under paragraph 3.060(6)(D)(a) for the other lots or parcels that make up the tract are met.

E. The applicant for a dwelling authorized by paragraph 3.060(6)(A) of this rule that requires one or more lots or parcels to meet minimum acreage requirements shall provide evidence that:

a. The covenants, conditions and restrictions form adopted as "Exhibit A" has been recorded with the Harney County Clerk or counties where the property subject to the covenants, conditions and restrictions is located;

b. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Harney County or counties where the property subject to the covenants, conditions and restrictions is located;

c. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by Harney County or counties where the property subject to the covenants, conditions and restrictions is located;

d. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section; and,

e. The Harney County Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the Harney County deed records pursuant to this section and a map or other record depicting tracts, which do not qualify for the siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

7. Siting Standards For Dwellings And Structures. In the Forest Use Zone the following siting criteria or their equivalent shall apply to all new dwellings and structures. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forestlands. Harney County shall consider the criteria in this subsection together with the requirements of subsection 3.060(8) to identify the building site:

A. Dwellings and structures shall be sited on the parcel so that:

a. They have the least impact on nearby or adjoining forest or agricultural lands;

b. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

c. The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and,

d. The risks associated with wildfire are minimized.

B. Siting criteria satisfying paragraph (A) of this subsection may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees;

C. The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Oregon Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR 629). For purposes of this section, evidence of a domestic water supply means:

a. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or,

b. A water use permit issued by the Water Resources Department for the use described in the application; or,

c. Verification from the Oregon Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.400, the applicant shall submit the well constructor's report to Harney County upon completion of the well.

D. As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance; and,

E. Approval of a dwelling shall be subject to the following requirements:

a. Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in department of Forestry administrative rules;

b. The Planning Department shall notify the Harney County Assessor of the above condition at the time the dwelling is approved;

c. If the lot or parcel is more than 30 acres the property owner shall submit a stocking survey report to the Harney County Assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules;

d. Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department will notify the owner and the assessor that the land is not being managed as forestland. The assessor will then remove the forestland designation pursuant to ORS 321.359; and,

e. Harney County shall require, as a condition of approval of a single-family dwelling, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

8. Fire Siting Standards For Dwellings And Structures. In the Forest Use Zone the following fire siting standards or their equivalent shall apply to new dwellings or structures:

A. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been

obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source;

B. Road Access;

a. Public and private roads accessing two (2) or more residences shall meet the following standards:

I. Rights-of-way shall be 80 feet in width;

II. Roads shall be built and maintained to provide a 24-foot width of all weather surfaces capable of supporting gross vehicle weight of 80,000 pounds. If paved, pavement shall be 24 feet in width with two (2) foot shoulders, or if ground level pavement shall be 24 feet wide;

III. Curve radius shall be a minimum of 300 feet;

IV. Minimum height clearance shall be 18 feet;

V. Bridges, culverts and cattle guards etc., shall be constructed and maintained to support a gross vehicle weight of 80,000 pounds;

VI. Road grades shall not exceed an average of 8 percent, with a maximum of 12 percent on short pitches. (When topographic conditions make these standards impractical, a variance could be granted by the fire service having jurisdiction of the area);

VII. Cul-de-sacs shall have turn-a-rounds of not less than 48 feet radius at a maximum spacing of 500 feet between turn-a-rounds. All turn-a-rounds shall be marked and signed "NO PARKING"; and,

VIII. All roads shall be named or numbered and visibly signed as such at each road intersection. Letters and numbers shall be a minimum of three (3) inches in height and made of reflectorized, all weather materials.

b. Private roads accessing a single residence shall meet the following standards:

I. Driveways shall be built and maintained to provide a minimum 12-foot width of all weather surfaces capable of supporting a gross vehicle weight of 50,000 pounds;

II. Driveways shall have a minimum curve radius of 30 feet and a minimum clearance height of 18 feet;

III. Bridges, culverts and cattle guards etc., shall be constructed and maintained to support a gross vehicle weight of 80,000 pounds;

IV. Driveways in excess of 200 feet shall provide 20 foot wide turnouts at a maximum spacing of 400 feet, except where visibility is limited. Distances shall be reduced to allow for safe visual conduct and shall end in a cul-de-sac with at least a 48 foot radius if the driveway dead ends; and,

V. Driveways and residences shall be marked with the residence's address. Letters and numbers shall be a minimum of three (3) inches in height and constructed of reflectory material.

c. Water Supply Access:

I. If a water supply of 4,000 gallons or more exists within 100 feet of the driveway or road at a reasonable grade, an all weather road shall be provided to a point within 15 feet of the water's edge. The approach shall include a turn-a-round with a 30-foot radius; and,

II. Emergency water supplies shall be clearly marked along the access route with a sign that has been approved by the Harney County Road Supervisor. Fire trucks shall be able to get within 15 feet of water supply, if accessible (Creeks, Ponds, etc.).

C. A primary fuel free break area of not less than 35 feet shall be maintained surrounding all structures. Dead and down material shall be removed and no ornamental shrubbery, single species trees or similar plants shall provide means of rapidly transmitting fire from native growth to structures. An additional 25 feet of safety zone down slope shall be required for each additional 10% of slope (i.e. 30% slope would require approximately 135 feet of safety zone);

D. A secondary fuel brake extending a minimum of 100 feet in all directions is required to reduce fuels so that the overall intensity of any wildfire would be lessened. Vegetation within the secondary break shall be pruned and spaced. Small trees, brush and dead fuels underneath and around larger trees shall be removed;

E. The dwelling shall have a fire retardant roof;

F. The dwelling shall not be sited on a slope of greater than 40 percent; and,

G. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

9. Land Divisions. In the Forest Use Zone, property may be divided in the following manner:

A. Except as provided in paragraphs (B), (C) & (D) of this subsection, the minimum parcel size shall be 80-acres;

B. New land divisions less than 80-acres may be approved for any of the uses listed in paragraphs 3.060(3)(B), (C) & (D) and 3.060(4)(A) through (l), and 3.060(4)(V) provided that such uses have been approved pursuant to subsection 3.060(5) and the parcel created from the division is the minimum size necessary for the use;

C. New land divisions of less than 80-acres may be established for the establishment of a parcel for a dwelling on land zoned for forest use, subject to the following requirements:

a. The parcel established shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres;

b. The dwelling existed prior to June 1, 1995;

c. Other criteria:

I. The remaining parcel, not containing the dwelling, meets the minimum land division standards of the zone; or,

II. The remaining parcel, not containing the dwelling, is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone; and,

d. The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal.

D. New land divisions of less than 80-acres may be established to facilitate a forest practice as defined in ORS 527.620. Approvals shall be based on findings which demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum area requirements of paragraph (a) of this subsection in order to conduct the forest practice. Parcels created pursuant to this paragraph:

a. Shall not be eligible for siting of new dwelling;

b. Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;

c. Shall not result in a parcel of less than 35 acres, except:

I. Where the purpose of the land division is to facilitate an exchange of lands involving a governmental agency; or,

II. Where the purpose of the land division is to allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land; and,

d. If associated with the creation of a parcel where a dwelling is involved, shall not result in a parcel of less than 240-acres.

E. An applicant for the creation of a parcel pursuant to paragraph (C) of this subsection shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the Harney County Clerk. The restriction shall allow no dwellings unless authorized by law or goal.

a. A restriction imposed under this paragraph 3.060(9)(E) shall be irrevocable unless a statement of release is signed by the Harney County Planning Director indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land; and,

b. The Harney County Planning Director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily available to the public.

F. A landowner who allowed a land division under paragraphs (B), (C) or (D) of this subsection shall sign a statement that shall be recorded with the Harney County Clerk declaring that the landowner will not complain in the future about accepted farming or forest practices on nearby lands devoted to farm or forest use.

10. <u>Setback Requirements</u>. In the Forest Use Zone, the following set back requirements shall apply:

A. The minimum setback from all property lines shall be 20 feet. Additional setback distance may be required if necessary to comply with primary and secondary fuel break requirements; and,

B. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of 100 feet measured at right angles to the high water line.

ORDINANCE HISTORY NOTES: The Forest Use Zone provisions, Section 3.060 of the Harney County Zoning Ordinance was modified and adopted by the County Court on February 24, 1999 through a Periodic Review Work Task. The review and revision of this section subsequently occurred during May-June, 2000 as part (Work Task 2) of a voluntary Modified Revised Periodic Review Work Task via DLCD Grant No. TA-R-01-012. Section 3.060 was subsequently re-adopted by Harney County on August 16, 2000 and acknowledged by LCDC on May 10, 2002. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 3.070. Airport Development Zone, AD-1

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Uses Permitted**
3. **Conditional Use Criteria**
4. **Limitations On Use**

The purpose of an Airport Development Zone is to protect airport facilities from incompatible uses; to provide for future airport expansion; and to preserve lands adjacent to airports for future commercial and light industrial uses which will be directly dependent on air transportation.

In an AD-1 Zone, the following regulations shall apply:

1. Uses Permitted (Type I Decisions). In an AD-1 Zone, the following uses are permitted outright:

A. Accepted farming practices.

B. Aircraft sales, repair, service, storage and schools relating to aircraft operations, and facilities on the airport property essential for the operation of airports, such as fuel storage, hanger use, F.O.B. offices, weather station and etc.

C. Public and semi-public buildings, structures and uses essential to the welfare of the area, such as fire stations, pump stations and water storage.

D. Air cargo terminals.

E. Air passenger terminals.

F. Long and short term parking areas.

G. Concession area or snack shop no larger than 200 square feet.

H. Other uses where the ongoing operations and the use must be directly associated with the airport.

I. Military operations.

2. Conditional Uses Permitted (Type III Decisions). In an AD-1 Zone the following uses are permitted when authorized in accordance with Section 3.070(3) and Section 3.070(4)(A-F):

A. Manufacturing, repairing, compounding, processing, storage, warehousing, research, assembly or fabricating activities, except those uses specifically listed in Section 3.070(2).

B. Truck terminals.

C. Utility Facilities.

3. Conditional Use Criteria. In an AD-1 Zone the Planning Commission may grant a Conditional Use Permit for uses described in Section 3.070(2) if each of the following criteria is met, as determined by the Planning Commission:

A. The ongoing operations or the use must be directly dependent upon and directly associated with the airport;

B. The use shall not discharge smoke, fumes, noise, sewage or other nuisances beyond the property on which it is located;

C. The use shall not conflict with any present or planned operations of the airport;

D. Height restrictions standards will be met; and,

E. All uses must be in conformance with the Airport Master Plan.

4. Limitations On Use. In an AD-1 Zone, the following conditions shall apply:

A. Liquid and Solid Wastes:

a. Storage of animal, vegetable, or other wastes, which attract insects, rodents, birds, or otherwise create a health hazard shall be prohibited.

B. Discharge Standards:

a. There shall be no emission of smoke, fly ash, dust, vapor, gases, or other forms of air pollution that may cause nuisance or injury to human, plant or animal life, or to property, or that may conflict with any present or planned operations of the airport.

C. Lighting:

a. Unless necessary for safe and convenient air travel, sign lighting and exterior lighting shall not project directly into the runway, taxiway, or approach zone.

D. Requirements:

a. Site plans submitted with an application for a land use permit must include a landscaping plan, which shows the location and type of plant materials.

b. All unused property shall be maintained in native or existing vegetative ground cover, or planted grass, shrub and bark dust, or other suitable plant materials.

c. Responsibility for establishment and maintenance of landscaping rests with the property owner or lessee.

E. Parking:

a. Site plan(s) submitted with an application for a land use permit must include a parking plan which shows the location and number of parking spaces, circulation patterns, and ingress and egress provisions.

b. All industrial and commercial uses within an Airport Development Zone shall provide at least two (2) parking spaces for every three (3) employees on the major shift during normal season.

c. All parking lots shall have an all weather surface.

d. Adequate provisions for safe and convenient circulation, ingress and egress shall be provided.

F. Glare and Electromagnetic Interference:

a. Building materials shall not produce glare, which may conflict with any present or planned operations of the airport.

b. No use may produce electromagnetic interference, which may conflict, with any present or planned operations of the airport.

Section 3.080. Airport Vicinity Overlay Zone, AVO

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Uses Permitted**
3. **Procedure**
4. **Standards**

The purpose of the Airport Vicinity Overlay Zone is to protect the airport from encroachment of incompatible uses and to provide safe and suitable airport approaches without dangerous obstructions to airspace.

In an AVO Zone the following regulations shall apply:

1. **Uses Permitted (Type I Decisions).** Uses and activities permitted by the underlying zone as a type I or II decision shall be allowed unless specifically prohibited by subsection 4 of this Section:

2. **Conditional Uses Permitted (Type III Decisions).** In an AVO Zone the following uses are permitted when authorized in accordance with Section 3.080(3) and Article 6 of this ordinance:

   A. Aquaculture, if permitted in the underlying zone.

   B. Any use listed as a Conditional Use in the underlying zones.

3. **Procedure.** An applicant seeking authorization of a use in the underlying zone shall provide the following information to the Planning Department:

   A. Property boundary lines as they relate to the airport approach;

   B. Location and height of all existing and proposed buildings, structures, utility lines and roads; and,

   C. A statement from the Federal Aviation Administration indicating that the proposed use will not interfere with the safe operation of the Burns Municipal Airport.

4. Standards. In an AVO Zone, the following standards shall apply:

A. The height of any structure or part of a structure, such as a chimney, tower, antenna, etc. shall not project above airport approach, transitional, horizontal or conical surfaces, and may be further limited according to requirements established by the Planning Commission or government authorities;

B. Uses will not create electrical interference with navigational signals or radio communications between the airport and aircraft;

C. Uses will not make it difficult to distinguish between airport lights and other lights, nor result in glare affecting aircraft use of the airport, or otherwise impair visibility;

D. Uses will not create or increase bird strike hazards or otherwise endanger or interfere with aircraft operations in the area;

E. No structure will be approved in an approach or clear zone;

F. No meeting place for private or public purposes shall be permitted in horizontal and transitional surfaces; and,

G. All development proposed in this zone is subject to the appropriate provisions of the Airport Master Plan, the Harney County Comprehensive Plan and implementing Ordinances.

Section 3.090. Rural Residential, R-1

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Uses Permitted**
3. **Lot Sizes**
4. **Dimensional Requirements**
5. **Setback Requirements**

The Rural Residential Zone is particularly suited to areas that are beginning to undergo a transition from rural residential use, primarily in the outer portions of the rural urban fringe. In some instances it may be appropriately applied in "established" residential areas where there is little likelihood that public water and sewer systems will be available in the near future.

In an R-1 Zone, the following regulations shall apply:

1. Uses Permitted (Type I Decisions). In an R-1 Zone the following uses and their accessory uses are permitted outright:

A. One or two-family dwellings, including doublewide manufactured dwellings (modified 11/1/00, Ord. 2000-42).

B. Agriculture, grazing, horticulture, or the growing of timber as authorized in the EFRU Zones, except as directly or inferentially restricted by the provisions of subparagraph (C) of this section.

C. Hatching and raising of fowl; the raising of rabbits, bees, and the like; and the keeping of domestic animals provided that:

a. The total number of animals over the age of six months shall not exceed an average of one horse, swine or cow for each 10,000 square feet of lot area or one goat or sheep for each 5,000 square feet of lot area;

b. The number of domestic fowl or rabbits over the age of six months shall not exceed one for each 500 square feet of property;

c. The number of colonies of bees allowed on a lot shall be limited to one colony of each 1,000 square feet of lot area; and,

d. Animals or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times with food stored in metal or other rodent proof containers.

D. Temporary operations for the assessment, measuring, testing of, or exploring for, renewable energy resources.

E. Day Care Facility as provided for in ORS 657A.440.

F. Residential Homes as provided for in ORS 197.660.

2. Conditional Uses Permitted (Type III Decisions). In an R-1 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6 of this ordinance:

A. Singlewide manufactured dwellings (modified 11/1/00, Ord. 2000-42).

B. Cemetery.

C. Church.

D. Golf course and other open land recreational use but excluding intensive commercial amusement use such as "pitch and putt" golf course, driving range, automobile racetrack, or amusement park.

E. Governmental structure or use including park, playground, recreational building, fire station, library or museum.

F. Grange hall or community building.

G. Hospital, sanitarium, rest home, home for the aged, nursing home, or convalescent home.

H. Radio or television transmitter or tower.

I. School: nursery, primary, elementary, junior high, senior high, or college.

J. Utility substation or pumping station.

K. Animal hospital.

L. Airport.

M. Residential Care Facility as provided for in ORS 197.660.

N. Manufactured Dwelling Parks located inside an Urban Growth Boundary (modified 11/1/00, Ord. 2000-42).

O. Utility Facilities.

3. **Lot Sizes.** In an R-1 Zone, no lot shall be created that is less than five (5) acres in size or is less than the size necessary for septic tank approval from the Department of Environmental Quality, whichever is the larger, with these exceptions:

   A. Norris Addition – (Platted area adjacent to the City of Burns) to conform to the dimensional standards as set forth in the City of Burns, Single-Family Residential (RS) Zone.

   B. Choate Addition – (Only the surveyed and platted area adjacent to the City of Hines) to conform to the dimensional standards as set forth in the City of Hines, Single-Family Residential (RS) Zone.

   C. Skelton Addition and Revak Tracts – (Platted area adjacent to the City of Hines) to conform with the dimensional standards set forth in the City of Hines, Single-Family Residential (RS) Zone.

   D. Garland Estates – Lots to remain the same as shown on the subdivision plat.

4. **Dimensional Requirements.** In an R-1 Zone, no lot shall have any dimension less than 100 feet without Planning Commission approval.

5. **Setback Requirements.** No building shall be placed any closer than 20 feet from a property line, except in those areas listed below:

   A. Norris Addition – conform to the City of Burns set back requirements.

   B. Choate Addition, Skelton Addition, Revak Tracts and Garland Estates – conform to the City of Hines set back requirements. Reference – Single-family Residential (RS) zone.

Section 3.110. Rural Recreational, R-2

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Uses Permitted**
3. **Limitation On Use**
4. **Lot Sizes**
5. **Dimensional Requirements**
6. **Setback Requirements**
7. **Limitation On County Obligation**
8. **Fire Protection Standards**

The Rural Recreational Zone is intended to provide for the concentration of recreational and accessory uses primarily oriented to serve travelers, tourism and recreational needs in locations near the County's tourist sites. The R-2 Zone is further designed to provide incentive for public and private investments in traveler, tourism and recreational related complexes. The R-2 Zone is also designed to provide areas for part time residential use with a recreational orientation. Dwelling units within these areas are not to be the primary dwelling unit for the occupant unless used as a caretaker's residence. R-2 zoning may be used in areas of unique recreational value; however farm and forestry operation should not be limited by such use.

In an R-2 Zone the following regulations shall apply (modified 1/16/02, Ord. #2002-51):

1. Uses Permitted (Type I Decisions). In an R-2 Zone, the following uses and their accessory uses shall be permitted outright:

A. One family dwelling or doublewide manufactured dwelling (modified 11/1/00, Ord. 2000-42).

B. Agriculture, grazing, horticulture, or the growing of timber as authorized in the EFRU Zones, except as directly or inferentially restricted by the provisions of subparagraph (C) of this section.

C. Hatching and raising of fowl; the raising of rabbits, bees, and the like; and the keeping of domestic animals provided that:

a. The total number of animals over the age of six months shall not exceed an average of one horse, swine or cow for each 10,000 square feet of lot area or one goat or sheep for each 5,000 square feet of lot area;

b. The number of domestic fowl or rabbits over the age of six months shall not exceed one for each 500 square feet of property;

c. The number of colonies of bees allowed on a lot shall be limited to one colony of each 1,000 square feet of lot area; and,

d. Animals or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times with food stored in metal or other rodent proof containers.

D. Temporary operations for the assessment, measuring, testing of, or exploring for, renewable energy resources.

E. Recreational Development Site as defined in this Ordinance, (added 1/16/02, Ord. #2002-51).

F. Public or Private Park or playground (added 1/16/02, Ord. #2002-51).

G. Caretakers Residence.

2. Conditional Uses Permitted (Type III Decisions). In an R-2 zone the following conditional uses are permitted subject to the provisions of Article 6 of this ordinance:

A. Operations for the commercial production of renewable resources, and for the generation of electricity for public use by sale.

B. Retail trade establishment such as a food store, convenience market, gift or specialty shop (added 1/16/02, Ord. #2002-51).

C. Restaurant (added 1/16/02, Ord. #2002-51).

D. Business, government or professional office (added 1/16/02, Ord. #2002-51).

E. Outdoor auditorium or theater (added 1/16/02, Ord. #2002-51).

F. Utility facility (added 1/16/02, Ord. #2002-51).

3. Limitations On Use. No dwelling unit shall be occupied more than one hundred eighty (180) days or nights out of any given year. No dwelling unit shall be occupied more than one hundred eighty (180) consecutive days:

A. All uses allowed under sub-sections 2(B) through (D) shall be limited in size to 750 square feet of floor area or less (added 1/16/02, Ord. #2002-51).

B. All parking demand created by any use permitted under the provisions of this section shall be accommodated on the subject premises entirely off-street; minimum standards for off-street parking requirements shall be in accordance with the provisions of these standards (added 1/16/02, Ord. #2002-51).

C. No use permitted by this section shall require the backing of traffic onto a public or private street, road or alley right-of-way to accommodate access to any use of the premises thereof (added 1/16/02, Ord. #2002-51).

D. Except for caretaker's dwellings approved under sub-section 1(G) hereof, no dwelling units shall be occupied more than one hundred eighty (180) days or nights out of any given year. No dwelling unit shall be occupied more than one hundred eighty (180) consecutive days (modified 1/16/02, Ord. #2002-51).

4. **Lot Sizes.** In an R-2 zone, no lot size shall be created that is less than five (5) acres in size or is less than the size necessary for septic tank approval from the Department of Environmental Quality, whichever is larger.

5. **Dimensional Requirements.** In an R-2 zone, no lot shall have any dimension less than 100 feet without Planning Commission approval.

6. **Setback Requirements.** No building shall be placed any closer than 20 feet from a property line. All residences, buildings or similar permanent fixture shall be set back from the high water line along all streams or lakes a minimum of 100 feet measured at right angles to the high water line.

7. **Limitation On County Obligation.**

A. The county or any special district shall not be responsible for providing any public facilities or services such as student transportation, road maintenance, snow removal, fire protection, etc.

B. All plats and deeds recorded for properties within R-2 zone areas shall include a certified survey and a legal meets and bounds description.

8. **Fire Protection Standards.** In an R-2 Zone the following standards shall apply when the parcel on which the development will be constructed is within the Forest Use Zone:

A. Structures shall not be located on hillsides containing flammable fuels that exceed 30 percent in slope, or in natural draws that could become a "fire chimney."

B. A firebreak of not less than 35 feet shall be maintained around all structures. A firebreak may include bare ground, a lawn of green grass, ornamental shrubbery or individual trees pruned so limbs do not touch the ground, with a minimum spacing of 18 to 20 feet.

C. Water source or storage shall have a capacity to support the required fire flow for a period of two hours in addition to maximum daily flow requirements for other uses.

D. All construction of structures must meet the Oregon Uniform Building Code standards with these additional requirements:

   1. Roof and exteriors of buildings shall be of resistant materials, such as asphalt-rag felt roll roofing, tile, slate, asbestos cement shingle, sheet metal, aluminum or fire retardant - treated wood shingles or shakes; and,

   2. Building projections, such as balconies or decks with unenclosed under-floor areas, eaves, attic and under floor openings shall be screened.

E. Manufactured dwellings shall be skirted with non-combustible material (modified 11/1/00, Ord. 2000-42).

F. Manufactured dwellings used on a temporary basis must provide adequate tie downs to prevent movement of the home damaging gas lines and power services that would result in ignition (modified 11/1/00, Ord. 2000-42).

G. Access from the main road shall be wide enough for two vehicles to pass during ingress and egress. All bridges shall be constructed to accommodate the weight of a fire truck servicing that area.

ORDINANCE HISTORY NOTES: The Rural Recreational Zone provisions, Section 3.110, of the Harney County Zoning Ordinance, were modified by the Harney County Planning Department and subsequently adopted by the Harney County Court on January 16, 2002 via Harney County Ordinance #2002-51.

Section 3.120.1. Rural Service Center – Andrews Zone, RSC-AN

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Use Permitted**
3. **Conditional Use Criteria**
4. **Lot Sizes**
5. **Dimensional Requirements**
6. **Setback Requirements**
7. **Coverage**
8. **Building Size Limitations**

The purpose of the Rural Service Center – Andrews Zone is to provide the standards and review procedures for providing goods and services to the surrounding rural area or to persons traveling through the area.

In the RSC-AN Zone, the following regulations shall apply:

1. Uses Permitted (Type I Decisions). The following residential uses and their accessory uses are permitted outright:

A. One and two family dwellings, including doublewide manufactured dwellings (modified 11/1/00, Ord. 2000-42).

B. Rehabilitation, minor replacement, minor repair or betterment repair, and improvement of state parks and road side rest areas.

C. Agriculture, grazing, horticulture or growing of timber as authorized in the EFRU Zones, except as directly or inferentially restricted by the provisions of subparagraph (D) of this section.

D. Hatching and raising of fowl, rabbits, bees and the like and keeping of domestic animals provided that:

a. The total number of animals shall not exceed an average of one (1) horse, swine or cow for each 10,000 square feet of lot area or one (1) goat or sheep for each 5,000 square feet of lot area.

b. The number of domestic fowl or rabbits over the age of six (6) months shall not exceed one (1) for each 500 square feet of property.

c. The number of colonies of bees allowed on a lot shall be limited to one (1) colony.

d. Animals or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times with food stored in metal or other rodent proof containers.

E. Day Care Facilities as provided for in ORS 657A.440.

F. Residential Homes as provided for in ORS 197.660.

2. Conditional Uses Permitted (Type III Decisions). The following uses and their accessory uses are permitted subject to Article 6 of this ordinance:

A. RV Park, not to exceed one hundred (100) spaces.

B. Farm Implement dealership not to exceed 4,000 square feet of floor space.

C. Agricultural machine repair shop not to exceed 4,000 square feet of floor space.

D. Gas/service station not to exceed 4,000 square feet of floor space.

E. Grain storage, other services related to agriculture.

F. Convenience store not to exceed 3,000 square feet of floor space.

G. Restaurants not to exceed 2,500 square feet of floor space.

H. Singlewide manufactured dwelling (modified 11/1/00, Ord. 2000-42).

I. Cemetery.

J. Church.

K. Public and semi-public buildings and uses.

L. Parks, playgrounds or community centers.

M. Guide and Outfitters facilities not to exceed 4,000 square feet of floor space.

N. Utility Facilities.

3. Conditional Use Criteria. In addition to the requirements of Article 6, those conditional uses shall meet the following conditions:

A. The proposed use is intended to serve a valid service contribution to the rural or nearby recreational area.

4. **Lot Sizes.** In the RSC-AN Zone, no lot shall be created that is less than two (2) acres in area.

5. **Dimensional Requirements.** In the RSC-AN Zone, no lot shall have any dimension less than one hundred (100) feet without Planning Commission approval.

6. **Setback Requirements.** No building shall be placed any closer than twenty (20) feet from a property line. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of one hundred (100) feet measured at right angles to the high water line.

7. **Coverage.** All buildings located thereon shall cover no more than sixty (60) percent of the lot area.

8. **Building Size Limitations.** In the RSC-AN Zone, the minimum building sizes shall be:

   A. No separate building containing a single permitted or conditional commercial use may exceed 4,000 square feet of floor space.

   B. Buildings containing two permitted or conditional commercial uses may not exceed 8,000 square feet of floor space.

   C. Buildings containing more than two permitted or conditional commercial uses may not exceed 10,000 square feet of floor space.

ORDINANCE HISTORY NOTES: The Rural Service Center – Andrews Zone provisions, Section 3.120.1 of the Harney County Zoning Ordinance, were adopted by the County Court on April 5 2000 via Ordinance 2000-39. The formulation and review of this section occurred as part of a voluntary Revised Periodic Review Work Task. Section 3.120.1 was acknowledged by LCDC on May 10, 2002. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 3.120.2. Rural Commercial Area – Buchanan Zone, RCA-BU

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Use Permitted**
3. **Conditional Use Criteria**
4. **Lot Sizes**
5. **Dimensional Requirements**
6. **Setback Requirements**
7. **Coverage**
8. **Building Size Limitations**

The purpose of the Rural Commercial Area – Buchanan Zone is to provide the standards and review procedures for the development of limited rural commercial uses for Buchanan.

In the RCA-BU Zone, the following regulations shall apply:

1. Uses Permitted (Type I Decisions). The following residential uses and their accessory uses are permitted outright:

A. One and two family dwellings, including doublewide manufactured dwellings (modified 11/1/00, Ord. 2000-42).

B. Rehabilitation, minor replacement, minor repair or betterment repair, and improvement of state parks and road side rest areas.

C. Agriculture, grazing, horticulture or growing of timber as authorized in the EFRU Zones, except as directly or inferentially restricted by the provisions of subparagraph (D) of this section.

D. Hatching and raising of fowl, rabbits, bees and the like and keeping of domestic animals provided that:

a. The total number of animals shall not exceed an average of one (1) horse, swine or cow for each 10,000 square feet of lot area or one (1) goat or sheep for each 5,000 square feet of lot area.

b. The number of domestic fowl or rabbits over the age of six (6) months shall not exceed one (1) for each 500 square feet of property.

c. The number of colonies of bees allowed on a lot shall be limited to one (1) colony.

d. Animals or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times with food stored in metal or other rodent proof containers.

E. Day Care Facilities as provided for in ORS 657A.440.

F. Residential Homes as provided for in ORS 197.660.

2. <u>Conditional Uses Permitted</u> (Type III Decisions). The following uses and their accessory uses are permitted subject to Subsection 3 of this section and Article 6 of this ordinance:

A. RV Park, not to exceed 75 spaces.

B. Farm Implement dealership not to exceed 2,500 square feet of floor space.

C. Agricultural machine repair shop not to exceed 2,500 square feet of floor space.

D. Gas/service station not to exceed 2,500 square feet of floor space.

E. Grain storage, other services related to agriculture.

F. Convenience store not to exceed 2,500 square feet of floor space.

G. Restaurants not to exceed 2,500 square feet of floor space.

H. Singlewide manufactured dwelling (modified 11/1/00, Ord. 2000-42).

I. Cemetery.

J. Church.

K. Public and semi-public buildings and uses.

L. Parks or playgrounds.

M. Guide and outfitters facilities not to exceed 2,500 square feet in floor space.

N. Utility Facilities.

3. **Criteria For Conditional Uses.** In addition to the requirements of Article 6, those conditional uses shall meet the following conditions:

   A. The proposed use is intended to serve a valid service contribution to the rural or nearby recreational area.

4. **Lot Sizes.** In the RCA-BU Zone, no lot shall be created that is less than two (2) acres in area.

5. **Dimensional Requirements.** In the RCA-BU Zone, no lot shall have any dimension less than one hundred (100) feet without Planning Commission approval.

6. **Setbacks.** No building shall be placed any closer than twenty (20) feet from a property line. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of one hundred (100) feet measured at right angles to the high water line.

7. **Coverage.** All buildings located thereon shall cover no more than sixty (60) percent of the lot area.

8. **Building Size Limitations.** In the RSC-BU Zone, the minimum building sizes shall be:

   A. No separate building containing a single permitted or conditional commercial use may exceed 2,500 square feet of floor space.

   B. Buildings containing two permitted or conditional commercial uses may not exceed 5,000 square feet of floor space.

   C. Buildings containing more than two permitted or conditional commercial uses may not exceed 7,500 square feet of floor space.

ORDINANCE HISTORY NOTES: The Rural Commercial Area – Buchanan Zone provisions, Section 3.120.2 of the Harney County Zoning Ordinance, were adopted by the County Court on April 5, 2000 via Ordinance 2000-39. The formulation and review of this section occurred as part of a voluntary Revised Periodic Review Work Task. Section 3.120.2 was acknowledged by LCDC on May 10, 2002. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 3.120.3. Rural Community – Crane Zone, RC-CR

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Use Permitted**
3. **Conditional Use Criteria**
4. **Lot Sizes**
5. **Dimensional Requirements**
6. **Setback Requirements**
7. **Coverage**
8. **Building Size Limitations**

The purpose of the Rural Community – Crane Zone is to provide the standards and review procedures for the development of commercial and public uses serving the rural community of Crane, the surrounding rural area and people passing through the area.

In the RC-CR Zone, the following regulations shall apply:

1. Uses Permitted (Type I Decisions). The following residential uses and their accessory uses are permitted outright:

A. One and two family dwellings, including doublewide manufactured dwellings (modified 11/1/00, Ord. 2000-42).

B. Rehabilitation, minor replacement, minor repair or betterment repair, and improvement of state parks and road side rest areas.

C. Agriculture, grazing, horticulture or growing of timber as authorized in the EFRU Zones, except as directly or inferentially restricted by the provisions of subparagraph (D) of this section.

D. Hatching and raising of fowl, rabbits, bees and the like and keeping of domestic animals provided that:

a. The total number of animals shall not exceed an average of one (1) horse, swine or cow for each 10,000 square feet of lot area or one (1) goat or sheep for each 5,000 square feet of lot area.

b. The number of domestic fowl or rabbits over the age of six (6) months shall not exceed one (1) for each 500 square feet of property.

c. The number of colonies of bees allowed on a lot shall be limited to one (1) colony.

d. Animals or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times with food stored in metal or other rodent proof containers.

E. Day Care Facilities as provided for in ORS 657A.440.

F. Residential Homes as provided for in ORS 197.660.

2. Conditional Uses Permitted (Type III Decisions). The following uses and their accessory uses are permitted subject to Subsection 3 of this section and Article 6 of this ordinance:

A. RV Park, not to exceed one hundred (100) spaces.

B. Farm Implement dealership not to exceed 4,000 square feet of floor space.

C. Agricultural machine repair shop.

D. Gas/service station not to exceed 4,000 square feet of floor space.

E. Grain storage, other services related to agriculture.

F. Convenience store not to exceed 3,000 square feet of floor space.

G. Restaurants not to exceed 2,500 square feet of floor space.

H. Singlewide manufactured dwelling (modified 11/1/00, Ord. 2000-42).

I. Cemetery.

J. Church.

K. Public and semi-public buildings and uses.

L. Parks, playgrounds or community centers.

M. Guide and Outfitters facilities not to exceed 4,000 square feet of floor space.

N. Utility Facilities.

3. **Conditional Use Criteria.** In addition to the requirements of Article 6, those conditional uses shall meet the following conditions:

   A. The proposed use is intended to serve a valid service contribution to the rural or nearby recreational area.

4. **Lot Sizes.** In the RC-CR Zone, no lot shall be created that is less than two (2) acres in an area.

5. **Dimensional Requirements.** In the RC-CR Zone, no lot shall have any dimension less than one hundred (100) feet without Planning Commission approval.

6. **Setbacks.** No building shall be placed any closer than twenty (20) feet from a property line. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of one hundred (100) feet measured at right angles to the high water line.

7. **Coverage.** All buildings located thereon shall cover no more than sixty (60) percent of the lot area.

8. **Building Size Limitation.** In the RC-CR Zone, the minimum building sizes shall be:

   A. No separate building containing a single permitted or conditional commercial use may exceed 4,000 square feet of floor space.

   B. Buildings containing two permitted or conditional commercial uses may not exceed 8,000 square feet of floor space.

   C. Buildings containing more than two permitted or conditional commercial uses may not exceed 10,000 square feet of floor space.

ORDINANCE HISTORY NOTES: The Rural Community – Crane Zone provisions, Section 3.120.3 of the Harney County Zoning Ordinance, were adopted by the County Court on April 5, 2000 via Ordinance 2000-39. The formulation and review of this section occurred as part of a voluntary Revised Periodic Review Work Task. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 3.120.4. Rural Service Center – Diamond Zone, RSC-DI

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Use Permitted**
3. **Conditional Use Criteria**
4. **Lot Sizes**
5. **Dimensional Requirements**
6. **Setback Requirements**
7. **Coverage**
8. **Building Size Limitations**

The purpose of the Rural Service Center – Diamond Zone is to provide the standards and review procedures for providing goods and services to the surrounding rural area and to persons traveling through the area.

In the RSC-DI Zone, the following regulations shall apply:

1. Uses Permitted (Type I Decisions). The following residential uses and their accessory uses are permitted outright:

A. One and two family dwellings, including double wide manufactured dwellings (modified 11/1/00, Ord. 2000-42).

B. Rehabilitation, minor replacement, minor repair or betterment repair, and improvement of state parks and road side rest areas.

C. Agriculture, grazing, horticulture or growing of timber as authorized in the EFRU Zones, except as directly or inferentially restricted by the provisions of subparagraph (D) of this section.

D. Hatching and raising of fowl, rabbits, bees and the like and keeping of domestic animals provided that:

a. The total number of animals shall not exceed an average of one (1) horse, swine or cow for each 10,000 square feet of lot area or one (1) goat or sheep for each 5,000 square feet of lot area.

b. The number of domestic fowl or rabbits over the age of six (6) months shall not exceed one (1) for each 500 square feet of property.

c. The number of colonies of bees allowed on a lot shall be limited to one (1) colony.

d. Animals or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times with food stored in metal or other rodent proof containers.

E. Day Care Facilities as provided for in ORS 657A.440.

F. Residential Homes as provided for in ORS 197.660.

2. Conditional Uses Permitted (Type III Decisions). The following uses and their accessory uses are permitted subject to Subsection 3 of this section and Article 6 of this ordinance:

A. RV Park, not to exceed one hundred (100) spaces.

B. Farm Implement dealership not to exceed 4,000 square feet.

C. Agricultural machine repair shop not to exceed 4,000 square feet of floor space.

D. Gas/service station not to exceed 4,000 square feet of floor space.

E. Grain storage, other services related to agriculture.

F. Convenience store not to exceed 3,000 square feet of floor space.

G. Restaurants not to exceed 2,500 square feet of floor space.

H. Singlewide manufactured dwelling (modified 11/1/00, Ord. 2000-42).

I. Cemetery.

J. Church.

K. Public and semi-public buildings and uses.

L. Parks, playgrounds or community centers.

M. Guide and Outfitters facilities not to exceed 4,000 square feet of floor space.

N. Utility Facilities.

3. **Conditional Use Criteria.** In addition to the requirements of Article 6, those conditional uses shall meet the following conditions:

   A. The proposed use is intended to serve a valid service contribution to the rural or nearby recreational area.

4. **Lot Sizes.** In the RSC-DI Zone, no lot shall be created that is less than two (2) acres in an area.

5. **Dimensional Requirements.** In the RSC-DI Zone, no lot shall have any dimension less than one hundred (100) feet without Planning Commission approval.

6. **Setbacks.** No building shall be placed any closer than twenty (20) feet from a property line. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of one hundred (100) feet measured at right angles to the high water line.

7. **Coverage.** All buildings located thereon shall cover no more than sixty (60) percent of the lot area.

8. **Building Size Limitations.** In the RSC-DI Zone, the minimum building sizes shall be:

   A. No separate building containing a single permitted or conditional commercial use may exceed 4,000 square feet of floor space.

   B. Buildings containing two permitted or conditional commercial uses may not exceed 8,000 square feet of floor space.

   C. Buildings containing more than two permitted or conditional commercial uses may not exceed 10,000 square feet of floor space.

ORDINANCE HISTORY NOTES: The Rural Service Center – Diamond Zone provisions, Section 3.120.4 of the Harney County Zoning Ordinance, were adopted by the County Court on April 5, 2000 via Ordinance 2000-39. The formulation and review of this section occurred as part of a voluntary Revised Periodic Review Work Task. Section 3.120.4 was acknowledged by LCDC on May 10, 2002. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 3.120.5. Rural Community – Drewsey Zone, RC-DR

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Use Permitted**
3. **Conditional Use Criteria**
4. **Lot Sizes**
5. **Dimensional Requirements**
6. **Setback Requirements**
7. **Coverage**
8. **Building Size Limitations**

The purpose of the Rural Community – Drewsey Zone is to provide the standards and review procedures for the development of commercial and public uses serving the rural community of Drewsey, the surrounding rural area and people passing through the area.

In the RC-DR Zone, the following regulations shall apply:

1. Uses Permitted (Type I Decisions). The following residential uses and their accessory uses are permitted outright:

A. One and two family dwellings, including double wide manufactured dwellings (modified 11/1/00, Ord. 2000-42).

B. Rehabilitation, minor replacement, minor repair or betterment repair, and improvement of state parks and road side rest areas.

C. Agriculture, grazing, horticulture or growing of timber as authorized in the EFRU Zones, except as directly or inferentially restricted by the provisions of subparagraph (D) of this section.

D. Hatching and raising of fowl, rabbits, bees and the like and keeping of domestic animals provided that:

a. The total number of animals shall not exceed an average of one (1) horse, swine or cow for each 10,000 square feet of lot area or one (1) goat or sheep for each 5,000 square feet of lot area.

b. The number of domestic fowl or rabbits over the age of six (6) months shall not exceed one (1) for each 500 square feet of property.

c. The number of colonies of bees allowed on a lot shall be limited to one (1) colony.

d. Animals or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times with food stored in metal or other rodent proof containers.

E. Day Care Facilities as provided for in ORS 657A.440.

F. Residential Homes as provided for in ORS 197.660.

2. Conditional Uses Permitted (Type III Decisions). The following uses and their accessory uses are permitted subject to Subsection 3 of this section and Article 6 of this ordinance:

A. RV Park, not to exceed one hundred (100) spaces.

B. Farm Implement dealership not to exceed 4,000 square feet of floor space.

C. Agricultural machine repair shop.

D. Gas/service station not to exceed 4,000 square feet of floor space.

E. Grain storage, other services related to agriculture.

F. Convenience store not to exceed 3,000 square feet of floor space.

G. Restaurants not to exceed 2,500 square feet of floor space.

H. Singlewide manufactured dwelling (modified 11/1/00, Ord. 2000-42).

I. Cemetery.

J. Church.

K. Public and semi-public buildings and uses.

L. Parks, playgrounds or community centers.

M. Guide and Outfitters facilities not to exceed 4,000 square feet of floor space.

3. Conditional Use Criteria. In addition to the requirements of Article 6, those conditional uses shall meet the following conditions:

A. The proposed use is intended to serve a valid service contribution to the rural or nearby recreational area.

4. **Lot Sizes.** In the RC-DR Zone, no lot shall be created that is less than two (2) acres in an area.

5. **Dimensional Requirements.** In the RC-DR Zone, no lot shall have any dimension less than one hundred (100) feet without Planning Commission approval.

6. **Setbacks.** No building shall be placed any closer than twenty (20) feet from a property line. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of one hundred (100) feet measured at right angles to the high water line.

7. **Coverage.** All buildings located thereon shall cover no more than sixty (60) percent of the lot area.

8. **Building Size Limitations.** In the RC-DR Zone, the minimum building sizes shall be:

   A. No separate building containing a single permitted or conditional commercial use may exceed 4,000 square feet of floor space.

   B. Buildings containing two permitted or conditional commercial uses may not exceed 8,000 square feet of floor space.

   C. Buildings containing more than two permitted or conditional commercial uses may not exceed 10,000 square feet of floor space.

ORDINANCE HISTORY NOTES: The Rural Community – Drewsey Zone provisions, Section 3.120.5 of the Harney County Zoning Ordinance, were adopted by the County Court on April 5, 2000 via Ordinance 2000-39. The formulation and review of this section occurred as part of a voluntary Revised Periodic Review Work Task. Section 3.120.5 was acknowledged by LCDC on May 10, 2002. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 3.120.6. Rural Service Center – Fields Zone, RSC-FI

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Use Permitted**
3. **Conditional Use Criteria**
4. **Lot Sizes**
5. **Dimensional Requirements**
6. **Setback Requirements**
7. **Coverage**
8. **Building Size Limitations**

The purpose of the Rural Service Center – Fields Zone is to provide the standards and review procedures for providing goods and services to the surrounding rural area or to persons traveling through the area.

In the RSC-FI Zone, the following regulations shall apply:

1. Uses Permitted (Type I Decisions). The following residential uses and their accessory uses are permitted outright:

A. One and two family dwellings, including double wide manufactured dwellings (modified 11/1/00, Ord. 2000-42).

B. Rehabilitation, minor replacement, minor repair or betterment repair, and improvement of state parks and road side rest areas.

C. Agriculture, grazing, horticulture or growing of timber as authorized in the EFRU Zones, except as directly or inferentially restricted by the provisions of subparagraph (D) of this section.

D. Hatching and raising of fowl, rabbits, bees and the like and keeping of domestic animals provided that:

a. The total number of animals shall not exceed an average of one (1) horse, swine or cow for each 10,000 square feet of lot area or one (1) goat or sheep for each 5,000 square feet of lot area.

b. The number of domestic fowl or rabbits over the age of six (6) months shall not exceed one (1) for each 500 square feet of property.

c. The number of colonies of bees allowed on a lot shall be limited to one (1) colony.

d. Animals or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times with food stored in metal or other rodent proof containers.

E. Day Care Facilities as provided for in ORS 657A.440.

F. Residential Homes as provided for in ORS 197.660.

2. Conditional Uses Permitted (Type III Decisions). The following uses and their accessory uses are permitted subject to Subsection 3 of this section and Article 6 of this ordinance:

A. RV Park, not to exceed one hundred (100) spaces.

B. Farm Implement dealership not to exceed 4,000 square feet of floor space.

C. Agricultural machine repair shop not to exceed 4,000 square feet of floor space.

D. Gas/service station not to exceed 4,000 square feet of floor space.

E. Grain storage, other services related to agriculture.

F. Convenience store (general commercial) not to exceed 3,000 square feet of floor space.

G. Restaurants not to exceed 2,500 square feet of floor space.

H. Singlewide manufactured dwelling (modified 11/1/00, Ord. 2000-42).

I. Cemetery.

J. Church.

K. Public and semi-public buildings and uses.

L. Parks, playgrounds or community centers.

M. Guide and Outfitters facilities not to exceed 4,000 square feet of floor space.

N. Utility Facilities.

3. **Conditional Use Criteria.** In addition to the requirements of Article 6, those conditional uses shall meet the following conditions:

   A. The proposed use is intended to serve a valid service contribution to the rural or nearby recreational area.

4. **Lot Sizes.** In the RSC-FI Zone, no lot shall be created that is less than two (2) acres in an area.

5. **Dimensional Requirements.** In the RSC-FI Zone, no lot shall have any dimension less than one hundred (100) feet without Planning Commission approval.

6. **Setbacks.** No building shall be placed any closer than twenty (20) feet from a property line. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of one hundred (100) feet measured at right angles to the high water line.

7. **Coverage.** All buildings located thereon shall cover no more than sixty (60) percent of the lot area.

8. **Building Size Limitations.** In the RSC-FI Zone, the minimum building sizes shall be:

   A. No separate building containing a single permitted or conditional commercial use may exceed 4,000 square feet of floor space.

   B. Buildings containing two permitted or conditional commercial uses may not exceed 8,000 square feet of floor space.

   C. Buildings containing more than two permitted or conditional commercial uses may not exceed 10,000 square feet of floor space.

ORDINANCE HISTORY NOTES: The Rural Service Center – Fields Zone provisions, Section 3.120.6 of the Harney County Zoning Ordinance, were adopted by the County Court on April 5, 2000 via Ordinance 2000-39. The formulation and review of this section occurred as part of a voluntary Revised Periodic Review Work Task. Section 3.120.6 was acknowledged by LCDC on May 10, 2002. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 3.120.7. Rural Service Center – Frenchglen Zone, RSC-FR

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Use Permitted**
3. **Conditional Use Criteria**
4. **Lot Sizes**
5. **Dimensional Requirements**
6. **Setback Requirements**
7. **Coverage**
8. **Building Size Limitations**

The purpose of the Rural Service Center – Frenchglen Zone is to provide the standards and review procedures for providing goods and services to the surrounding rural area or to persons traveling through the area.

In the RSC-FR Zone, the following regulations shall apply:

1. Uses Permitted (Type I Decisions). The following residential uses and their accessory uses are permitted outright:

A. One and two family dwellings, including double wide manufactured dwellings (modified 11/1/00, Ord. 2000-42).

B. Rehabilitation, minor replacement, minor repair or betterment repair, and improvement of state parks and road-side rest areas.

C. Agriculture, grazing, horticulture or growing of timber as authorized in the EFRU Zones, except as directly or inferentially restricted by the provisions of subparagraph (D) of this section.

D. Hatching and raising of fowl, rabbits, bees and the like and keeping of domestic animals provided that:

a. The total number of animals shall not exceed an average of one (1) horse, swine or cow for each 10,000 square feet of lot area or one (1) goat or sheep for each 5,000 square feet of lot area.

b. The number of domestic fowl or rabbits over the age of six (6) months shall not exceed one (1) for each 500 square feet of property.

c. The number of colonies of bees allowed on a lot shall be limited to one (1) colony.

d. Animals or fowls shall be properly caged or housed, and proper sanitation shall be maintained at all times with food stored in metal or other rodent proof containers.

E. Day Care Facilities as provided for in ORS 657A.440.

F. Residential Homes as provided for in ORS 197.660.

2. Conditional Uses Permitted (Type III Decisions). The following uses and their accessory uses are permitted subject to Subsection 3 of this section and Article 6 of this ordinance:

A. RV Park, not to exceed one hundred (100) spaces.

B. Farms implement dealership not to exceed 4,000 square feet of floor space.

C. Agricultural machine repair shop not to exceed 4,000 square feet of floor space.

D. Gas/service station not to exceed 4,000 square feet of floor space.

E. Grain storage, other services related to agriculture.

F. Convenience store not to exceed 3,000 square feet of floor space.

G. Restaurants not to exceed 2,500 square feet of floor space.

H. Singlewide manufactured home (modified 11/1/00, Ord. 2000-42).

I. Cemetery.

J. Church.

K. Public and semi-public buildings and uses.

L. Parks, playgrounds or community centers.

M. Guide and Outfitters facilities not to exceed 4,000 square feet of floor space.

3. Conditional Use Criteria. In addition to the requirements of Article 6, those conditional uses shall meet the following conditions:

A. The proposed use is intended to serve a valid service contribution to the rural or nearby recreational area.

4. **Lot Sizes.** In the RSC-FR Zone, no lot shall be created that is less than two (2) acres in an area.

5. **Dimensional Requirements.** In the RSC-FR Zone, no lot shall have any dimension less than one hundred (100) feet without Planning Commission approval.

6. **Setbacks.** No building shall be placed any closer than twenty (20) feet from a property line. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of one hundred (100) feet measured at right angles to the high water line.

7. **Coverage.** All buildings located thereon shall cover no more than sixty (60) percent of the lot area.

8. **Building Size Limitations.** In the RSC-FR Zone, the minimum building sizes shall be:

   A. No separate building containing a single permitted or conditional commercial use may exceed 4,000 square feet of floor space.

   B. Buildings containing two permitted or conditional commercial uses may not exceed 8,000 square feet of floor space.

   C. Buildings containing more than two permitted or conditional commercial uses may not exceed 10,000 square feet of floor space.

ORDINANCE HISTORY NOTES: The Rural Service Center – Frenchglen Zone provisions, Section 3.120.7 of the Harney County Zoning Ordinance, were adopted by the County Court on April 5, 2000 via Ordinance 2000-39. The formulation and review of this section occurred as part of a voluntary Revised Periodic Review Work Task. Section 3.120.7 was acknowledged by LCDC on May 10, 2002. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 3.120.8. Rural Commercial Area – Lawen Zone, RCA-LA

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Use Permitted**
3. **Conditional Use Criteria**
4. **Lot Sizes**
5. **Dimensional Requirements**
6. **Setback Requirements**
7. **Coverage**
8. **Building Size Limitations**

The purpose of the Rural Commercial Area – Lawen Zone is to provide the standards and review procedures for the development of limited rural commercial uses for Lawen.

In the RCA-LA Zone, the following regulations shall apply:

1. Uses Permitted (Type I Decisions). The following residential uses and their accessory uses are permitted outright:

A. One and two family dwellings, including double wide manufactured dwellings (modified 11/1/00, Ord. 2000-42).

B. Rehabilitation, minor replacement, minor repair or betterment repair, and improvement of state parks and road-side rest areas.

C. Agriculture, grazing, horticulture or growing of timber as authorized in the EFRU Zones, except as directly or inferentially restricted by the provisions of subparagraph (D) of this section.

D. Hatching and raising of fowl, rabbits, bees and the like and keeping of domestic animals provided that:

a. The total number of animals shall not exceed an average of one (1) horse, swine or cow for each 10,000 square feet of lot area or one (1) goat or sheep for each 5,000 square feet of lot area.

b. The number of domestic fowl or rabbits over the age of six (6) months shall not exceed one (1) for each 500 square feet of property.

c. The number of colonies of bees allowed on a lot shall be limited to one (1) colony.

d. Animals or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times with food stored in metal or other rodent proof containers.

E. Day Care Facilities as provided for in ORS 657A.440.

F. Residential Homes as provided for in ORS 197.660.

2. Conditional Uses Permitted (Type III Decisions). The following uses and their accessory uses are permitted subject to Subsection 3 of this section and Article 6 of this ordinance:

A. RV Park, not to exceed 75 spaces.

B. Farm Implement dealership not to exceed 2,500 square feet of floor space.

C. Agricultural machine repair shop not to exceed 2,500 square feet of floor space.

D. Gas/service station not to exceed 2,500 square feet of floor space.

E. Grain storage, other services related to agriculture.

F. Convenience store not to exceed 2,500 square feet of floor space.

G. Restaurants not to exceed 2,500 square feet of floor space.

H. Singlewide manufactured dwelling (modified 11/1/00, Ord. 2000-42).

I. Cemetery.

J. Church.

K. Public and semi-public buildings and uses.

L. Parks or playgrounds.

M. Guide and outfitters facilities not to exceed 2,500 square feet in floor space.

N. Utility Facilities.

3. **Conditional Use Criteria.** In addition to the requirements of Article 6, those conditional uses shall meet the following conditions:

   A. The proposed use is intended to serve a valid service contribution to the rural or nearby recreational area.

4. **Lot Sizes.** In the RCA-LA Zone, no lot shall be created that is less than two (2) acres in an area.

5. **Dimensional Requirements.** In the RCA-LA Zone, no lot shall have any dimension less than one hundred (100) feet without Planning Commission approval.

6. **Setbacks.** No building shall be placed any closer than twenty (20) feet from a property line. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of one hundred (100) feet measured at right angles to the high water line.

7. **Coverage.** All buildings located thereon shall cover no more than sixty (60) percent of the lot area.

8. **Building Size Limitations.** In the RCA-LA Zone, the minimum building sizes shall be:

   A. No separate building containing a single permitted or conditional commercial use may exceed 2,500 square feet of floor space.

   B. Buildings containing two permitted or conditional commercial uses may not exceed 5,000 square feet of floor space.

   C. Buildings containing more than two permitted or conditional commercial uses may not exceed 7,500 square feet of floor space.

ORDINANCE HISTORY NOTES: The Rural Commercial Area – Lawen Zone provisions, Section 3.120.8 of the Harney County Zoning Ordinance, were adopted by the County Court on April 5, 2000 via Ordinance 2000-39. The formulation and review of this section occurred as part of a voluntary Revised Periodic Review Work Task. Section 3.120.8 was acknowledged by LCDC on May 10, 2002. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 3.120.9. Rural Commercial Area – Princeton Zone, RCA-PR

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Use Permitted**
3. **Conditional Use Criteria**
4. **Lot Sizes**
5. **Dimensional Requirements**
6. **Setback Requirements**
7. **Coverage**
8. **Building Size Limitations**

The purpose of the Rural Commercial Area – Princeton Zone is to provide the standards and review procedures for the development of limited rural commercial uses for Princeton.

In the RCA-PR Zone, the following regulations shall apply:

1. Uses Permitted (Type I Decisions). The following residential uses and their accessory uses are permitted outright:

A. One and two family dwellings, including double wide manufactured dwellings (modified 11/1/00, Ord. 2000-42).

B. Rehabilitation, minor replacement, minor repair or betterment repair, and improvement of state parks and road side rest areas.

C. Agriculture, grazing, horticulture or growing of timber as authorized in the EFRU Zones, except as directly or inferentially restricted by the provisions of subparagraph (D) of this section.

D. Hatching and raising of fowl, rabbits, bees and the like and keeping of domestic animals provided that:

a. The total number of animals shall not exceed an average of one (1) horse, swine or cow for each 10,000 square feet of lot area or one (1) goat or sheep for each 5,000 square feet of lot area.

b. The number of domestic fowl or rabbits over the age of six (6) months shall not exceed one (1) for each 500 square feet of property.

c. The number of colonies of bees allowed on a lot shall be limited to one (1) colony.

d. Animals or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times with food stored in metal or other rodent proof containers.

E. Day Care Facilities as provided for in ORS 657A.

F. Residential Homes as provided for in ORS 197.660.

2. Conditional Uses Permitted (Type III Decisions). The following uses and their accessory uses are permitted subject to Subsection 3 of this section and Article 6 of this title:

A. RV Park, not to exceed 75 spaces.

B. Farm Implement dealership not to exceed 2,500 square feet of floor space.

C. Agricultural machine repair shop not to exceed 2,500 square feet of floor space.

D. Gas/service station not to exceed 2,500 square feet of floor space.

E. Grain storage, other services related to agriculture.

F. Convenience store not to exceed 2,500 square feet of floor space.

G. Restaurants not to exceed 2,500 square feet of floor space.

H. Singlewide manufactured dwelling (modified 11/1/00, Ord. 2000-42).

I. Cemetery.

J. Church.

K. Public and semi-public buildings and uses.

L. Parks or playgrounds.

M. Guide and outfitters facilities not to exceed 2,500 square feet in floor space.

N. Utility Facilities.

3. **Conditional Use Criteria.** In addition to the requirements of Article 6, those conditional uses shall meet the following conditions:

   A. The proposed use is intended to serve a valid service contribution to the rural or nearby recreational area.

4. **Lot Sizes.** In the RCA-PR Zone, no lot shall be created that is less than two (2) acres in area.

5. **Dimensional Requirements.** In the RCA-PR Zone, no lot shall have any dimension less than one hundred (100) feet without Planning Commission approval.

6. **Setbacks.** No building shall be placed any closer than twenty (20) feet from a property line. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of one hundred (100) feet measured at right angles to the high water line.

7. **Coverage.** All buildings located thereon shall cover no more than sixty (60) percent of the lot area.

8. **Building Size Limitations.** In the RCA-PR Zone, the minimum building sizes shall be:

   A. No separate building containing a single permitted or conditional commercial use may exceed 2,500 square feet of floor space.

   B. Buildings containing two permitted or conditional commercial uses may not exceed 5,000 square feet of floor space.

   C. Buildings containing more than two permitted or conditional commercial uses may not exceed 7,500 square feet of floor space.

ORDINANCE HISTORY NOTES: The Rural Commercial Area – Princeton Zone provisions, Section 3.120.9 of the Harney County Zoning Ordinance, were adopted by the County Court on April 5, 2000 via Ordinance 2000-39. The formulation and review of this section occurred as part of a voluntary Revised Periodic Review Work Task. Section 3.120.10 was acknowledged by LCDC on May 10, 2002. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 3.120.10. Rural Commercial Area – Riley Zone, RCA-RI

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Use Permitted**
3. **Conditional Use Criteria**
4. **Lot Sizes**
5. **Dimensional Requirements**
6. **Setback Requirements**
7. **Coverage**
8. **Building Size Limitations**

The purpose of the Rural Commercial Area – Riley Zone is to provide the standards and review procedures for the development of limited rural commercial uses for Riley.

In the RCA-RI Zone, the following regulations shall apply:

1. Uses Permitted (Type I Decisions). The following residential uses and their accessory uses are permitted:

A. One and two family dwellings, including double wide manufactured dwellings (modified 11/1/00, Ord. 2000-42).

B. Rehabilitation, minor replacement, minor repair or betterment repair, and improvement of state parks and road side rest areas.

C. Agriculture, grazing, horticulture or growing of timber as authorized in the EFRU Zones, except as directly or inferentially restricted by the provisions of subparagraph (D) of this section.

D. Hatching and raising of fowl, rabbits, bees and the like and keeping of domestic animals provided that:

b. The total number of animals shall not exceed an average of one (1) horse, swine or cow for each 10,000 square feet of lot area or one (1) goat or sheep for each 5,000 square feet of lot area.

c. The number of domestic fowl or rabbits over the age of six (6) months shall not exceed one (1) for each 500 square feet of property.

d. The number of colonies of bees allowed on a lot shall be limited to one (1) colony.

e. Animals or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times with food stored in metal or other rodent proof containers.

E. Day Care Facilities as provided for in ORS 657A.

F. Residential Homes as provided for in ORS 197.660.

2. Conditional Uses Permitted (Type III Decisions). The following uses and their accessory uses are permitted subject to Subsection 3 of this section and Article 6 of this ordinance:

A. RV Park, not to exceed 75 spaces.

B. Farm Implement dealership not to exceed 2,500 square feet of floor space.

C. Agricultural machine repair shop not to exceed 2,500 square feet of floor space.

D. Gas/service station not to exceed 2,500 square feet of floor space.

E. Grain storage, other services related to agriculture.

F. Convenience store not to exceed 2,500 square feet of floor space.

G. Restaurants not to exceed 2,500 square feet of floor space.

H. Singlewide manufactured dwelling (modified 11/1/00, Ord. 2000-42).

I. Cemetery.

J. Church.

K. Public and semi-public buildings and uses.

L. Parks or playgrounds.

M. Guide and outfitters facilities not to exceed 2,500 square feet in floor space.

N. Utility Facilities.

3. **Conditional Use Criteria.** In addition to the requirements of Article 6, those conditional uses shall meet the following conditions:

   A. The proposed use is intended to serve a valid service contribution to the rural or nearby recreational area.

4. **Lot Sizes.** In the RCA-RI Zone, no lot shall be created that is less than two (2) acres in area.

5. **Dimensional Requirements.** In the RCA-RI Zone, no lot shall have any dimension less than one hundred (100) feet without Planning Commission approval.

6. **Setbacks.** No building shall be placed any closer than twenty (20) feet from a property line. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of one hundred (100) feet measured at right angles to the high water line.

7. **Coverage.** All buildings located thereon shall cover no more than sixty (60) percent of the lot area.

8. **Building Size Limitations.** In the RCA-RI Zone, the minimum building sizes shall be:

   A. No separate building containing a single permitted or conditional commercial use may exceed 2,500 square feet of floor space.

   B. Buildings containing two permitted or conditional commercial uses may not exceed 5,000 square feet of floor space.

   C. Buildings containing more than two permitted or conditional commercial uses may not exceed 7,500 square feet of floor space.

ORDINANCE HISTORY NOTES: The Rural Commercial Area – Riley Zone provisions, Section 3.120.10 of the Harney County Zoning Ordinance, were adopted by the County Court on April 5, 2000 via Ordinance 2000-39. The formulation and review of this section occurred as part of a voluntary Revised Periodic Review Work Task. Section 3.120.9 was acknowledged by LCDC on May 10, 2002. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 3.120.11. Rural Commercial Area – Wagontire Zone, RCA-WA

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Use Permitted**
3. **Conditional Use Criteria**
4. **Lot Sizes**
5. **Dimensional Requirements**
6. **Setback Requirements**
7. **Coverage**
8. **Building Size Limitations**

The purpose of the Rural Commercial Area – Wagontire Zone is to provide the standards and review procedures for the development of limited rural commercial uses for Wagontire.

In the RCA-WA Zone, the following regulations shall apply:

1. Uses Permitted (Type I Decisions). The following residential uses and their accessory uses are permitted:

A. One and two family dwellings, including double wide manufactured dwellings (modified 11/1/00, Ord. 2000-42).

B. Rehabilitation, minor replacement, minor repair or betterment repair, and improvement of state parks and road side rest areas.

C. Agriculture, grazing, horticulture or growing of timber as authorized in the EFRU Zones, except as directly or inferentially restricted by the provisions of subparagraph (D) of this section.

D. Hatching and raising of fowl, rabbits, bees and the like and keeping of domestic animals provided that:

a. The total number of animals shall not exceed an average of one (1) horse, swine or cow for each 10,000 square feet of lot area or one (1) goat or sheep for each 5,000 square feet of lot area.

b. The number of domestic fowl or rabbits over the age of six (6) months shall not exceed one (1) for each 500 square feet of property.

c. The number of colonies of bees allowed on a lot shall be limited to one (1) colony.

d. Animals or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times with food stored in metal or other rodent proof containers.

E. Day Care Facilities as provided for in ORS 657A.440.

F. Residential Homes as provided for in ORS 197.660.

2. <u>Conditional Uses Permitted</u> (Type III Decisions). The following uses and their accessory uses are permitted subject to Subsection 3 of this section and Article 6 of this ordinance:

A. RV Park, not to exceed 75 spaces.

B. Farm Implement dealership not to exceed 2,500 square feet of floor space.

C. Agricultural machine repair shop not to exceed 2,500 square feet of floor space.

D. Gas/service station not to exceed 2,500 square feet of floor space.

E. Grain storage, other services related to agriculture.

F. Convenience store not to exceed 2,500 square feet of floor space.

G. Restaurants not to exceed 2,500 square feet of floor space.

H. Singlewide manufactured dwelling (modified 11/1/00, Ord. 2000-42).

I. Cemetery.

J. Church.

K. Public and semi-public buildings and uses.

L. Parks or playgrounds.

M. Guide and outfitters facilities not to exceed 2,500 square feet in floor space.

N. Utility Facilities.

3. **Conditional Use Criteria.** In addition to the requirements of Article 6, those conditional uses shall meet the following conditions:

   A. The proposed use is intended to serve a valid service contribution to the rural or nearby recreational area.

4. **Lot Sizes.** In the RCA-WA Zone, no lot shall be created that is less than two (2) acres in area.

5. **Dimensional Requirements.** In the RCA-WA Zone, no lot shall have any dimension less than one hundred (100) feet without Planning Commission approval.

6. **Setbacks.** No building shall be placed any closer than twenty (20) feet from a property line. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of one hundred (100) feet measured at right angles to the high water line.

7. **Coverage.** All buildings located thereon shall cover no more than sixty (60) percent of the lot area.

8. **Building Size Limitations.** In the RCA-WA Zone, the minimum building sizes shall be:

   A. No separate building containing a single permitted or conditional commercial use may exceed 2,500 square feet of floor space.

   B. Buildings containing two permitted or conditional commercial uses may not exceed 5,000 square feet of floor space.

   C. Buildings containing more than two permitted or conditional commercial uses may not exceed 7,500 square feet of floor space.

ORDINANCE HISTORY NOTES: The Rural Commercial Area – Wagontire Zone provisions, Section 3.120.11 of the Harney County Zoning Ordinance, were adopted by the County Court on April 5, 2000 via Ordinance 2000-39. The formulation and review of this section occurred as part of a voluntary Revised Periodic Review Work Task. Section 3.120.11 was acknowledged by LCDC on May 10, 2002. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 3.130. Commercial & Industrial Zone, C-1

Sub-Sections:

1. **Uses Permitted**
2. **Conditional Use Permitted**
3. **Limitations On Use**
4. **Lot Sizes**
5. **Setback Requirements**
6. **Signs**

The Commercial and Industrial Zone is intended to provide for a broad range of commercial operations, services and light industrial operations. The uses permitted outright are typical of a limited industrial area, but by implementing the conditional use procedure, the same zone can be made to serve general or "heavy" industrial purposes along with commercial establishments, in those locations where such uses are appropriate.

In a C-1 Zone, the following regulations shall apply:

1. Uses Permitted (Type I Decisions). In a C-1 Zone, the following uses are permitted outright:

A. Retail, business, wholesale or service establishments which do not create a public nuisance or an unreasonable hazard to health or property because of noise, smoke, odor, dust, vibration, gas, traffic congestion, or because of aesthetic incompatibility with other uses in the vicinity.

B. Farming.

C. Day Care Facility as provided for in ORS 657A.440.

D. Residential Homes as provided for in ORS 197.660.

E. Any of the following uses provided that such use or operation does not create a nuisance because of odor, noise, dust, smoke, or gas:

a. Golf Course.

b. Park, playground or community center.

c. Utility facility.

d. School.

e. Church.

f. Hospital, nursing or retirement home.

g. Radio or television station, transmitter or tower.

h. Retail trade establishment such as food store, drug store, hardware store, furniture store or automotive sales.

i. Business, governmental or professional office.

j. Service commercial establishment such as a motel, gasoline service station or restaurant.

k. Financial institution.

l. Personal and business service such as barbershop, tailoring shop, printing shop, funeral home, laundry or dry cleaning establishment.

m. Commercial amusement establishment such as bowling alley or dance hall.

n. Manufacturing, repairing, compounding, processing, storage, research, assembly or fabricating activities, except those uses specifically listed in subsection (2) of this section.

o. Wholesale distribution facility.

p. Railroad trackage and related facilities.

q. Temporary operations for the assessment, measuring, testing of, or exploring for, renewable energy resources.

2. Conditional Uses Permitted (Type III Decisions). In a C-1 Zone the following uses are permitted when authorized in accordance with Article 6 of this ordinance:

A. Junkyard or wrecking yard.

B. Quarry, gravel pit, subsurface or surface mining, including crushing, screening or washing of extracted materials.

C. Commercial feedlot or stockyard.

D. Sawmill or lumber manufacturing plant.

E. Rendering plant or slaughterhouse.

F. Residential use.

G. Manufactured Dwelling Parks (modified 11/1/00, Ord. 2000-42).

H. Operations for the commercial production of renewable resources, and for the generation of electricity for public use by sale.

I. Waste tire storage site as provided for in ORS 459.705 and meets Department of Environmental Quality standards.

J. Utility Facilities.

3. Limitations On Use. In a C-1 Zone the following limitations and conditions shall apply:

A. A use, which has been declared a nuisance by statute by action of the county or by a court of competent jurisdiction, is prohibited.

B. Materials shall be stored and grounds shall be maintained in a manner, which will not attract or aid in the propagation of insects or rodents or otherwise create a health hazard.

4. Lot Sizes. In a C-1 Zone, no lot shall be created that is less than 20,000 square feet in area or is less than the size necessary for septic tank approval from the Department of Environmental Quality, whichever is larger.

5. Setback Requirements. No building shall be placed any closer than 20 feet from a property line.

6. Signs. The following signs are permitted in the C-1 Zone:

A. Identification and advertising signs accessory to the allowed use.

B. Outdoor advertising signs permitted by ORS Chapter 377.

Section 3.140. Limited Use Combining Zone, LU

Sub-Sections:

1. **Purpose**
2. **Combining Zone Requirements**
3. **Procedures**
4. **Use Limitations**
5. **Adoption**
6. **Official Plan/Zoning Map**
7. **Site Plan Requirements**

In any Limited Use Combining Zone, the requirement and standards of this section shall apply in addition to those specified in this ordinance for the underlying zone and any other applicable combining zones. In the event of a conflict between the requirements and standards of this section and those of the underlying zone or other applicable combining zones, the provisions of this section shall govern.

In an LU Zone, the following regulations shall apply:

1. Purpose.

A. The purpose of the LU zone is to limit the list of permitted uses and general activities allowed in the underlying zone, when a plan amendment and zone change rezones a parcel of that underlying zone through the taking of an exception to a statewide land use planning goal under ORS 197.732.

B. The LU zone is an overlay zone which may be applied, where appropriate, to plan amendments/zone changes effected by either a "physically developed" exception under ORS 197.732(2)(a), an "irrevocably committed" exception under ORS 197.732(2)(b), or a "reasons" exception under ORS 197.732(2)(A).

C. The LU zone, when adopted, shall carry out the requirement of Oregon Administrative Rule 660-004-018 that where a goal exception is taken, permitted uses shall be limited to those uses justified by the exception statement.

2. Combining Zone Requirements.

When the LU Zone is applied, the uses permitted in the underlying zone shall be limited to those uses and general activities specifically set forth in the ordinance adopting the underlying zone and the LU zone. Any change in those uses and general activities must be made through the plan/land use regulation amendment process.

3. Procedures. The LU Zone shall be applied through the plan amendment and rezoning process at the time the underlying plan and/or zone designation is being changed.

4. Use Limitations.

A. In all cases, the hearings body shall establish that:

a. The uses and general activities subject to the rezoning are required to be limited to those uses and general activities justified in the goal exception taken.

b. A review of all zones in the Harney County Zoning Ordinance demonstrates that no existing zone adequately limits the uses and general activities.

c. The LU Zone, when applied to the underlying zone, is consistent with the Comprehensive Plan and other applicable policies of the County.

5. Adoption. The ordinance adopting the underlying zone and the LU zone shall set forth those specific uses and general activities, which will be permitted with or without conditional uses. The description of the permitted and conditional uses may be qualified as necessary to achieve the purpose of the LU zone.

6. Official Plan/Zoning Map. The official plan/zoning map shall be amended to show an LU suffix on any parcel where the LU zone has been applied.

7. Site Plan Requirements.

A. In addition to limiting the uses in the underlying zone where the LU zone is applied, the County may also require approval of the location of buildings, access, parking, screening and other site planning considerations in order to assure the compatibility of the permitted uses within the area.

B. The process for reviewing the site plan shall be described at the time of the LU zone application. Site plan requirements may be added by specific reference in the LU adopting ordinance and specifically altered during the site plan approval. Separate site plan approval shall not be required for any uses subject to a conditional use permit.

Section 3.150. Mineral and Aggregate Resource Overlay Zone, MARO

Sub-Sections:

1. **Purpose**
2. **Definitions**
3. **Overlay Zone Districts**
4. **Procedure for Applying the Overlay Zone**
5. **Extraction Area – Allowed Uses**
6. **Exemptions**
7. **Extraction Area – Development Standards**
8. **Impact Area – Uses and Development Standards**
9. **Site Reclamation**
10. **Site Plan Review**
11. **Termination of the Mineral and Aggregate Overlay**
12. **Nonconforming and Pre-existing Uses**
13. **Adopt Final Decision and Implementing Amendments**

1. Purpose.

The purpose and intent of the Mineral and Aggregate Resources Overlay Zone is:

A. To provide a mechanism to identify and protect significant mineral and aggregate resource sites.

B. To allow the development and use of mineral and aggregate resources subject to uniform operating standards.

C. To balance and resolve conflicts between surface mining activities and activities on surrounding land.

D. To ensure the protection of natural resources and the reclamation of mined land.

2. Definitions.

A. Aggregate Resources. Naturally occurring concentrations of stone, rock, sand and gravel, decomposed granite, lime, pumice, cinders, and other naturally occurring solid materials used in road building.

B. Conflicting Use. A use or activity that is subject to land use regulations and that would interfere with, or be adversely affected by, mining or processing activities at a significant mineral or aggregate resource site.

C. ESEE Analysis. The analysis of Economic, Social, Environmental and Energy consequences of (a) allowing mining on a significant site, and (b) allowing conflicting uses to displace mining on a significant site. Based on the results of

the ESEE analysis, Harney County is expected to determine a level of protection for the resource, and implement a program to achieve the designated level of protection.

D. Extraction Area. The area of identified significant mineral and aggregate reserves in which mining and processing are permitted. This is defined as the entire parcel under the ownership of the applicant, unless otherwise identified.

E. Existing Site. A significant aggregate site that is lawfully operating, or is included on an inventory in the Harney County Comprehensive Plan, which is acknowledged by LCDC, on or before the date of adoption of this Ordinance.

F. Expansion Area. An aggregate mining area contiguous to an existing site.

G. Goal 5 Process. The set of steps involving the identification of resource sites, the determination of significance, the identification of conflicting uses, the analysis of economic, social, environmental and energy consequences of conflicting uses, the determination on the level of protection to be afforded a resource site, and the selection of a program to protect significant sites.

H. Impact Area. The area surrounding the extraction area in which mining would have some significant potential adverse effects on surrounding uses, and in which conflicting uses may have some significant potential adverse effects on mining and processing activities. The impact area is the area in which ESEE consequences of conflicting uses are analyzed, and the establishment of new conflicting uses is regulated. The impact area covers a set radius of 1,500 feet from the boundary of the extraction site, unless otherwise determined.

I. Inventory. A survey, map, or description of one or more resource sites a local government, state or federal agency, private citizen, or other organization prepares that includes information about the resource values and features associated with such sites. As a verb, "inventory" means to collect, prepare, compile, or refine information about one or more resource sites (see resource list).

J. Mining. The extraction and processing of mineral or aggregate resources, in the manner provided under ORS 215.298(3).

K. Minimize a Conflict. To reduce an identified conflict to a level that is no longer significant. For those types of conflicts addressed by local, state, or federal standards (such as the Department of Environmental Quality standards for noise and dust levels) to "minimize a conflict" means to ensure conformance to the applicable standard.

L. Mining area. The area of a site within which mining is permitted or proposed, excluding undisturbed buffer areas or areas on a parcel where mining is not authorized.

M. Noise or Dust Sensitive Use. A conflicting use which is primarily used year-round for habitation. Residential structures, churches, hospitals, schools, public libraries, and campgrounds are considered noise or dust sensitive uses during their period of use. A forest or farm use is not noise or dust sensitive unless: (1) clearly defined as such by state law, or (2) determined to be based on analysis and findings adopted through the Goal 5 process.

N. ODOT Construction Grade Material. A complete listing of requirements for construction grade aggregate is found in the ODOT 1998 Supplemental Standards and Specifications for Highway Construction, Sections 2670 and 2680. Sample testing of aggregate from the site is required. ODOT Region 5 may be contacted for a copy of these standards and a list of companies that are qualified to test the samples.

O. PAPA. "PAPA" is a "post-acknowledgment plan amendment." The term encompasses actions taken in accordance with ORS 197.610 through 197.625, including amendments to an acknowledged comprehensive plan or land use regulation and the adoption of any new plan or land use regulation. The term does not include periodic review actions taken in accordance with ORS 197.628 through 197.650.

P. Processing. The activities described in ORS 517.750(11).

Q. Program or program to achieve the goal. A plan or course of proceedings and action either to prohibit, limit, or allow uses that conflict with significant Goal 5 resources, adopted as part of the comprehensive plan and land use regulations (e.g., zoning standards, easements, cluster developments, preferential assessments, or acquisition of land or development rights).

R. Protect. When applied to an individual resource site, means to limit or prohibit uses that conflict with a significant resource site (except as provided in OAR 660-023-0140, 660-023-0180, and 660-023-0190). When applied to a resource category, "protect" means to adopt land use regulations for a significant mineral or aggregate site in order to authorize mining of the site and to limit or prohibit new conflicting uses within the impact area of the site. Significant mineral and aggregate sites that have been established and on Harney County's Mineral and Aggregate Inventory prior to the adoption of this Ordinance will not be required to comply with these provisions, unless conditions of the site and surrounding area change such that the County determines more review is necessary.

S. Resource Category. Any one of the cultural or natural resource groups listed in Goal 5 which are:

a. Riparian Corridors
b. Wetlands
c. Wildlife Habitat
d. Federal Wild and Scenic Rivers
e. Oregon Scenic Waterways
f. Groundwater Resource
g. Approved Oregon Recreation Trails
h. Natural Areas
i. Wilderness Areas
j. Mineral and Aggregate Resources
k. Energy Sources
l. Historic Resources
m. Open Space
n. Scenic Views and Sites

T. Resource List. Includes the description, maps, and other information about significant Goal 5 resource sites within a jurisdiction, adopted by a local government as a part of the comprehensive plan or as a land use regulation. A "plan inventory" adopted under OAR 660-016-0000(5)(c) “or OAR 660-023-0030” shall be considered to be a resource list.

U. Resource Site or “Site”. A particular area where resources are located. A site may consist of a parcel or lot or portion thereof or may include an area consisting of two or more contiguous lots or parcels under one ownership.

V. Restrictive Covenant. An enforceable promise, given by the owner of a parcel whose use and enjoyment of that parcel may be restricted in some fashion by mining occurring on another parcel, not to object to the lawful conduct of mining. The restrictive covenant runs with the land until mining is completed and the site is reclaimed, and is binding upon the heirs and successors of the parties.

W. Screened Uses. (a) Noise sensitive uses or other uses determined to be conflicting uses through the Goal 5 process, and (b) Scenic viewpoints or other areas designated as significant Goal 5 resources.

X. Significant Site. A site containing either significant aggregate resources or significant mineral resources.

a. A significant aggregate resource site is a site that contains aggregate or stone materials which meet Oregon Department of Transportation specifications for construction grade material (i.e. base rock for air degradation, abrasion, and sodium sulfate soundness. These requirements are found in the ODOT 1998 Standards and Specifications for Highway Construction, Sections 2670 and 2680); and is located within an ownership or long-term lease containing estimated amounts of material in excess of 100,000 tons.

b. Sand, decomposed granite, lime, pumice, cinders, and other naturally occurring rock products where specific ODOT specifications for construction

grade materials are not available or applicable, but exceeding an estimated amount of material of more than 100,000 tons, may be determined to be significant based upon an analysis and findings consistent with OAR 660-023-0030 that the resource represents a marketable and valuable resource.

c. A significant mineral resource site is a site that contains metallic and non-metallic minerals other than sand, gravel, stone, aggregate, or similar rock products commonly used in construction, that have been determined to be significant based upon an analysis and findings that the resource represents a marketable and valuable resource.

Y. Site Plan. A Harney County permit to either (a) commence mining in the extraction area, or (b) commence a use in the impact area. The site plan shall include such surveys, maps, diagrams, narratives and other materials, as may be necessary to describe the placement of and use of all improvements, equipment, fixtures, mitigation measures, landscaping, and vehicles on site.

Z. Waiver of Remonstrance. A voluntary relinquishment of the right to object to the terms of a permit sought from or issued by a local government, state agency or federal agency. A waiver of remonstrance runs with the land until mining is completed and the site is reclaimed, and is binding upon the heirs and successors of the parties.

AA. Width of Aggregate Layer. The depth of the water-lain deposit of sand, stones, and pebbles of sand-sized fraction or larger, minus the depth of the topsoil and non-aggregate overburden.

3. Overlay Zone Districts. The Mineral and Aggregate Resources Overlay Zone comprises two areas, the Extraction Area and the Impact Area. Neither element of the overlay—the Extraction Area or the Impact Area—shall be applied independently by Harney County to land within a city or another county.

4. Procedure For Applying The Overlay Zone. The following procedure is to be used when applying the Mineral and Aggregate Resources Overlay Zone to any area of Harney County:

A. Harney County is not required to amend acknowledged inventories or plans with regard to mineral and aggregate resources except in response to an application for a PAPA (Post-Acknowledgement Plan Amendment). Thus, the County is not required to apply these provisions to sites that are established and are listed on Harney County's Mineral and Aggregate Inventory. The requirements of these provisions modify, supplement, or supersede the requirements of the standard Goal 5 process in OAR 660-023-0030 through 660-023-0050, as follows:

a. Harney County may inventory mineral and aggregate resources throughout the jurisdiction, or in a portion of the jurisdiction. When the County conducts an inventory of mineral and aggregate sites in all or a portion of the jurisdiction, it shall follow the requirements of OAR 660-023-0030 as modified by subsection (b) of this section. When the County is following the inventory process for a mineral or aggregate resource site filed under a PAPA, it shall follow only the applicable requirements of OAR 660-023-0030, except as provided in paragraph (B) and (E) of this section;

b. Harney County shall apply the criteria in paragraph (B) of this section rather than OAR 660-023-0030(4) in determining whether an aggregate resource site is significant;

c. Harney County shall follow the requirements of paragraph (C) of this section in deciding whether to authorize the mining of a significant mineral or aggregate resource site; and,

d. For significant mineral and aggregate sites where mining is allowed, Harney County shall decide on a program to protect the site from new off-site conflicting uses by following the standard ESEE process in OAR 660-023-0040 and 660-023-0050 with regard to such uses.

B. An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality, and location of the resource demonstrates that the site meets any one of the criteria in (a) through (c) of this section, except as provided in (d) of this section:

a. A representative set of samples of aggregate material in the deposit on the site meets Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and sodium sulfate soundness, and the estimated amount of material is more than 100,000 tons; or,

b. Sand, decomposed granite, lime, pumice, cinders, and other naturally occurring rock products where specific ODOT specifications for construction grade materials are not available or applicable, but exceeding an estimated amount of material of more than 100,000 tons, may be determined to be significant based upon an analysis and findings consistent with OAR 660-023-0030 that the resource represents a marketable and valuable resource.

c. The aggregate site is on an inventory of significant aggregate sites in an acknowledged plan on the date this Ordinance is adopted.

d. Notwithstanding (a) through (c) of this section, except for an expansion area of an existing site if the operator of the existing site on March 1, 1996 had an enforceable property interest in the expansion area on that date, an

aggregate site is not significant if the criteria in either paragraphs (I.) or (II.) of this subsection apply:

I. More than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps on the date of this ordinance; or,

II. More than 35 percent of the proposed mining area consists of soil classified as Class II, or of a combination of Class II and Class I or Unique soil on NRCS maps available on the date of this ordinance.

C. For significant mineral and aggregate sites, Harney County shall decide whether mining is permitted. For a PAPA application involving a significant aggregate site, the process for this decision is set out in (a) through (g) of this section. For a PAPA involving a significant aggregate site, Harney County must complete the process within 180 days after receipt of a complete application that is consistent with paragraph (E) of this section. The process for reaching decisions about aggregate mining is as follows:

a. Harney County shall determine an impact area for the purpose of identifying conflicts with proposed mining and processing activities. The impact area shall be large enough to include uses listed in (b) of this section and shall be limited to 1,500 feet from the boundaries of the mining area, except where factual information indicates significant potential conflicts beyond this distance. For a proposed expansion of an existing aggregate site, the impact area shall be measured from the perimeter of the proposed expansion area rather than the boundaries of the existing aggregate site and shall not include the existing aggregate site.

b. Harney County shall determine existing or approved land uses within the impact area that will be adversely affected by proposed mining operations and shall specify the predicted conflicts. For purposes of this section, "approved land uses" are dwellings allowed by a residential zone on existing platted lots and other uses for which the County has granted conditional or final approvals. For determination of conflicts from proposed mining of a significant aggregate site, Harney County shall limit its consideration to the following:

I. Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges;

II. Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. Conflicts shall

be determined based on clear and objective standards regarding sight distances, road capacity, current and forecasted traffic volumes, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan and implementing ordinances. Such standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials;

III. Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;

IV. Conflicts with agricultural practices; and,

c. Harney County shall determine reasonable and practicable measures that would minimize the conflicts identified under (b) of this section. To determine whether proposed measures would minimize conflicts to agricultural practices, the requirements of ORS 215.296 shall be followed rather than the requirements of this section. If reasonable and practicable measures are identified to minimize all identified conflicts, mining shall be allowed at the site and (d) of this section is not applicable. If identified conflicts cannot be minimized, (d) of this section applies.

d. Harney County shall determine any significant conflicts identified under the requirements of paragraph (B) of this section that cannot be minimized. Based on these conflicts only, the County shall determine the ESEE consequences of allowing, limiting, or not allowing mining at the site. The County shall reach this decision by weighing these ESEE consequences, with consideration of the following:

I. The degree of adverse effect on existing land uses within the impact area;

II. Reasonable and practicable measures that could be taken to reduce the identified adverse effects; and,

III. The probable duration of the mining operation and the proposed post-mining use of the site.

e. Where mining is allowed, the plan and implementing ordinances shall be amended to allow such mining. Any required measures to minimize conflicts, including special conditions and procedures regulating mining, shall be clear and objective. Additional land use review (e.g., site plan review), if required by the local government, shall not exceed the minimum review necessary to assure compliance with these requirements and shall not provide

opportunities to deny mining for reasons unrelated to these requirements, or to attach additional approval requirements, except with regard to mining or processing activities:

I. For which the PAPA application does not provide information sufficient to determine clear and objective measures to resolve identified conflicts;

II. Not requested in the PAPA application; or,

III. For which a significant change to the type, location, or duration of the activity shown on the PAPA application is proposed by the operator.

f. Where mining is allowed, Harney County shall determine the post-mining use and provide for this use in the comprehensive plan and land use regulations. For significant aggregate sites on Class I, II and Unique farmland, the County shall adopt plan and land use regulations to limit post-mining use to farm uses under ORS 215.203, uses listed under ORS 215.283(1), and fish and wildlife habitat uses, including wetland mitigation banking. The County shall coordinate with DOGAMI regarding the regulation and reclamation of mineral and aggregate sites, except where exempt under ORS 517.780.

g. Harney County shall allow a currently approved aggregate processing operation at an existing site to process material from a new or expansion site without requiring a reauthorization of the existing processing operation unless limits on such processing were established at the time it was approved by the County.

D. Harney County shall follow the standard ESEE process in OAR 660-023-0040 and 660-023-0050 to determine whether to allow, limit, or prevent new conflicting uses within the impact area of a significant mineral and aggregate site. The consideration of new conflicting uses shall be limited to land uses, which if approved, would be allowed outright in the underlying zoning district. (This requirement does not apply if, under paragraph (C) of this ordinance, the County decides that mining will not be authorized at the site.)

E. In order to determine whether information in a PAPA submittal concerning an aggregate site is adequate, Harney County shall follow the requirements of this section rather than OAR 660-023-0030(3). An application for a PAPA concerning a significant aggregate site shall be adequate if it includes:

a. Information on location, quality, and quantity must be reliable information, such as 1) A report from a registered professional engineer or geologist, or 2) Results from test hole drilling, including depth;

b. A conceptual site reclamation plan;

(NOTE: Final approval of reclamation plans resides with DOGAMI rather than County, except as provided in ORS 517.780.)

c. A traffic impact assessment within one mile of the entrance to the mining area pursuant to section (C)(b)(2) of this Section, unless vehicular impacts will exceed this distance;

d. Proposals to minimize any conflicts with existing uses preliminarily identified by the applicant within a 1,500 foot impact area; and,

e. A site development plan with information as required and described in Section 7 of this ordinance.

5. Extraction Area – Allowed Uses.

A. Uses permitted either outright or conditionally in the underlying zone may be allowed subject to the underlying zone criteria, any requirements adopted as part of the Goal 5 process, and the following criteria:

a. Permitted uses shall be reviewed according to the site plan review procedure listed in Sub-Section 9 of this section;

b. Noise sensitive uses as defined in Sub-Section 2 or those uses determined through the Goal 5 process to be conflicting uses may be permitted as conditional uses; and,

c. Applications for conditional uses within the Extraction Area shall be reviewed against the approval criteria of Sub-Section 7.

B. The following uses shall be permitted subject to the review standards of Sub-Section 7 and any requirements adopted as part of the Goal 5 process:

a. Mining;

b. Processing, except the grouping or blending of mineral and aggregate materials into asphalt concrete within two miles of a planted commercial vineyard existing on the date the application was received for the asphalt batch plant;

c. Stockpiling of mineral and aggregate materials;

d. Temporary use of offices, shops or other accessory structures used for the management and maintenance of mining and processing equipment;

e. Sale of mining products extracted and processed on-site;

f. Storage of transportation equipment or storage of machinery or equipment used in conjunction with on-site mining or processing; and,

g. Other activities including buildings and structures necessary and accessory to development or reclamation of a mineral or aggregate resource.

6. Exemptions. Except as provided for in Sub-Section 12, the following mining activities are exempt from the provisions of Sub-Section 7. Operators or landowners claiming any of these exemptions have the burden of establishing the validity of the exemption.

A. In zones qualified as exclusive farm use, mining less than 1,000 cubic yards of material or excavation preparatory to mining of an area of less than one (1) acre.

B. In all other zones, mining less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until such time that mining affects five (5) or more acres.

C. Mining and processing of mineral and aggregate resources auxiliary to forest practices.

7. Extraction Area – Development Standards. The following standards apply to mining and processing unless other standards are adopted in the Goal 5 process. Prior to the commencement of mining, and no later than site plan review, the applicant shall demonstrate that the following standards or replacement standards adopted in the Goal 5 process are met or can be met by a specified date.

A. Access.

a. On-site roads used in mining, and access roads from the extraction site to a public road shall be designed and constructed to accommodate mining vehicles and equipment, and shall meet the following standards:

I. All access roads within 100 feet of a paved County road or state highway shall be paved unless the applicant demonstrates that other specified methods of dust control will effectively eliminate dust rising from access roads;

II. All on-site roads within the Extraction Area shall be constructed and maintained in a manner so that all applicable DEQ standards for vehicular noise control and ambient air quality are met or can be met by a specified date; and,

III. All on-site roads within the Extraction Area shall be paved at all points within 250 feet of a noise or dust sensitive use unless the applicant demonstrates that other specified methods of dust control will effectively eliminate dust rising from access roads.

b. Improvements to substandard public roads outside of the Extraction Area may only be required as necessary to comply with a road improvement program adopted as part of transportation element of the comprehensive plan. Mitigation for public road may be assessed at a proportional rate by the County based on the finding by a traffic analysis approved by the County.

B. Screening.

a. The mining activities listed in subsection (B)(b) of this section shall be obscured from view, unless one of the exceptions in subsection (B)(d) of this section applies. Screening shall be accomplished in a manner consistent with subsection (B)(c) of this section.

b. Mining Activities to be screened:

I. All excavated areas except those areas where reclamation is being performed, internal on-site roads existing on the effective date of this ordinance, new roads approved as part of the site. Plan review, material excavated to create berms, and material excavated to change the level of the mine site to an elevation, which provides natural screening;

II. All processing equipment; and,

III. All equipment stored on the site.

c. Types of Screening:

I. Natural Screening. Existing vegetation or other landscape features which are located within the boundaries of the Extraction Area, and which obscure the view of mining activities from screened uses, shall be preserved and maintained.

II. Supplied Screening. Supplied vegetative screening is screening that does not exist at the time of the site plan review. Plantings used in supplied vegetative screening shall not be required to exceed a density of alternating rows of conifer trees six feet on center and a height of six feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.

d. Exceptions. Supplied screening shall not be required when and to the extent that any of the following circumstances exist:

I. The natural topography of the site provides screening to obscure mining activities from screened uses;

II. Supplied screening cannot obscure mining activities from screened uses due to local topography;

III. The applicant demonstrates that supplied vegetative screening cannot reliably be established or cannot survive for a ten-year period due to soil, water or climatic conditions;

IV. Temporary mining activities otherwise requiring screening will either be removed or reclaimed within 18 months; or,

V. An alternate program or technique to achieve screening is developed, and embodied in a waiver of remonstrance and a restrictive covenant.

C. Air Quality. The discharge of contaminants and dust created by mining shall comply with applicable DEQ ambient air quality and emissions standards, or approval shall be conditioned to ensure that such standards will not be violated.

D. Streams and Drainage. Unless a waiver of remonstrance and a restrictive covenant are obtained from adjoining property owners, mining shall not alter drainage patterns on adjoining property, or drain waste materials or wastewater onto adjoining properties or Class I streams. Where mining abuts a lake or other perennial body of water, all existing vegetation within 250 feet of the mean high water mark shall be retained unless mining is allowed within this area as part of the Goal 5 process.

E. Flood Plain. Any mining operation conducted in a flood plain shall demonstrate compliance with all applicable standards and criteria of the flood plain ordinance as part of site plan approval.

F. Noise. Noise created by mining shall not exceed applicable DEQ noise control standards. Compliance with this standard can be demonstrated by the report of an acoustical engineer, and compliance methods may include siting mining to achieve compliance by way of existing topography or other natural features, or by use of supplied berms or other noise abatement methods.

G. Hours of Operation.

a. Mining and processing are restricted to the hours of 7 a.m. to 9 p.m. Monday through Friday, and 7 a.m. to 5 p.m. Saturday. Hauling and other activities may operate without restriction provided that DEQ noise control standards are met.

b. Mining shall not take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.

H. Drilling and Blasting.

a. Drilling and blasting are restricted to the hours of 7 a.m. to 7 p.m., Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.

b. Notice of blasting events shall be provided in a manner calculated to be received by property owners and tenants within 750 feet of the blast site at least 48 hours prior to the blasting event. In the case of ongoing blasting activities, notice shall be provided once each month for the period of blasting events, and specify the days and hours when blasting is expected to occur.

I. Surface water shall be managed: (a) in a manner that meets all applicable DEQ water quality standards and DOGAMI requirements, or (b) approval shall be conditioned upon meeting such standards by a specified date. The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.

J. Compliance with Special Conditions. The applicant shall demonstrate that all special conditions or requirements adopted as part of the Goal 5 process have been satisfied or will be satisfied by a specified date.

K. Security. Fencing of site boundaries shall be required on the boundary between a significant site and any parcel zoned to allow dwellings as an outright permitted use. Fencing shall be a cyclone type fence, shall be earth tone color, and shall be a minimum of six feet high.

L. Performance Agreements.

a. The mining operator shall keep applicable DOGAMI permits or exemption certificates in effect.

b. The mining operator shall carry a Comprehensive General Liability policy covering mining, processing and incidental activities during the term of operation and reclamation, with an occurrence limit of at least $500,000. A Certificate of Insurance for a term of one year shall be deposited with Harney County prior to the commencement of mining.

8. Site Reclamation. The following standards shall apply for site reclamation:

A. No mining shall commence without the operator providing Harney County a copy of a DOGAMI operating permit and approved reclamation plan or exemption certificate issued in accordance with ORS 517.750 through 517.900 and the rules adopted there under.

B. The jurisdiction of Harney County with respect to mined land reclamation is limited to determining the subsequent beneficial use of mined areas, ensuring that the subsequent beneficial use is compatible with applicable provisions of the comprehensive plan, and ensuring that mine operations are consistent with adopted programs to protect other Goal 5 resources.

C. Harney County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County in the following manner:

a. When notified by DOGAMI that an operator has applied for approval of a reclamation plan and issuance of an operating permit, Harney County shall, in turn, notify DOGAMI if local site plan approval is required.

I. If site plan approval is required, Harney County shall request that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the operating permit until after site plan approval has been granted.

II. If site plan approval is not required, Harney County shall notify DOGAMI that no land use approval is required, and the county will review the proposed reclamation plan during DOGAMI's notice and comment period.

b. When reviewing a proposed reclamation plan and operating permit application circulated by DOGAMI, Harney County shall review the plan against the following criteria:

I. The plan will rehabilitate mined land for a use specified in the comprehensive plan, including subsequent beneficial uses identified through the Goal 5 process;

II. The reclamation plan, and surface mining and reclamation techniques employed to carry out the plan complies with the standards of Sub-Section 8 of this section; and,

III. Measures are included which will ensure that other significant Goal 5 resources determined to conflict with mining will be protected in a manner consistent with the comprehensive plan.

9. Site Plan Review. The following standards apply when completing a site plan review:

A. Site plan review is required prior to commencement of mining. Applications shall be in the form required by Harney County, and shall demonstrate compliance with the standards of Sub-Section 7 and any requirements adopted as part of the Goal 5 process.

B. Applications for site plan approval of surface mining operations and activities authorized by Sub-Section 5 of this section shall be reviewed in accordance with the provisions for making a limited land use decision (ORS 215.425).

C. Harney County shall approve, conditionally approve, or deny a site plan based on the ability of the site plan to conform to the standards of Sub-Section 7 and any other requirements adopted as part of the Goal 5 process.

D. If Harney County determines that the site plan is substantially different from the proposal approved in the Goal 5 process, the application shall be denied or conditioned to comply with the decision adopted as part of the Goal 5 process. The applicant may choose to apply for a comprehensive plan amendment whereby the original decision reached through the Goal 5 process will be reexamined based on the revised site plan.

10. Impact Area – Uses And Development Standards.

A. Uses Permitted Outright. Uses permitted outright in the underlying zone, may be permitted subject to the standards and criteria of the underlying zone(s).

B. All conditional uses shall be subject to the standards and criteria of the underlying zone and this ordinance, and shall be reviewed as such. Noise or dust sensitive uses and conflicting uses shall be reviewed as conditional uses.

C. Prohibited Uses. Uses identified through the Goal 5 process as incompatible with mining in all instances shall not be permitted within the Impact Area.

D. Approval Criteria. To approve uses allowed conditionally in the Impact Area, the applicant must demonstrate compliance with the following criteria:

a. The proposed use will not interfere with or cause an adverse impact on lawfully established and lawfully operating mining operations;

b. The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this chapter;

c. The applicable criteria of subsection (E) of this section are met; and,

d. Any setbacks or other requirements imposed through the Goal 5 process have been met, or can be met by a specified date through the imposition of conditions on the conflicting use.

E. Noise and Dust Reduction and Waiver of Remonstrance.

a. The applicant for a new noise or dust sensitive use shall demonstrate that the mining operation in the adjacent Extraction Area will maintain compliance with DEQ noise control standards and ambient air quality and emission standards as measured at the new noise or dust sensitive use.

b. The applicant for a new noise sensitive use shall submit an analysis prepared by an acoustical engineer, demonstrating that the applicable DEQ noise control standards are met or can be met by a specified date by the adjoining mining operation. If noise mitigation measures are necessary to ensure continued compliance on the part of the mining operation, such measures shall be a condition of approval. If noise mitigation measures are inadequate to ensure compliance with DEQ noise control standards, the noise sensitive use shall not be approved within the Impact Area.

c. As a condition of final approval for the establishment of a new noise sensitive use, the applicant shall secure a waiver of remonstrance and restrictive covenant in favor of the mining operator that incorporate the compliance items specified in subsection (E)(b) of this section.

11. Termination of The Mineral And Aggregate Resources Overlay Zone.

When a significant site has been fully mined and reclamation has been completed, the property shall be rezoned to remove the Mineral and Aggregate Resources Overlay Zone. Rezoning shall not relieve requirements on the part of the owner or operator to reclaim the site in accordance with ORS 517.750 through 517.900 and the rules adopted there under.

12. Nonconforming And Pre-Existing Uses.

A. Within an Extraction Area, existing mining activities that do not conform to the standards of Sub-Section 7 may continue as nonconforming uses. Expansion of mining beyond the area in which mining is occurring on the date the Mineral and Aggregate Resources Overlay Zone is adopted shall comply with Sub Section 7.

B. Pre-existing mining or processing activities operating pursuant to Harney County land use approval shall continue to comply with the conditions of the approval, unless the conditions are removed or modified through the Goal 5 process.

C. The use of any building, structure or facility lawfully established within the Mineral and Aggregate Resources Overlay Zone Impact Area prior to the date the Mineral and Aggregate Overlay Zone is adopted may continue. Expansion greater than twenty (20) percent of the size or use of the structure or activity shall comply with Sub-Section 8 of this section.

13. Adopt Final Decision And Implementing Amendments.

A. Amend the Harney County Comprehensive Plan to carry out the decision. The decision maker shall implement the determinations made under this Chapter by amending the Comprehensive Plan as set forth in paragraphs (1) and (2) of this subsection.

a. Inventories. The decision maker shall amend the appropriate section of the Harney County Mineral and Aggregate Inventory to include the site on an inventory and to include any supporting analyses pursuant to this paragraph.

b. Information is not adequate to make a determination. If the Planning Director determined that the application is not complete solely because the applicant was unable to provide information adequate to make the determination required by Section 4 of this ordinance, the decision maker shall amend the Harney County Mineral and Aggregate Inventory and add the site to Section 1 “Inventory of Possible Significant Site” (Formerly 1B Site).

c. Non-significant sites. If the Planning Director, based on location, quality and quantity information determines that an aggregate resource site is not significant; the decision maker shall amend the Harney County Mineral and Aggregate Inventory and add the site to Section 2 entitled “Inventory of Non-Significant Sites” (Formerly 1A Sites).

d. Significant sites without conflicts. If the Director, based on location, quality and quantity information determines that an aggregate resource site is significant, and the decision maker has determined that the site is without conflicts, the decision maker shall amend the Harney County Mineral and Aggregate Inventory and add the site to Section 3 entitled “Inventory of Significant Sites Without Conflicting Uses” (Formerly 2A Sites).

e. Significant sites with conflicts that have been minimized. If the decision maker is able to minimize the conflicts under Section 4(D) of this ordinance, the decision maker shall amend the Harney County Mineral and Aggregate Inventory and add the site for which all conflicts have been minimized to Section 4 entitled “Inventory of Significant Sites With All Conflicts Minimized.”

f. Significant sites with conflicts that cannot be minimized. Based on an ESEE analysis significant sites with conflicts that cannot be minimized are to be

protected by Goal 5 and approved for mining. If a significant site has conflicts not able to be minimized but pursuant to an ESEE analysis is determined to receive Goal 5 protection for approved for mining, the decision maker shall amend the Harney County Mineral and Aggregate Inventory and:

I. Add the site to Section 5 entitled "Inventory of Significant Sites Protected by Goal 5 and Approved for Mining Pursuant to an ESEE Analysis" (Formerly 3A or 3C Sites); and,

II. Add the ESEE analysis to Section 6 entitled "ESEE Analyses Justifying the Protection of a Site by Goal 5 and Granting Mining Approval."

g. Significant sites with conflicts that cannot be minimized. Based on an ESEE analysis, significant sites with conflicts that cannot be minimized are not to be protected by Goal 5 or approved for mining. If a significant site has conflicts not able to be minimized, but, pursuant to an ESEE analysis, is determined not to receive Goal 5 protection not to be approved for mining under Goal 5, the decision maker shall provide full protection to the conflicting use and shall amend the Harney County Mineral and Aggregate Inventory and add the site to Section 7 entitled "Inventory of Significant Sites Not Protected by Goal 5 and Not Approved for Mining Pursuant to an ESEE Analysis" (Formerly 3B Sites).

ORDINANCE HISTORY NOTIES: The Mineral and Aggregate Overlay Zone provisions, Section 3.150 of the Harney County Zoning Ordinance, were developed as part of a voluntary Revised Periodic Review Work Task. Section 3.150 was subsequently adopted by Harney County on February 21, 2001. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Article 4. Supplementary Provisions

Sections:

4.010. Maintenance of Minimum Ordinance Requirements
4.020. Access Management
4.030. General Provisions Regarding Accessory Uses
4.040. Archaeological Provisions
4.050. Historical Protection
4.060. Lot of Record Dwellings
4.070. Steep Slope Development Standards
4.080. Flood Plain Standards
4.090. Solar Access
4.100. Property Line Adjustment
4.110. Transportation Improvement Standards
4.120. Site Plan Review Procedures
4.130. Outdoor Lighting Standards

Section 4.010. Maintenance of Minimum Ordinance Requirements

No lot area, yard, or other open space existing on or after the effective date of this ordinance shall be reduced below the minimum required for it by this ordinance, and no lot area, yard, or other shall be used as the required lot area, yard, or other open space for another use except as provided in the variance procedure.

Section 4.020. Access Management

Sub-Sections:

1. **Definitions**
2. **General**

1. Definitions.

A. Access. A way or means of approach to provide pedestrian, bicycle, or motor vehicular entrance or exit to a property.

B. Access Classification. A ranking system for roadways used to determine the appropriate degree of access management. Factors considered include functional classification, the appropriate local government's adopted plan for the roadway, subdivision of abutting properties, and existing level of access control.

C. Access Connection. Any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system.

D. Access Management. The process of providing and managing access to land development while preserving the regional flow of traffic in terms of safety, capacity, and speed.

E. Accessway. A walkway that provides pedestrian and bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved or marked in a manner that provides convenient access for pedestrians.

F. Corner Clearance. The distance from an intersection of a public or private road to the nearest access connection, measured from the closest edge of the pavement of the intersecting road to the closest edge of the pavement of the connection along the traveled way.

G. Cross Access. A service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system.

H. Easement. A grant of one or more property rights by a property owner to or for use by the public, or another person or entity.

I. Frontage Road. A public or private drive, which generally parallels a public street between the right-of-way and the front building setback line. The frontage road provides access to private properties while separating them from the arterial street.

J. Functional Area (Intersection). That area beyond the physical intersection of two roads that comprises decision and maneuver distance, plus any required vehicle storage length.

K. Functional Classification. A system used to group public roadways into classes according to their purpose in moving vehicles and providing access.

L. Joint Access (or Shared Access). A driveway connecting two or more contiguous sites to the public street system.

M. Lot. A parcel, tract, or area of land whose boundaries have been established by some legal instrument, which is recognized as a separate legal entity for

purposes of transfer of title, has frontage upon a public or private street, and complies with the dimensional requirements of this code.

N. Lot, Corner. Any lot having at least two (2) contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees.

O. Lot Depth. The average distance measured from the front lot line to the rear lot line.

P. Lot, Flag. A lot not meeting minimum frontage requirements and where access to the public road is by a narrow, private right-of-way line.

Q. Lot, Through. (Also called a double frontage lot). A lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lots.

R. Lot Frontage. That portion of a lot extending along a street right-of-way line.

S. Non-conforming Access Features. Features of the property access that existed prior to the date of ordinance adoption, and do not conform with the requirements of this ordinance.

T. Parcel. A division of land comprised of one or more lots in contiguous ownership.

U. Plat. An exact and detailed map of the subdivision of land.

V. Private Road. Any roadway for vehicular travel, which is privately owned and maintained, and which provides the principal means of access to abutting properties.

W. Public Road. A road under the jurisdiction of a public body that provides the principal means of access to an abutting property.

X. Reasonable Access. The minimum number of access connections, direct or indirect, necessary to provide safe access to and from the roadway, as consistent with the purpose and intent of this ordinance and any applicable plans and policies of the (city/county).

Y. Right-of-Way. Land reserved, used or to be used for a highway, street, alley, walkway, drainage facility, or other public purpose.

Z. Significant Change in Trip Generation. A change in the use of the property, including land, structures or facilities, or an expansion of the size of the structures or facilities causing an increase in the trip generation of the property exceeding: (1) Local – 10 percent more trip generation (either peak or daily) and

100 vehicles per day more than the existing use for all roads under local jurisdiction; or (2) State – exceeding 25 percent more trip generation (either peak or daily) and 100 vehicles per day more than the existing use for all roads under state jurisdiction.

AA. Stub-out (stub-street). A portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future.

BB. Substantial Enlargements or Improvements. A 10 percent increase in existing square footage or 50 percent increase in assessed valuation of a structure.

2. General. The intent of this ordinance is to manage access to land development to preserve the transportation system in terms of safety, capacity and function. This ordinance shall apply to all arterials and collectors within Harney County and to all properties that abut these roadways. This ordinance is adopted to implement the access management policies of Harney County as set forth in the Transportation System Plan.

A. Corner Clearance.

a. Corner clearance for connections shall meet or exceed the minimum connection spacing requirements for that roadway.

b. New connections shall not be permitted within the functional area of an intersection or interchange as defined by the connection spacing standards of this ordinance, unless no other reasonable access to the property is available.

c. Where no other alternatives exist, the county may allow construction of an access connection along the property line farthest from the intersection. In such cases, directional connections (i.e. right in/out, right in only, or right out only) may be required.

B. Joint and Cross Access.

a. Adjacent commercial or office properties classified as major traffic generators (i.e. shopping plazas, office parks) shall provide a cross access drive and pedestrian access to allow circulation between sites.

b. A system of joint use driveways and cross access easements shall be established wherever feasible and shall incorporate the following:

I. A continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation consistent with the access management classification system and standards;

II. A design speed of 10 mph and a maximum width of 20 feet to accommodate two-way travel aisles designated to accommodate automobiles, service vehicles and loading vehicles;

III. Stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross-access via a service drive; and,

IV. A unified access and circulation system plan for coordinated or shared parking areas is encouraged.

c. Shared parking areas shall be permitted and a reduction in required parking spaces allowed if peak demands do not occur at the same time periods.

d. Pursuant to this section, property owners shall:

I. Record an easement with the deed allowing cross access to and from other properties served by the joint use driveways and cross access or service drive;

II. Record an agreement with the deed that remaining access rights along the roadway will be dedicated to the county and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway; and,

III. Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.

e. The county may reduce required separation distance of access points where they prove impractical, provided all of the following requirements are met:

I. Joint access driveways and cross access easements are provided in accordance with this section;

II. The site plan incorporates a unified access and circulation system in accordance with this section; and,

III. The property owner enters into a written agreement with the county, recorded with the deed, that pre-existing connections on the site will be closed and eliminated after construction of each side of the joint use driveway.

f. The county may modify or waive the requirements of this section where the characteristics or layout of abutting properties would make a development of a unified or shared access and circulation system impractical.

C. Access Connection and Driveway Design.

a. Driveways shall meet the following standards:

I. If the driveway is a one way in or one way out drive, then the driveway shall be a minimum width of 10 feet and a maximum width of 12 feet and shall have appropriate signage designating the driveway as a one way connection.

II. For two-way access, each lane shall have a minimum width of 10 feet and a maximum width of 12 feet.

b. Driveway approaches must be designed and located to provide an exiting vehicle with an unobstructed view. Construction of driveways along acceleration or deceleration lanes and tapers shall be avoided due to the potential for vehicular weaving conflicts.

c. The length of driveways shall be designed in accordance with the anticipated storage length for entering and existing vehicles to prevent vehicles from backing into the flow of traffic on the public road or causing unsafe conflicts with onsite circulation.

D. Requirements for Phased Development Plans.

a. In the interest of promoting unified access and circulation systems, development sites under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall be reviewed as single properties in relation to the access standards of this ordinance. The number of access points permitted shall be the minimum number necessary to provide reasonable access to these properties, not the maximum available for that frontage. All necessary easements, agreements, and stipulations shall be met. This shall also apply to phased development plans. The owner and all lessees within the affected area are responsible for compliance with the requirements of this ordinance and both shall be cited for any violation.

b. All access must be internalized using the shared circulation system of the principal development or retail center. Driveways shall be designed to avoid queuing across surrounding parking and driving aisles.

E. Nonconforming Access Features.

a. Legal access connections in place as of April 18, 2001, that do not conform with the standards herein are considered nonconforming features and shall

be brought into compliance with applicable standards under the following conditions:

I. When new access connection permits are requested.

II. Change in use or enlargements or improvements that will increase trip generation.

F. Reverse Frontage.

a. Lots that front on more than one road shall be required to locate motor vehicle accesses on the road with the lower functional classification.

b. When a residential subdivision is proposed that would abut an arterial, it shall be designed to provide through lots along the arterial with access from a frontage road or interior local road. Access rights of these lots to the arterial shall be dedicated to Harney County and recorded with the deed. A berm or buffer yard may be required at the rear of through lots to buffer residences from traffic on the arterial. The berm or buffer yard shall not be located within the public right-of-way.

G. Flag Lot Standards.

a. Flag lots shall not be permitted when the result would be to increase the number of properties requiring direct and individual access connections to the state highway system or other arterials.

b. Flag lots may be permitted for residential development when necessary to achieve planning objectives, such as reducing direct access to roadways, providing internal platted lots with access to a residential road, or preserving natural or historic resources, under the following conditions:

I. Flag lot driveways shall be separated by at least twice the minimum frontage requirement of that zoning district.

II. The flag driveway shall have a minimum width of 10 feet and maximum width of 20 feet.

III. In no instance shall flag lots constitute more than 10 percent of the total number of building sites in a recorded or unrecorded plat, or three lots or more, whichever is greater.

IV. The lot area occupied by the flag driveway shall not be counted as part of the required minimum lot area of that zoning district.

V. No more than one flag lot shall be permitted per private right-of-way or access easement.

H. Lot Width to Depth Ratios.

a. To provide for proper site design and prevent the creation of irregularly shaped parcels, the depth of any lot or parcel shall not exceed 3 times its width or (4 times its width in rural areas) unless there is a topographical or environmental constraint or an existing man-made feature.

I. Shared Access.

a. Subdivisions with frontage on the state highway system shall be designed into shared access points to and from the highway. Normally a maximum of two accesses shall be allowed regardless of the number of lots or businesses served. If access off of a secondary road is possible, then access should not be allowed onto the state highway. If access off of a secondary road becomes available, then conversion to that access is encouraged, along with closing the state highway access.

b. New direct access to individual one and two family dwellings shall be prohibited on all but District Level State Highways.

J. Connectivity.

a. The road system of proposed subdivisions shall be designed to connect with existing, proposed, and planned roads outside of the subdivision as provided in this Section.

b. Wherever a proposed development abuts land that is not platted or a future development phase of the same development, road stubs shall be provided to provide access to abutting properties or to logically extend the road system into the surrounding area. All road stubs shall be provided with a temporary turn-around unless specifically exempted by the Public Works Director, and the restoration and extension of the road shall be the responsibility of any future developer of the abutting land.

K. Variances to Access Management Standards.

a. The granting of a variance shall meet the purpose and intent of these regulations and shall not be considered until every feasible option for meeting access standards is explored.

b. Applicants for a variance from these standards must provide proof of unique or special conditions that make strict application of the provisions impractical. Applicants shall include proof that:
I. Indirect or restricted access cannot be obtained;

II. No engineering or construction solutions can be applied to mitigate the condition; and,

III. No alternative access is available from a road with a lower functional classification than the primary roadway.

ORDINANCE HISTORY NOTIES: The Access Management provisions, Section 4.020 of the Harney County Zoning Ordinance, were modified by the Harney County Planning Department as part of the Harney County TSP Implementation program and adopted by Harney County on April 18, 2001. Any changes from this point forward will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 4.030. General Provisions Regarding Accessory Uses

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:

1. Fences may be located within yards.

2. Occupations, which may be operated from the home, are generally permitted.

Section 4.040 Archaeological Provisions

Upon discovery of archaeological artifacts on any property in Harney County, the following sequences of events shall occur:

1. All disturbance of the site shall immediately cease.

2. The developer shall notify the Planning Director of the discovery and the Planning Director shall notify the appropriate agencies, including the State Archaeologist.

3. The State Archaeologist, or other appropriate agency charged with the preservation of antiquities shall have ten (10) days to conduct a preliminary review of the site to include determination of the significance of the site.

4. If, during this ten (10) day period, the site is determined not to be archaeologically significant, resumption of development may occur.

5. If the site is determined to be archaeologically significant, further disturbance of the site shall cease for an additional 30 days to allow acquisition by the appropriate agency or negotiations for development of the site. If such activities are not initiated by the appropriate agency within this time period, resumption of development may occur.

Section 4.050. Historic Protection

The Planning Department shall ensure preservation of the county's historic resources by providing:

1. A permit to allow a change of the use of an historic site or structure as defined in the Comprehensive Plan. The owner of an historic site or structure shall be required to obtain a demolition, major alteration or moving permit under the authorization of the Planning Department.

2. Applications for permit to alter, move or demolish a designated historic site or structure in Harney County.

Officially designated historic sites or structures listed in the Harney County Plan shall not be demolished, altered or moved prior to the issuance of a permit for said purpose from the Planning Department. Upon receipt of an application to demolish, alter or move an officially designated historic site or structure, the Planning Department shall institute a hold on the application for up to 90 days. During that time the State Historic Preservation Office will be notified and given the opportunity to consult with the applicant. The possibilities of purchasing the historic site or structure shall be explored by interested persons, organizations or governmental agencies. In order to grant a permit to demolish, alter or move an officially designated historic site or structure the Planning Department must determine that:

A. The historic site or structure constitutes a hazard to the safety of the public or occupants;

B. The improvement project is of substantial benefit to the county and cannot be reasonably located elsewhere, and overrides the public's interest in the preservation of the historic landmark; or

C. The retention of the historic landmark would cause financial hardship to the owner which is not offset by public interest in the landmarks preservation

D. Major exterior alterations shall be consistent with the historic character of the site or structure.

Section 4.060. Lot of Record Dwelling

This section was deleted by Harney County Ordinance 2000-43 on November 1, 2000 as it was found to be duplicative from the material found in Section 3.010(6)(A) and Section 3.020(6)(A) which deals with Lot of Record Dwellings within the EFRU-1 and 2 Zones and Section 3.060(6)(B) which deals with Lot of Record Dwellings within the FU-80 Zone.

Section 4.070. Steep Slope Development Standards

Development standards on steep slopes are necessary to protect life and property from natural hazards. At the time of application, the Planning Director shall examine topographical maps to determine the presence of steep slopes on the site. If the Director determines that steep slopes are present, the following standards shall apply:

1. All applications for minor partitions, subdivisions and any residential, commercial and industrial structures on slopes greater than 12 percent shall meet the standards of item 2 below.

2. All development applications shall include information on the proposed development, the site, and surrounding properties adequate to show that on-site hazardous conditions are adequately mitigated. Mitigation includes avoiding development in alteration of natural drainage channels, and minimizing cut and fill and vegetation removal activities.

Development on slopes of 2 horizontal and 1 vertical and greater require a signed affidavit from a licensed professional engineering geologist attesting to the safety of the proposed development. Recommendations made by the geologist shall be the basis for specific conditions of approval set forth by the Planning Commission.

Section 4.080. Flood Plain Standards

Sub-Sections:

1. **Statutory Authorization And Statement Of Purpose**
2. **Definitions**
3. **General Provisions**
4. **Administration**
5. **Provisions For Flood Hazard Protection**

1. Statutory Authorization And Statement Of Purpose.

A. Statutory Authorization. The Legislature of the State of Oregon has, in ORS Chapter 203, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the County Court of Harney County, Oregon, does ordain as follows:

B. Findings Of Fact.

a. The flood hazard areas of Harney County are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

b. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

C. Statement Of Purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by methods and provisions designed:

a. To protect human life and health;

b. To minimize expenditure of public money and costly flood control projects;

c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

d. To minimize prolonged business interruptions;

e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

f. To help maintain a stable tax base by providing for the safe use and development of areas of special flood hazard so as to minimize future flood blight areas;

g. To ensure that potential buyers are notified that property is in an area of special flood hazard; and,

h. To ensure that those who occupy the area of special flood hazard assume responsibility for their actions.

D. Methods Of Reducing Flood Losses. In order to accomplish its purposes, this ordinance includes methods and provisions for:

a. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

c. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

d. Controlling filling, grading, dredging, and other development which may increase flood damage; and,

e. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

2. Definitions. Unless specifically defined below, words and phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it most reasonable application.

A. Appeal. A request for a review of the Planning Director's interpretation of any provision of this ordinance.

B. Area of Special Flood Hazard. The land in the flood plain within an area subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes letters A or V.

C. Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

D. Basement. Any area of a building having its floor sub-grade (below ground level) on all sides.

E. Breakaway Wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

F. Critical Facility. A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

G. Development. Any manmade change to improved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

H. Elevated Building. For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

I. Existing Manufactured Home Park Or Subdivision. A manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

J. Expansion To An Existing Manufactured Home Park Or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

K. Flood" or "Flooding. A general condition of partial or complete inundation of normally dry land areas from;

   a. The overflow of inland or tidal waters; and/or,

   b. The unusual accumulation of runoff of surface waters from any source.

L. Flood Insurance Rate Map (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the county.

M. Flood Insurance Study. The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

N. Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

O. Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found in subsection 5(B).

P. Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Q. Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land under a single ownership divided into four or more manufactured home lots for rent or sale.

R. New Construction. Structures for which the start of construction commenced on or after the effective date of this ordinance.

S. New Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

T. Recreational Vehicle. A vehicle which is:

   a. Built on a single chassis;

   b. 400 square feet or less when measured at the largest horizontal projection;

   c. Designed to be self-propelled or permanently towable by a light duty truck; and,

d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping. travel, or seasonal use.

U. Start of Construction. Includes substantial improvement, and refers to the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary form; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

V. Structure. A walled and roofed building including a gas or liquid storage tank that is principally above ground.

W. Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

X. Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either;

a. Before the improvement or repair is started; or,

b. If the structure has been damaged and is being restored, the condition existing before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Y. Variance. A grant of relief from the requirements of this ordinance, which permits construction in a manner that would otherwise be prohibited by this ordinance.

Z. Water Dependent. A structure for commerce or industry which cannot exist in any other location and is dependent on water by reason of the intrinsic nature of its operations.

3. General Provisions.

A. Lands to Which This Ordinance Applies:

This ordinance shall apply to all areas of special hazards within the jurisdiction of Harney County.

B. Basis For Establishing The Areas Of Special Hazard:

The areas of special flood hazard identified by the Federal Insurance Administration in a specific and engineering report entitled the "The Flood Insurance Study for Harney County, Oregon" dated March 28, 1984 and revised December 22, 1998 with accompanying Flood Insurance Maps, as amended, is hereby adopted by reference and declared a part of this ordinance. The Flood Insurance Study is on file at the Harney County Courthouse.

C. Penalties For Noncompliance:

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a violation. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent Harney County from taking such other lawful action as is necessary to prevent or remedy any violation.

D. Abrogation And Greater Restrictions:

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation.

In the interpretation and application of this ordinance, all provisions shall be:

a. Considered as minimum requirements;

b. Liberally construed in favor of the governing body; and,

c. Deemed neither to limit nor repeal any other powers granted under State Statutes.

F. Warning And Disclaimer Of Liability:

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Harney County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

4. Administration.

A. Establishment of Development Permit.

a. Development Permit Required.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in subsection 2(B) of this section. The permit shall be for all structures including manufactured homes, as set forth in the "Definitions", and for all other development including fill and other activities, also as set forth in the "Definitions".

b. Application for Development Permit.

Application for a development permit shall be made on forms furnished by the Planning Director and may include but not be limited to plans in duplicates drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

I. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

II. Elevation in relation to mean sea level to which any structure has been flood proofed;

III. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in subsection 5(2) of this section; and,

IV. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

B. Designation of the Planning Director.

The Planning Director is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

C. Duties of the Planning Director.

Duties of the Planning Director shall include, but are not limited to:

a. Permit Review.

I. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

II. 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.

III. 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 subsection 5(C)(a) of this section are met.

b. Use of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with subsection 3(B) of this section the Planning Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, State or other source, in order to administer 5(B) and 5(C).

c. Information to be Obtained and Maintained.

I. Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 4.3-2, 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 structure contains a basement.

II. For all new or substantially improved flood-proof structures:

i. Verify and record the actual elevation (in relation to mean sea level); and,

ii. Maintain the flood-proofing certifications required in Subsection 4(A)(3).

Maintain for public inspection all records pertaining to the provisions of this ordinance.

d. Alteration of Watercourses.

I. Notify adjacent communities and the Water Resources Department prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.

II. Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

e. Interpretation of FIRM Boundaries.

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Subsection (4)(D).

D. Appeals.

a. Appeal Board.

I. The Harney County Court shall hear and decide appeals and requests for variances from the requirements of this ordinance.

II. The County Court shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the enforcement or administration of this ordinance.

III. Those aggrieved by the decision of the Harney County Court, or any taxpayer, may appeal such a decision to the Harney County Circuit Court, as provided in ORS 34.010 – 34.100.

IV. In passing on such applications, the Harney County Court shall consider all technical elevations, all relevant factors, standards specified in other sections of this ordinance, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and.

11. The costs of providing the government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

    1. Upon consideration of the factors of subsection 4(D)(a)(IV) of this section and the purpose of this ordinance, the Harney

County Court, in granting variances, may attach conditions as it deems necessary to further the purposes of this ordinance.

2. The Planning Director shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

b. Conditions for Variances.

I. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in subsection 4(D)(a)(IV) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

II. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

III. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

IV. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

V. Variances shall only be issued upon:

i. A showing of good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection 4(D)(a), or conflict with existing local laws or ordinances.

1. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address

small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

2. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry-flood-proofing, where it can be determined that such an action will have low damage potential, complies with all other variance criteria except 4(D)(b)(I), and otherwise complies with subsections 5(A)(a) and 5(A)(b) of the General Standards.

3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the costs of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

5. Provisions For Flood Hazard Protection.

A. General Standards.

In all areas of special flood hazards the following standards are required:

a. Anchoring.

I. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

II. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to; use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

b. Construction Materials and Methods.

I. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

II. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

III. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated

or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

c. Utilities.

All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.

I. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

II. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

d. Subdivision Proposals.

I. All subdivision proposals shall be consistent with the need to minimize flood damage;

II. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

III. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

IV. Where base flood elevation has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments, which contain at least 50 lots or 5 acres (whichever is less).

e. Review of Building Permits.

Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (subsection 4(C)(b)), applications for building permits shall be reviewed 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. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

B. Specific Standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3(B) or Section 4(C)(b), the following provisions are required:

a. Residential Construction.

I. New construction and substantial improvement of any residential structure shall have the lowest floor including basement, elevated one foot above base flood elevation.

II. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

i. 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.

ii. The bottom of all openings shall be no higher than one foot above grade.

iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

b. Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

I. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

II. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

III. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on

their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the official as set forth in subsection 4(C)(b);

IV. Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in 5(B)(b) of this subsection; and,

V. Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

c. Manufactured Homes.

I. All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:

i. Outside of a manufactured home park or subdivision;

ii. In a new manufactured home park or subdivision;

iii. In an expansion to an existing manufactured home park or subdivision; or,

iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

Shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

II. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's FIRM that are not subject to the above manufactured home provisions be elevated so that either:

i. The lowest floor of the manufactured home is elevated one foot above the base flood elevation; or,

ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored

to an adequately designed foundation system to resist flotation, collapse and lateral movement.

d. Recreational Vehicles.

Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

I. Be on the site for fewer than 180 consecutive days;

II. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,

III. Meet the requirements of 5(B)(b-c) above and the elevation and anchoring requirements for manufactured homes.

C. Floodways.

Located within areas of special flood hazard established in subsection 3(B) of this section are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

b. If Section 5(C)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of subsection 5.

D. Encroachments.

The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

Section 4.090. Solar Access

1. All new construction shall allow maximum solar access to south-facing building walls on December 21 of the year, between 10 a.m. and 3 p.m., unless it is demonstrated that such access protection is not feasible because of property size, configuration, orientation, vegetation, or topography. The County Building Official shall review each building permit application to ensure compliance with this requirement.

2. Setback adjustments to optimize or enhance solar access shall be considered relevant for a variance request under this ordinance.

Section 4.100. Property Line Adjustment

Sub-Sections:

1. **Purpose**
2. **Area of Application**
3. **Definitions**
4. **General Provisions**
5. **Agricultural Lands Zoning Districts**
6. **Forest Lands Zoning District**
7. **Submittal Requirements**
8. **Process For Property Line Adjustment Approval**

1. Purpose. The purpose of these provisions is to provide standards consistent with the Oregon Administrative Rules (OAR) and Oregon Revised Statutes (ORS) Chapters 92 and 215 for considering property line adjustments. Additionally, these provisions shall implement the provisions of the Zoning Ordinance and policies of the Comprehensive Plan. Property Line Adjustments are a Type II Decision.

2. Area of Application. The provisions of Section 4.100 apply to property line adjustments between two (2) established legal lots of record as defined in Sub-Section 3 of this Section.

3. Definitions. The purpose of the following definitions is to provide clarity to terms that are used in the provisions of this subsection:

A. Property Line Adjustment. A relocation of a common property line between two (2) abutting legal lots of record where an additional lot of record is not created, and any existing lot of record reduced in size by the adjustment complies with the provisions of this Ordinance.

B. Legal Lot of Record. A unit of land created as follows:

a. A lot in an existing, duly recorded subdivision; or,

b. A parcel in an existing, duly recorded major or minor land partition; or,

c. An existing unit of land for which a survey has been duly filed which conformed to all applicable regulations at the time of filing; or,

d. Any unit of land created prior to zoning and partitioning regulations by deed or metes and bounds description, and recorded with the Harney County Clerk, provided, however that contiguous units of land so created under the same ownership and not conforming to the minimum property size of this ordinance shall be considered one (1) lot of record.

e. Except as stated above, a legal lot or record is not: A unit of land created solely to establish a separate tax account, or for mortgage purposes, that does not conform to all Zoning and Subdivision Ordinance requirements and applicable Comprehensive Plan provisions, in effect on the date when a recorded separate deed, tax account or contract creating it was signed by the parties to the deed or contract, unless it is sold under the foreclosure provisions of Chapter 88 of the Oregon Revised Statutes.

C. Lot. A single unit of land created by the subdivision of land including the recording of an approved subdivision plat under the provisions of ORS Chapter 92.

D. Parcel. A single unit of land created by the partitioning of land including the recording of an approved partition plat under the provisions of ORS Chapter 92.

E. Plat. A final recorded subdivision plat, replat, or partition plat consistent with ORS Chapter 92 and this Ordinance.

F. Property Line. For the purposes of this Section, property line shall mean the division line(s) between two (2) abutting lots of record.

G. Replat. The act of platting the lots, parcels, tracts and/or easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat, or to increase or decrease the number of lots in the subdivision or partition.

H. Undersized Lot or Parcel. A lot of record that does not satisfy the district land area requirement, as described in the underlying zoning district.

4. General Provisions. Property line adjustments shall be consistent with all of the following provisions:

A. Property line adjustments involving lots or parcels of land shall satisfy the setback and lot size provisions of the underlying zoning district except, when located within an urban or rural zoning district, an adjustment between undersized lots or parcels may be granted when the adjustment is consistent with all remaining provisions of this subsection. A lot or parcel exceeding the minimum lot or parcel size of the underlying zoning district shall not be reduced to less than the minimum lot or parcel size of the underlying zoning district. An existing lot or parcel containing at least 5,000 square feet of area shall not be reduced in size such that the resulting size of the lot or parcel is less than 5,000 square feet.

B. Property line adjustments involving lots, parcels or tracts of land with nonconforming setbacks shall be granted provided the adjustment does not further reduce the setback and the adjustment satisfies the remaining provisions of this Ordinance. A registered professional land surveyor prior to final approval of the Property Line Adjustment Survey of Record shall verify setbacks.

C. A property line adjustment shall be prohibited between lots or parcels of land separated by Urban, Rural, Forest or Agriculture Plan boundaries, as identified in the Comprehensive Plan.

D. A property line adjustment shall not be permitted between lots or parcels of land separated by an urban growth boundary.

E. A property line adjustment shall not be used to exceed the base density in the underlying zoning district(s).

F. A property line adjustment application shall not be used to replat duly recorded subdivision or partition plats. For purposes of this Section, any proposal to reconfigure property lines within a plat that effectively vacates lots, parcels, tracts, easements or roads; increases or decreases the number of lots or parcels; or results in a significant reconfiguration of the plat, as determined by the Planning Director, shall be considered a Replat and reviewed pursuant to the subdivision or partition provisions of the Ordinance.

G. A property line adjustment shall be surveyed and documented in accordance with ORS 92.060 (3), (7) & (9). The survey requirements for a property line adjustment are waived when:

   a. Each of the resulting lots, parcels or tracts of land are greater than ten (10) acres in size; or,

b. The affected lots or parcels are located within a platted subdivision or partition and the adjusted property line is a distance of even width along the common boundary.

H. An approved property line adjustment Record of Survey Map and Legal Description of all lots, parcels or tracts involved in the adjustment pursuant to ORS 209.250, shall be recorded within seven (7) days after approval is granted with an attached Findings and Decision in the County Clerk's office. The approved property line adjustment shall not be effective until a Bargain and Sale Deed is also recorded with the County Clerk's office when two separate parties are involved in the property line adjustment.

5. Agricultural Lands Zoning Districts.

A property line adjustment for a lot, parcel or tract of land in areas designated Agriculture on the Comprehensive Plan map with or without an approved homestead or non-farm use may be permitted pursuant to the following provisions:

a. A property line adjustment for a lot, parcel or tract of land exceeding eighty (80) acres may be approved when the adjustment does not reduce any lot, parcel or tract of land to less than the minimum lot size in the underlying zone.

b. A property line adjustment for a lot, parcel or tract of land less than (80) acres may be approved pursuant to the following provisions:

I. Not reduce an undersized lot, parcel or tract of land more than fifty percent (50%); and,

II. Only one (1) reduction is approved pursuant to this provision.

6. Forest Use Zoning District.

A property line adjustment for a lot, parcel or tract of land without an approved homestead, non-forest or farm/forest management plan in areas designated Forest Use on the Comprehensive Plan map may be permitted when the adjustment is consistent with these provisions:

a. Property line adjustments for lots, parcels or tracts of land exceeding eighty (80) acres may be approved when the adjustment does not reduce any lot, parcel or tract of land to less than (80) acres.

b. Property line adjustments for lots, parcels or tracts of land less than (80) acres may be approved pursuant to the following provisions:

I. Not reduce an undersized lot, parcel or tract of land more than fifty percent (50%); and,

II. Only one (1) reduction is approved pursuant to this provision.

7. Submittal Requirements.

A. Applications for property line adjustments shall be submitted to the Harney County Planning Department on forms provided.

B. Each application shall be accompanied by a tentative plan drawn to scale of not less than one inch equals 20 feet nor more than one inch equals 200 feet, and containing at a minimum, the following:

a. Complete names, addresses and phone numbers of the owners of the tracts to be adjusted.

b. Property description of the proposed property line adjustment by Tax Lot numbers, Quarter Section, Section, Township and Range and if available, addresses.

c. Dimensions and size in square feet or acres of all proposed tracts to be adjusted.

d. Identification arrows showing the property proposed to be transferred.

e. Adjacent tracts under the same ownership including property descriptions by Tax Lot numbers, Quarter Section, Section, Township and Range and, if available, addresses.

f. North Arrow.

g. All adjacent roads (noting whether public or private), including name and road width.

h. Location of wells.

i. Type of sewage disposal, or name of sewer district, if applicable, including the location of any septic tanks and drain fields.

j. Zoning.

k. All existing structures on the tracts and their setbacks to property lines. Note whether the property lines referred to are existing or proposed.

l. Natural drainage ways, streams, wetlands or other significant natural features of the tracts.

m. Other pending applications, including building permits, on the subject tracts.

n. All easements, including widths and types, labeled as existing or proposed, specifically noting the use and for whom they serve. Note: A property line adjustment cannot move an existing easement.

8. Process For Property Line Adjustment Approval.

A. A property line adjustment for a lot, parcel or tract of land shall be processed by the Planning Director, or designate, and shall meet noticing requirements as outlined in ORS 215.416. A complete Harney County Land Use Permit Application must be submitted before formal review can begin.

B. Property Line Adjustment Survey Submitted:

Two copies of the Property Line Adjustment Record of Survey Map and Legal Descriptions of all lots, parcels or tracts involved as they will stand after the adjustment occurs (Legal Description must be in a Quarter Section format) and shall be submitted to the Planning Department as part of the Harney County Land Use Permit Application.

C. Final Planning Approval:

If the Property Line Adjustment Record of Survey Map and new Legal Descriptions for the effected lots, parcels or tracts are consistent with the Harney County Land Use Permit Application, and if all applicable criteria of this Ordinance have been satisfied, the Planning Director, or designate, shall signify Planning Department approval of the Property Line Adjustment Record of Survey Map and Legal Descriptions by signature on official Findings and Decisions.

D. Filing and Recording of Approved Property Line Adjustment Required:

The Property Line Adjustment Record of Survey Map and the Legal Descriptions of the properties affected by the adjustment shall be prepared by a registered professional land surveyor and shall be filed and recorded with the official Findings and Decision of the Land Use Permit requesting the adjustment. The Planning Director, or designate, shall record the Findings and Decision with the County Clerk's Office within seven (7) days from the final date of approval and in accordance with the time period set forth in ORS 215.427.

E. If the property line adjustment involves two separate parties, a Bargain and Sale Deed must be filed with the County Clerk's Office before any changes to

Assessor's maps or tax records can take affect and shall contain the names of the parties, the description of the adjusted line, references to the original recorded documents and signatures of all parties with proper acknowledgement.

F. No building permits shall be issued for a tract that is dependent upon a property line adjustment until the Property Line Adjustment Findings and Decision (containing the Property Line Adjustment Record of Survey Map and the recorded legal descriptions) has been submitted and recorded with the County Clerk.

ORDINANCE HISTORY NOTIES: The Property Line Adjustment provisions, Section 4.100 of the Harney County Zoning Ordinance, were developed by the Harney County Planning Department and adopted by Harney County on August 16, 2000. Any changes from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

Section 4.110. Transportation Improvement Standards

Sub-Sections:

1. **Uses Permitted Outright**
2. **Conditional Uses Permitted**
3. **Time Limitations on Transportation Related Conditional Use Permits**

The intent of these provisions is to provide clear directions and guidelines when considering installation of transportation facilities in Harney County. Although some zone designations may address certain uses listed below, these provisions generally apply to all zones in the County. Thus, except where otherwise specifically regulated by this ordinance, the following improvements are permitted outright or conditionally.

1. Uses Permitted Outright (Type I Decisions).

A. Uses permitted outright under ORS 215.213(1)(m) through (p) and ORS 215.283 (1)(k) through (n), consistent with the Transportation System Plan, the classification of the roadway, and approved road standards shall be allowed without land use review.

B. Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.

C. Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.

D. Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.

E. Landscaping as part of a transportation facility.

F. Emergency measures necessary for the safety and protection of property.

G. Acquisition of right-of-way for public roads, highways and other transportation improvements designated in the Transportation System Plan except for those that are located in exclusive farm use or forest zones.

H. Construction of a street or road as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.

2. Conditional Uses Permitted (Type III Decisions).

A. Construction, reconstruction or widening of highways, roads, bridges or other transportation projects that are: (1) not improvements designated in the Transportation System Plan or (2) not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review, shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For state projects that require an Environmental Impact Statement (EIS) or Environmental Assessment (EA), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:

   a. The project is designed to be compatible with existing land use and social patterns, including noise generation, safety and zoning.

   b. The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources and scenic qualities.

   c. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.

   d. The project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan and other requirements of this ordinance.

B. Construction of rest areas, weigh stations, temporary storage and processing sites.

C. If review under this Section indicates that the use or activity is inconsistent with the Transportation System Plan, the procedure for a plan amendment shall be undertaken prior to or in conjunction with the conditional use permit review.

3. Time Limitation On Transportation-Related Conditional Use Permits.

A. Authorization of a conditional use shall be void after a period specified by the applicant as reasonable and necessary based on season, right-of-way acquisition, and other pertinent factors. This period shall not exceed three years.

Section 4.120. Site Plan Review Procedures

Site Plan Review Procedures for Access Management.

1. Applicants shall submit a preliminary site plan for review to Harney County Planning Department. At a minimum, the site plan shall show:

   A. Location of existing and proposed access point(s) on both sides of the road where applicable. Applicants must present evidence of legal access to any subject parcel proposed for development prior to the issuance of building permits and/or issuance of land use permits. For applicants that abut a county road, applicant may obtain an approach permit from the County Road Department to satisfy this requirement;

   B. Distances to neighboring constructed access points, median openings (where applicable), traffic signals (where applicable), intersections, and other transportation features on both sides of the property;

   C. Number and direction of lanes to be constructed on the driveway plus striping plans;

   D. All planned transportation features (such as sidewalks, bikeways, auxiliary lanes, signals, etc.);

   E. Parking and internal circulation plans including walkways and bikeways; and,

   F. A detailed description of any requested variance and the reason the variance is requested.

2. Subdivision and site plan review shall address the following access criteria:

   A. All proposed roads shall follow the natural topography and preserve natural features of the site as much as possible. Alignments shall be planned to minimize grading;

   B. Access shall be properly placed in relation to sight distance, driveway spacing, and other related considerations, including opportunities for joint and cross access;

   C. The road system shall provide adequate access to buildings for residents, visitors, deliveries, emergency vehicles and garbage collection;

   D. An internal pedestrian system of sidewalks or paths shall provide connections to parking areas, entrances to the development, and open space, recreational, and other community facilities associated with the

development. Streets shall have sidewalks on both sides. Pedestrian linkages shall also be provided to the peripheral street system; and,

E. The access shall be consistent with the access management standards adopted in the Transportation System Plan.

3. Any application that involves access to the State Highway System shall be reviewed by the Oregon Department of Transportation for conformance with state access management standards.

Section 4.130. Outdoor Lighting Standards

1. Outdoor Lighting Mitigation: When developing one's property or improving existing development, Harney County will encourage developers to utilize outdoor lighting practices which mitigate against the flooding of the night sky with light pollution, light leaking onto neighboring property, and energy waste. Therefore, outdoor lighting is encouraged to be sited, limited in intensity, shielded and hooded in a manner that prevents these outdoor lighting concerns.

2. Land Use Review/Siting Standards: Harney County may, through a land use review process (pursuant to ORS 197.015(10)) apply siting conditions to a land use decision specific to the subject parcel proposed for development which aim to mitigate said outdoor lighting concerns (as listed in subsection one).

Section 4.140. Wireless Telecommunication Facilities

Sub-Sections:

1. **Purpose**
2. **Definitions**
3. **General Provisions**
4. **Process**

1. Purpose. To promote the safe and responsible development of wireless telecommunication facilities within the county.

2. Definitions. The purpose of the following definitions is to provide clarity to terms that are used in the provisions of this subsection or those used in the review of an application for proposed development:

A. Co-location. The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

B. Lattice Tower. A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

C. Monopole. A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

D. Telecommunication. The technology which enables information to be exchanged or broadcasted through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.

E. Wireless Telecommunications Antenna. The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. This includes microwave antennas, Whip antennas, and other related mounting equipment such as mounting brackets and coax.

F. Wireless Telecommunications Equipment Shelter. The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

G. Wireless Telecommunications Facility. A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

3. General Provisions and Siting Requirements. Wireless Telecommunication Facilities shall be consistent with all of the following provisions:

A. Co-location and Design Requirements.

a. Any tower greater than 60 feet high must be designed and constructed to permit the co-location of two (2) or more additional users. In addition, adequate ground space shall be provided within the site compound of the facility to support the co-location of 2 or more additional users. Application materials must show the site compound, the tower, and the space they will use for their equipment building or cabinets and space reserved for future users ground equipment. As technology changes or advances, the county may request additional information related to the facility.

b. Applicants seeking a permit for tower(s) greater than 60 feet in height, and proposed to be located within 3,000 feet of any communication tower greater than 60 feet in height, will document in their application that reasonable efforts have been made to lease space on an existing, planned or constructed tower(s); or, demonstrate that no existing tower(s) will technically satisfy the applicant's needs. Reasonable efforts include but are not limited to, a statement from the tower owner(s) that the site cannot support an additional user because the tower(s) fails the structural requirements or that space on the site is reserved for use by the tower owner at a future date.

B. Setbacks. Notwithstanding the setback requirements in the zone in which the facility is to be located, the following setback provisions apply to newly constructed, freestanding or self-supporting telecommunication towers.

a. Wireless Telecommunication Facilities will be setback from all existing dwellings and residentially zoned property by a minimum of 200 feet, or the height of the proposed tower, whichever is greater.

b. The setbacks listed in this subsection may be increased or reduced upon consideration of circumstances that increase or reduce the off-site effects of the tower on adjacent properties, and the on-site effects on existing uses. Examples of means to reduce impacts include: topography, berms, the proximity of existing or potential uses, existing vegetation and improvements made to the site to obscure or reduce the visibility of the tower from adjacent properties, the concentration of proposed towers in the area, and whether the height, design, placement or other characteristics of the proposed tower could be modified to have a less intrusive impact.

C. Decommission.

a. Prior to issuance of building permits for the tower, the property owner will sign and record a deed declaration which requires removal of decommissioned structures.

b. In the event that an owner or operator discontinues use of the wireless telecommunications facility for more than one (1) year, or twelve (12) consecutive months, the County may declare the facility decommissioned and require the property owner to remove it. A decommissioned facility may be declared a nuisance subject to the abatement procedures of the *Harney County Nuisance and Abatement Ordinance*.

c. The County may require a performance bond to defray any costs associated with any removal of a decommissioned facility. Said condition will require that the applicant establish a minimum bond of twenty five thousand dollars ($25,000.00) with Harney County as the beneficiary, for removal of the subject wireless telecommunications facility.

D. Lighting.

a. No tower under 150 feet shall be artificially lighted except to assure safety or as required by the Federal Aviation Administration (FAA). Application materials must include an FAA determination ("Form 7460"), or third party airspace analysis, that describes any lighting requirements. The applicant shall consult with the Oregon Department of Aviation for concurrence with the results of the determination or analysis.

E. Signage.

a. Site identification number and/or name and emergency contact number must be posted at the site. All other signs are prohibited.

4. Process for Wireless Telecommunication Facility Approval.

A. All new or replacement wireless telecommunication facilities proposed on lands, other than those under ORS 215.283(1)(d), shall be reviewed as a conditional use decision (Type III Decision). These facilities are subject to the siting requirements of Article 4.140(3), and may be subject to conditions as listed under HCZO 6.010 which the Planning Commission considers necessary to protect the best interests of the surrounding area or the County as a whole.

B. All new or replacement wireless telecommunication facilities proposed on lands where they are a permitted use under ORS 215.283(1)(d) must demonstrate the facility is necessary in accordance with ORS 215.275 and OAR 660-033-0130 16(a), are subject to the provisions of ORS 215.296, the siting requirements of Article 4.140(3), and shall be reviewed as an administrative decision (Type II Decision).

C. The co-location of a wireless telecommunication facility on an existing structure or building is a Type I decision. The subject tower to be co-located upon must be permitted and meeting all applicable conditions of approval, not be extended in height to accommodate the new co-locator, and that the site area not substantially be increased. These facilities are not subject to the siting requirements of Article 4.140(3).

Note: This section recognizes the 1996 Telecom Act.

ORDINANCE HISTORY NOTIES: The Site Plan Review Procedures provisions, Section 4.120 of the Harney County Zoning Ordinance, were developed by the Harney County Planning Department as part of the Harney County TSP Implementation program and adopted by Harney County on April 18, 2001. Any changes from this point forward will have the effective date listed after each modified paragraph with subsequent historical notes.

Article 5. Exceptions

Sections:

5.010. Nonconforming Uses
5.020. General Exceptions to Lot Size Requirements

Section 5.010. Nonconforming Uses

1. Subject to the provisions of ORS 215.130(5) and the provisions of this Section, a nonconforming use or structure may be continued but may not be altered or extended. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this Ordinance is not an enlargement or expansion of a nonconforming use. A nonconforming structure, which conforms with respect to use may be altered or extended if the alteration or extension does not cause the structure to deviate further from the standards of this Ordinance.

2. If the nonconforming use is discontinued for a period of one year, further use of the property shall conform to this Ordinance.

3. If a nonconforming use is replaced by another use, the new use shall conform to this Ordinance.

4. If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 80 percent of its fair market value as indicated by the records of the County Assessor and is not returned to use and in actual operating condition within one year from the date of destruction, a future structure or use on the site shall conform to this Ordinance.

5. Nothing contained in this Ordinance shall require any changes in the plans, construction, alteration, or designated use of a structure for which a zoning building permit has been issued by the County and construction has commenced prior to the adoption of this Ordinance, provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the permit is issued.

Section 5.020. General Exceptions to Lot Size Requirements

If a lot or the aggregate of contiguous lots held in a single ownership outside a resource zone, as recorded in the office of the County Clerk at the time of the passage of this Ordinance, has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone, providing that the use is approved by the Planning Commission.

ORDINANCE HISTORY NOTIES: The Site Plan Review Procedures provisions, Section 4.120 of the Harney County Zoning Ordinance, were developed by the Harney County Planning Department as part of the Harney County TSP Implementation program and adopted by Harney County on April 18, 2001. Any changes from this point forward will have the effective date listed after each modified paragraph with subsequent historical notes.

Article 6. Conditional Uses

Sections:

6.010. Authorization to Grant or Deny Conditional Uses
6.020. Standards Governing Conditional Use
6.030. Procedure for Taking Action on a Conditional Use Application
6.040. Time Limit on a Permit for a Conditional Use

Section 6.010. Authorization to Grant or Deny Conditional Uses

Conditional uses listed in this Ordinance may be permitted, enlarged, or altered upon authorization of the Planning Commission in accordance with the standards and procedures set forth in this article.

1. In permitting a new conditional use or the alteration of an existing conditional use the Planning Commission may impose, in addition to those standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission considers necessary to protect the best interests of the surrounding area or the County as a whole. These conditions may include the following:

   A. Increasing the required lot size or yard dimension.

   B. Limiting the height of buildings.

   C. Controlling the location and number of vehicle access points.

   D. Increasing the street width.

   E. Increasing the number of required off-street parking spaces.

   F. Limiting the number, size, location, and lighting of signs.

   G. Requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.

   H. Designating sites for open space.

   I. The performance characteristics of renewable energy resource production and/or power generation operations including, but not limited to: hours of operation,

noise, glare, air emissions, waste handling, fire protection, water impoundments, and related environmental impacts.

J. Require that the landowner requesting a single-family dwelling sign a statement declaring that the landowner will not in the future complain about accepted farming practices on nearby lands devoted to farm or forest use (ORS 215.293).

2. In the case of a use existing prior to the effective date of this Ordinance and classified in this Ordinance as a conditional use, any change in the use or in lot area or an alteration of structure shall conform to the requirements for conditional use.

3. The design and operation of energy facilities approved as conditional uses including, but not limited to: hours of operation, noise, glare, air and water emissions, waste handling, fire protection, water impoundments, aesthetics, and related environmental impacts.

Section 6.020. Standards Governing Conditional Use

In addition to the standards of the zone in which the conditional use is located and the general standards of this Ordinance, conditional uses shall meet the following standards:

1. Building Height. The height limitations of any zone may be exceeded by a conditional use to a maximum permitted height of 75 feet, provided that each yard is increased over the yard requirement by the addition of five feet for every five feet or fraction thereof of additional height over 35 feet.

2. Utility Substation or Pumping Station. The minimum lot size of the zone in which a public utility is to be located may be waived by the Planning Commission only on finding that the waiver will not result in noise or other detrimental effect on adjacent property. No equipment storage shall be permitted on the site.

3. No structure shall be within 100 feet of a lake or reservoir.

4. Mineral and Aggregate Operations in Energy Resource Sites. Before a conditional use permit is issued, any mineral and aggregate operation which proposes excavations greater than five acres in size inside an inventoried renewable energy resource site shall submit a plan of operations and restoration that adequately protects the renewable energy resource values at or adjacent to the proposed excavation.

5. Energy Facilities. For proposed facilities under Oregon Energy Facility Siting Council jurisdiction, conditional use permits shall be granted according to the siting standards of EFSC as adopted in Oregon Administrative Rules Chapter 345, or amended hereafter. For facilities not under EFSC jurisdiction (less than 25 megawatts), the following siting standards shall apply:

   A. General. All facilities shall be subject to the following standards:

      a. Water Quality. Facilities shall be designed and operated such that water quality in impoundments is acceptable for the water's expected use as defined by State water quality standards.

      b. Scenic Quality. Facilities shall be designated and operated so as to be as compatible as practical with surrounding scenic characteristics. Insofar as practical, vegetation shall be restored on the portions of the site disturbed by construction. Upon completion of construction all temporary structures not required for future use, and all other construction debris, shall be removed.

      c. Fish and Wildlife Resources. Facilities shall be designed and operated so as to protect surrounding fish and wildlife resources as much as practical.

Facilities shall not jeopardize, in a material way, habitat areas, which are necessary to sustain local or migratory populations of such resources.

d. Historic and Cultural Resources. Facilities shall be designed and operated so as to minimize disturbance to historic and archeological resources. The developer shall promptly inform the County of any such resources encountered during construction or operations, and also inform the County of arrangements for preservation and interpretation of such resources.

e. Fire Protection. Facilities shall be designated and operated so as to provide reasonable fire protection measures.

f. Site Use. The site shall not be used for any purpose other than the production of renewable resources and/or electrical power, and those uses specified in the conditional use permit.

g. Pollution Discharges. Facilities shall be designed and operated in such a manner as to minimize the discharge of air and water pollution.

h. Public Health and Safety. Facilities shall be designed and operated so as to be capable of withstanding, without failure, reasonably expected loads.

i. Water Rights. Facilities shall be designed and operated so as not to infringe upon existing water rights of others as established by the Oregon Water Resources Department.

j. Socioeconomic Impact. Facilities shall be designed so as to minimize adverse socioeconomic impacts to the County, including, but not limited to, increased demands for governmental services or capital expenditures.

k. Beneficial use of Waste. Facilities shall be designed and operated so as to make beneficial use, to the extent practical, of waste and byproducts produced by the facility.

l. Waste Disposal. All waste not beneficially used otherwise shall be disposed of in compliance with all applicable laws and regulations.

m. Erosion Control. Facilities shall be designed and operated so as to minimize erosion and disturbance to natural drains.

B. Geothermal. Facilities utilizing geothermal resources shall be subject to the following standards:

a. Subsidence and Seismic Activity. Facilities shall be designed and operated so as to minimize land subsidence or induced seismic activity which would result from the production and/or injection of geothermal resources. The

potential for such activity and proposed precautionary measures shall be submitted for all proposed facilities.

b. Access Protection. Facilities shall be designed and operated such that unattended equipment shall be protected from access by unauthorized persons.

c. Blow-out Control. In the event of a blow-out or other uncontrolled venting, the operator shall immediately act to control the blow-out or venting. No more than 48 hours shall elapse from the time of the blow-out or venting to the time of equipment relocation to re-secure the well.

d. Groundwater Protection. Facilities shall be designed and operated so as to maintain and protect the integrity of groundwater aquifers and geothermal reservoirs, and prevent adverse interference between them.

e. Pipelines. Facilities shall be designed and operated such that transmission pipelines do not impede vehicular traffic; are equipped with adequate catch-basins and/or drainage acceptable for condensates.

C. Wind. All facilities utilizing wind resources shall be subject to the following standards:

a. Public Health and Safety. Facilities shall be designed and operated in compliance with Octive Band limitations established by the Oregon Department of Environmental Quality.

b. Rotor Safety. Facilities shall be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor.

c. Guy Wires. Anchor points for guy wires shall be located within the property lines of the facility and not across any electric transmission lines.

d. Electromagnetic Interference. Facilities shall be designed and operated so as not to cause harmful interference with the existing microwave communications link, or other airwaves broadcasts.

e. Height. The lowest reach of the rotor shall be 75 feet from the ground, unless it can be demonstrated by the applicant that a lower height would not subject the rotor to excessive turbulence. In no case shall the rotor be less than 15 feet from the ground.

f. Wind Access. Towers shall be set back five rotor diameters from the downwind property lines in the direction of the dominant winds across the property, and two diameters from all other property lines, unless it can be

demonstrated that a lesser setback can protect the wind access for the downwind properties.

D. Solar. All facilities utilizing solar resources shall be subject to the following standards:

a. Glare. Facilities shall be designed and operated so as to prevent glare or reflections from adversely affecting surrounding properties.

E. Hydro. All facilities utilizing hydro resources shall be subject to the following standards:

a. Fish Resources. Facilities shall be designed and operated so as not to jeopardize local adronimous fish populations. A program for upstream and downstream migratory game fish, food fish, and adronimous fish through the facilities shall be established.

b. Stream Flow. Facilities shall be designed and operated so as to accommodate low, normal, and flood flows of the stream. A description of the minimum flow proposed to be released during periods of low water, and a full description of the relation of any proposed ponding of the flow to the conservation utilization of available water resources, shall be provided.

6. Destination Resorts. A proposed development shall meet the following standards:

A. The resort shall be located on a site of 160 acres or more.

B. At least 50 percent of the site shall be dedicated to permanent open space, excluding streets and parking areas.

C. At least $2 million plus inflation from 1984 shall be spent on improvements for onsite developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities.

D. Visitor-oriented accommodations including meeting rooms, restaurants with seating for 100 persons and 150 separate rentable units for overnight lodging shall be provided. Accommodations available for residential use shall not exceed two such units for each unit of overnight lodging.

E. Commercial uses allowed are limited to types and levels of use necessary to meet the needs of visitors to the development. Industrial uses of any kind are not permitted.

F. In lieu of the standards in Subsection (A), (C) and (D) of this section, the standards set forth in Subsection (G) of this section apply to a destination resort:

a. On land that is not defined as agricultural or forest land under any state-wide planning goal.

b. On land where there has been an exception to any state-wide planning goal on agricultural lands, public facilities and services and urbanization; or,

c. On such secondary lands as the commission deems appropriate.

G. The following standards apply to the provisions of Subsection (F) of this section:

a. The resort shall be located on a site of 20 acres or more.

b. At least $1 million plus inflation from 1984 shall be spent on improvements for onsite developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities.

c. At least 25 units, but not more than 75 units, of overnight lodging shall be provided.

d. Restaurant and meeting room with at least one seat for each unit of overnight lodging shall be provided.

e. Residential uses shall be limited to those necessary for the staff and management of the resort.

f. The County governing body or its designate has reviewed the resort proposed under this subsection and has determined that the primary purpose of the resort is to provide lodging and other services oriented to a recreational resource which can only reasonably be enjoyed in a rural area. Such recreational resources include, but are not limited to, a hot spring, a ski slope, or a fishing stream.

g. The resort shall be constructed and located so that it is not designed to attract highway traffic. Resorts shall not use any manner of outdoor advertising signing except:

I. Tourist oriented directional signs as provided in ORS 377.715 to 377.830; and,

II. Onsite identification and directional signs.

Section 6.030. Procedure for Taking Action on a Conditional Use Application

The procedure for taking action on a conditional use application shall be as follows:

1. A property owner may initiate a request for a conditional use by filing an application with the Planning Commission using forms prescribed pursuant to Section 9.040.

2. Before the Planning Commission may act on a conditional use application, it shall hold a public hearing thereon, following procedure as established in Section 9.060.

3. Within five days after a decision has been rendered with reference to a conditional use application, the Planning Commission shall provide the applicant with written notice of the decision of the Commission.

Section 6.040. Time Limit on a Permit for a Conditional Use

Authorization of a conditional use shall be void after one year or such lesser time as the authorization may specify unless substantial construction has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year, on request.

Article 7. Variances

Sections:

7.010. Authorization to Grant or Deny Variances
7.020. Circumstances for Granting a Variance
7.030. Procedure for Taking Action on a Variance Application
7.040. Time Limit on a Permit for a Variance

Section 7.010. Authorization to Grant or Deny Variances

The Planning Commission may authorize variances from the requirements of this Ordinance where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the Ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use could be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purpose of this Ordinance.

Section 7.020. Circumstances for Granting a Variance

A variance may be granted only in the event that all of the following circumstances exist:

1. Exceptional or extraordinary circumstances apply to the property, which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of the property since enactment of this Ordinance have had no control.

2. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of the property in the same zone or vicinity possess.

3. The variance would not be materially detrimental to the purpose of the Ordinance, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any County plan or policy.

4. The variance requested is the minimum variance, which would alleviate the hardship.

Section 7.030. Procedure for Taking Action on a Variance Application

The procedure for taking action on application for a variance shall be as follows:

1. A property owner may initiate a request for a variance by filing an application with the Planning Commission, using forms prescribed in Section 9.040.

2. Before the Planning Commission may act on a variance application, it shall hold a hearing, following procedure as established in Section 9.060.

3. Within five days after a decision has been rendered with reference to a variance application, the Planning Commission shall provide the applicant with written notice of the decision of the Commission.

Section 7.040. Time Limit on a Permit for a Variance

Authorization of a variance shall be void after one year unless substantial construction has taken place. However, the Planning Commission may extend authorization for an additional period not to exceed one year, on request.

Article 8. Amendments

Sections:

8.010. Authorization to Initiate Amendments
8.020. Public Hearings on Amendments
8.030. Record of Amendments
8.040. Limits on Reapplication

Section 8.010. Authorization to Initiate Amendments

An amendment to the text of this Ordinance or to a zoning map may be initiated by the County Court, the County Planning Commission, or by application of a property owner. The request by a property owner for an amendment shall be accomplished by filing an application with the Planning Commission using forms prescribed pursuant to Section 9.040.

Section 8.020. Public Hearings on Amendments

1. The Planning Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after the amendment is proposed and shall, within 40 days after the hearing, recommend to the County Court approval, disapproval, or modified approval of the proposed amendment. After receiving the recommendation of the Planning Commission, the County Court shall hold a public hearing on the proposed amendment in accordance with ORS 215.060 and 215.223.

2. A proposal to amend the Harney County Comprehensive Plan, Zoning Ordinance or to adopt a new land use regulation must be submitted to the Director of The Department of Land Conservation and Development 45 days prior to the first evidentiary hearing date on the adoption (ORS 197.610(1)).

3. The applicant must show that the proposed change conforms to the Harney County Comprehensive Plan.

4. Concerning a Comprehensive Plan or land use regulation affecting transportation facilities:

   A. A plan or land use regulation amendment significantly affects a transportation facility if it:

      a. Changes the functional classification of an existing or planned transportation facility;

b. Changes standards implementing a functional classification system;

c. Allows types or levels of land use that would result in levels of travel or access that are consistent with the functional classification of a transportation facility; or,

d. Would reduce the level of service or associated volume/capacity ratio of the facility below the minimum acceptable level identified in the Transportation System Plan.

B. Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

a. Limiting allowed land uses to those consistent with the planned function of the transportation facility;

b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,

c. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

Section 8.030. Record of Amendments

The County Clerk shall maintain records of amendments to the text of the Ordinance and zoning map.

Section 8.040. Limits on Reapplication

No application of a property owner for an amendment to the text of this Ordinance or to the zoning map shall be considered by the Planning Commission within the one-year period immediately following a previous denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change in circumstances warrant it.

ORDINANCE HISTORY NOTES: The Public Hearings on Amendments provisions, Section 8.020 subsections 3 and 4 of the Harney County Zoning Ordinance, were added by the Harney County Planning Department as part of the Harney County TSP Implementation program and adopted by Harney County on April 18, 2001. Any changes from this point forward will have the effective date listed after each modified paragraph with subsequent historical notes.

Article 9. Administrative Rules

Sections:

9.010. Administrative
9.020. Building Permits
9.030. Appeals
9.040. Form of Petition, Application, and Appeals
9.050. Filing Fees
9.060. Public Hearings
9.070. Procedural Rules for Conducting Public Hearings
9.080. Authorization for Similar Uses
9.090. Site Plan Review
9.100. Road Naming and Rural Addressing

Section 9.010. Administrations

The Planning Commission shall have the power and duty to enforce the provisions of this Ordinance.

Section 9.020. Building Permits

1. No person, firm, or corporation shall erect, construct, alter, repair, move, improve, remove, convert, or demolish any building or structure in Harney County, or cause the same to be done, without first obtaining a separate building permit for each such building or structure from the Building Official.

2. No person shall install a manufactured dwelling without obtaining a placement permit prior to the placement of the home on a lot or parcel (modified 11/1/00, Ord. 2000-42).

3. No person, firm or corporation shall connect electrical service to any construction site, or to any structure, manufactured dwelling erected, installed or altered within Harney County for which a building permit or manufactured home placement permit has not been obtained (modified 11/1/00, Ord. 2000-42).

4. Harney County specifically restricts the placement of manufactured dwellings, as defined in Section 1.040(138), which were not previously placed in the County and were not on the County Assessment Rolls since 1999 (added 11/1/00, Ord. 2000-42).

5. Manufactured dwellings, as defined in Section 1.040(138) of this Ordinance, which are currently placed in the County AND on the County Assessment Rolls since 1999

may continue to be used as a residential structure and can be moved within the County and receive building permits (added 11/1/00, Ord. 2000-42).

6. Manufactured dwellings, as defined in Section 1.040(138) of this Ordinance, which are currently placed or new to the County can be issued building permits (added 11/1/00, Ord. 2000-42).

7. Manufactured dwellings will not be issued temporary or permanent storage permits in the County beginning November 1, 2000 (added 11/1/00, Ord. 2000-42).

8. Wells or pumping stations used solely for agricultural purposes or agricultural buildings for which a building permit is not required are exempt from the provisions of this Ordinance.

9. Recreational vehicles, as defined in Section 1.040(162) of this Ordinance, are not to be used as permanent residential structures in the County unless located in a permitted RV Park or otherwise receives land use approval. In this regard, the following standards apply (added 11/1/00, Ord. 2000-42):

   A. Recreational vehicles may be temporarily inhabited during the time of construction for an approved dwelling upon the written authorization from the Planning Director. Recreational vehicles inhabited for more than a 30-day period of time without said authorization will be considered out of compliance with the Harney County Zoning Ordinance.

   B. Building permits will not be issued on recreational vehicles (i.e. electrical, manufactured home placement, mechanical, plumbing or structural permits).

   C. Recreational vehicles are not to be connected permanently to any sort of septic system.

Section 9.030. Appeals

1. An action or decision of the Planning Director pursuant to this Ordinance, as further defined under chapter 2 of the comprehensive plan, may be appealed to the Planning Commission within 15 days after the Planning Director has rendered a decision. Written notice of an appeal shall be filed with the Planning Director. If an appeal is not filed within the 15-day period, the decision of the Planning Director shall be final. If the appeal is filed, the Planning Commission shall conduct a hearing de novo. A de Novo hearing is defined as a new hearing, which can take into account all previous testimony and any new testimony presented by the proponent and/or the opponent to an issue.

2. An appeal from a ruling of the Planning Commission regarding a requirement of the Ordinance may be made only to the County Court.

3. An action or ruling of the Planning Commission pursuant to this Ordinance may be appealed to the County Court within 15 days after the Planning Commission has rendered its decision. Written notice of an appeal shall be filed with the Planning Commission. If an appeal is not filed within the 15-day period, the decision of the Planning Commission shall be final. If the appeal is filed, the County Court shall receive a report and recommendation from the Planning Director within ten days of receipt of the notice of appeal. The Planning Director shall provide the record to the County Court for review. Upon review of the record the County Court may:

   A. Decline to hear the matter and enter an order affirming the lower decision; or

   B. Accept the appeal and:

      a. Make a decision on the record without argument;

      b. Make a decision on the record with argument

      c. Conduct a hearing de novo; or

      d. Conduct a hearing limited to specific issues.

4. If the County Court elects to apply the review procedure listed under 9.030 (3)(B), the record before the County Court shall include only the evidence and argument submitted on the record before the Planning Commission (including all testimony, all materials submitted at any previous stage of the review, staff reports, and minutes of the public hearing). New evidence may not be entered into the record.

5. An action or ruling of the County Court pursuant to this Ordinance may be appealed to the Land Use Board of Appeals, by filing a "Notice of Intent to Appeal" within 21 days of the date of the final decision (ORS 197.625(1)).

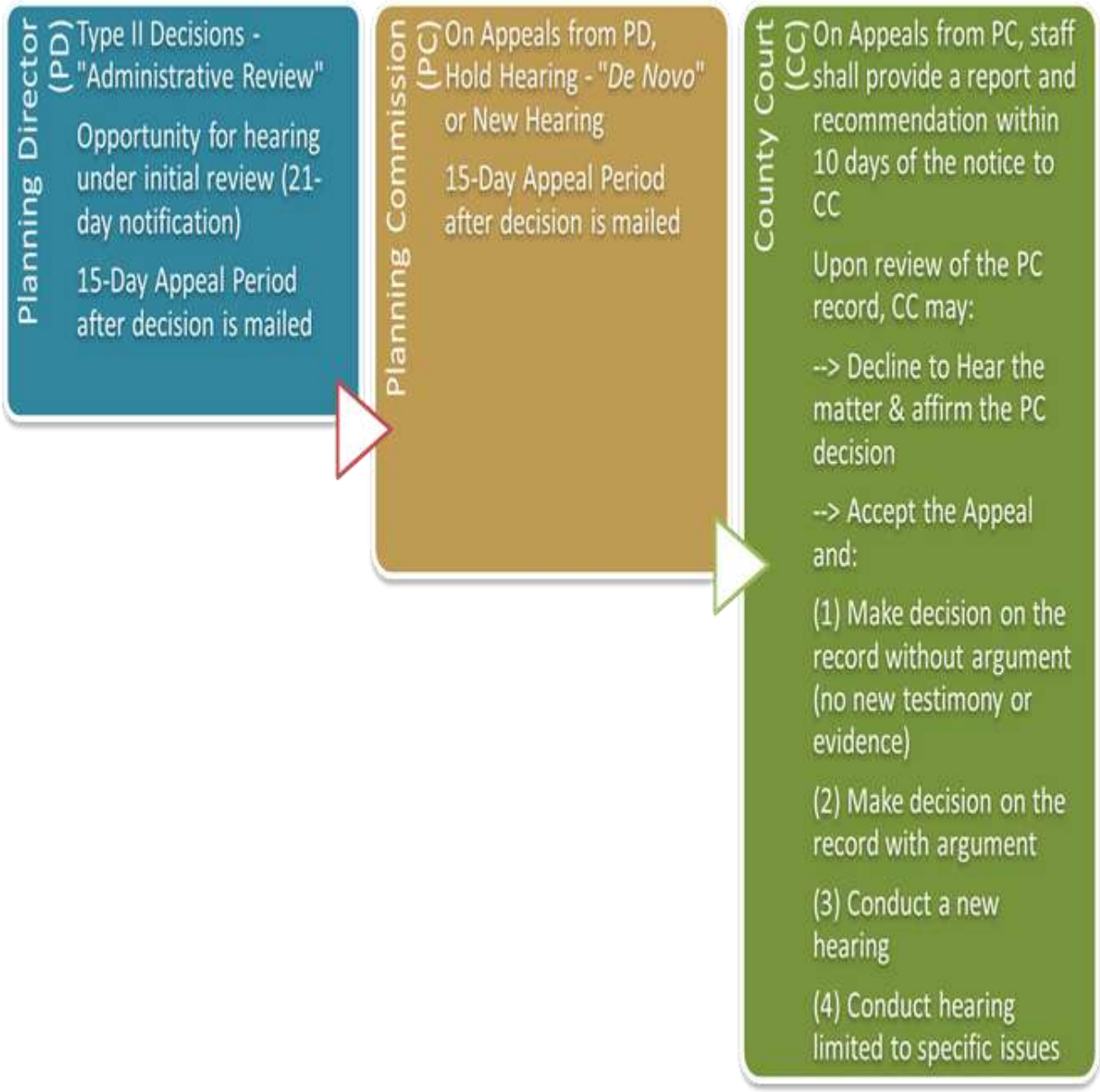
6. An appeal may be filed only by a person/s who participated either orally or in writing, who filed a "Notice of Intent to Appeal" and is aggrieved or has interests adversely affected by the decision.

An appeal on a Quasi-Judicial decision may be filed if the person/s filed a "Notice of Intent to Appeal", appeared before the local government, special district, or state agency orally or in writing and was entitled to a notice and hearing prior to the decision being reviewed or is aggrieved or has interests adversely affected by the final decision (ORS 197.830).

7. A decision to not adopt a legislative amendment or a new land use regulation cannot be appealed (ORS 197.620).

LUBA Participation. The county shall not generally participate in appeals filed with the LUBA. The response to an appeal shall be left to the party whose interests are, or may be, affected by a modification, reversal, or remand upon appeal. Only in those cases that represent a significant issue to the entire county, or establish a precedent that may be detrimental to county interests, will the court and the county legal counsel consider participating in a response.

Harney County Land Use Appeal Process



(Modified 10/30/2012 through Ord. 2012-70.)

Section 9.040. Form of Petition, Application, and Appeals

Petitions, applications, and appeals provided for in this Ordinance shall be made on forms prescribed by the County. Applications shall be accompanied by plans, and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of all existing and proposed structures; the intended use of each structure; the number of families, if any, to be accommodated there-on; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance of this Ordinance.

Energy Facilities. For proposed facilities under Oregon Energy Facility Siting Council (EFSC) jurisdiction, an abbreviated summary of the EFSC application is required. For facilities not under EFSC jurisdiction, an application containing information on each subject called for in EFSC applications is required.

Appeals. All appeals of a Planning Commission decision shall:

1. Be submitted in writing to, and received, by the Planning Department within the 15-day appeal period as listed under HCZO 9.030;

2. Be accompanied by the necessary fee to help defray the costs of processing the appeal;

   A. In the event more than one party files separate appeals on the same decision, the Planning Director shall require separate fees from each separate filing/appellant.

3. Be completed on the form provided by the Planning Department, or one substantially similar thereto, and shall contain the following information:

   A. The name, address and telephone number of the person filing the appeal;

   B. A reference to the Planning Department filing number for the application being considered with the appeal;

   C. How the person filing the appeal qualifies as a party, as listed under HCZO 9.030;

   D. How the comprehensive plan, zoning ordinance, or other applicable federal, state or local law or rule, or evidence, was incorrectly interpreted or applied in the decision;

E. What information in the record of decision was pertinent to the decision, but was not considered by the reviewing body. This may include the comprehensive plan, zoning ordinance, applicable state law, or other evidence;

F. Each ground or reason for appeal must be separately numbered and explained as "assignments of error";

   a. The assignments of error for the appeal must have been raised before the review or hearing body with sufficient specificity to allow the review or hearing body an opportunity to respond to the issue.

Director Review. Within two working days of the date that the appeal is received by the Planning Department, the Planning Director shall review the written appeal to determine if it was received within the 15-day appeal period and if it contains the contents required by section 9.040 above. If it was not received within the appeal period or does not contain the required contents, within this same two day period, the Planning Director shall reject the appeal and mail to the appellant the appellant's notice of appeal contents and a disclosure in writing identifying the deficiencies of content. The appellant may correct the deficiencies and resubmit the appeal if still within the 15-day appeal period. Appeals which are not so rejected by the Planning Director shall be assumed to have been accepted.

(Modified 10/30/2012 through Ord. 2012-70.)

Section 9.050. Filing Fee

The fee schedule for the Harney County Planning Department is prepared and approved by the Harney County Court in consultation with the Harney County Planning Commission.

(Modified 4/21/2010 through Ord. 2010-67 replacing the previous text entirely.)

Section 9.060. Public Hearings

One or more public hearings must be held on any zoning ordinance enacted by the County Governing body or Planning Commission.

1. Conditional Use or Variance. Each notice of hearing authorized by this Ordinance shall be published in a newspaper of general circulation in the County no more than 20 days and no fewer 10 days prior to the date of the hearing.

2. Amendments to the Ordinance, Zoning Map, or Comprehensive Plan Map. Two notices of hearing authorized by this Ordinance shall be published in a newspaper of general circulation in the County; the first notice being published at least 20 days prior to a hearing date and the second no less than 10 days prior to the hearing date.

3. In addition, a notice of hearing on a conditional use, variance or an amendment to the Zoning Map shall be mailed to all owners of property within 100 feet of the property if the property is located wholly or in part within an urban growth boundary, 250 feet of the property if the property is located outside of an urban growth boundary and is not within a farm or forest zone, or 500 feet of the property within a farm or forest zone for which the variance, conditional use, or zoning map amendment has been requested. The notice of hearing shall be mailed at least 20 days prior to the evidentiary hearing or 10 days prior to the hearing if two or more evidentiary hearings are allowed.

4. Notice of a public hearing on an application shall be provided to the owner of an airport defined by the Department of Transportation as a "public use airport" if the property is within 5,000 feet of the side or end of a runway of an airport determined by the Department of Transportation to be a visual airport or within 10,000 feet of the side or end of an airport determined by the Department of Transportation to be an "instrument airport".

5. Failure of a person to receive the notice prescribed on this section shall not impair the validity of the hearing.

6. At the beginning of a hearing a statement describing the applicable substantive criteria shall be made. Testimony and evidence must be directed toward the criteria and failure to address a criterion precludes appeal based on that criterion (ORS 215.416(5)).

7. The Planning Commission and the County Court may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced.

8. Final action on an application for a permit or zone change for land within an urban growth boundary, including resolution of all appeals under ORS 215.422, shall be taken within 150 days after the application is deemed complete (ORS 215.427).

9. Final action on an application for a permit or zone change for land outside of an urban growth boundary, including resolution of all appeals under ORS 215.422, shall be taken within 150 days after the application is deemed complete (ORS 215.427).

10. The applicant shall be notified within 30 days of receipt of application of any omission of information. If the applicant refuses to submit the missing information, the application shall be deemed complete on the 31st day after receipt of application (ORS 215.427).

11. At the request of the applicant, the 150-day period may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 215 days (ORS 215.427(5)).

12. If final action is not taken within 150 days after the application is deemed complete, the applicant may apply in Circuit Court for a "Writ of Mandamus" under ORS 34.130 to get an issuance of approval (ORS 215.429).

13. The 120/150-day period does not apply to an amendment of an acknowledged comprehensive plan or land use regulation or adoption of a new land use regulation that requires the "Post Acknowledgement Procedure" (ORS 215.427(7)).

14. A decision of the Planning Commission or County Court under ORS 215.431 shall comply with the "Post Acknowledgement Procedures" set forth in ORS 197.610 to 197.625. This does not apply to any plan amendment which an exception is required by ORS 197.732 or land designated under a state-wide Planning goal addressing agriculture or forest lands.

Section 9.070. Procedural Rules for Conducting Public Hearings

Procedure for all matters considered shall be as follows, unless otherwise directed by the Planning Commission or County Court.

1. Opening of Hearing. The presiding officer shall commence the hearing by announcing the nature and purpose of the hearing and summarizing the rules for the conduct of the hearing.

2. Disclosure of Prehearing Ex Parte Contacts.

   A. Policy for Disclosure Rule. To assure fair and impartial recommendations and determinations and to assure advocates the opportunity to respond or refute information which the Planning Commission or County Court members have available to them, it is mandatory that full disclosures of prehearing (ex parte) consideration of all public hearing land use agenda items be made at the time of the public hearing.

      Planning Commission or County Court members should avoid prehearing contacts so that their recommendations and determinations can be made based solely on the evidence presented at the time of public hearing.

   B. Disclosure of Contacts by Planning Commission or County Court with Public and Staff. Any discussion, except at a public hearing of the Planning Commission or County Court, between any voting member and an applicant or his representative, or any other person with a direct interest, concerning a specific case while such matter is scheduled or likely to come before the Planning Commission or County Court shall be made known, and the substance thereof related by such member, at the beginning of the public hearing before the Planning Commission or County Court on such case, all of which shall be entered into the record.

      This disclosure rule applies to contacts with staff members as well as members of the public and is to be interpreted to provide full disclosure of prehearing consideration and post hearing predetermination discussion of public hearing agenda items.

   C. Disclosure of Visual Inspections of Property (Views). The Planning Commission or County Court members may visually inspect properties and the general vicinity of properties involved in a land use hearing. Any member of the Planning Commission or County Court who has taken a viewed of the property must disclose that they have done so at the hearing, report any observations which were made that are material to the Planning Commission or County Court's

deliberations. The Planning Commission or County Court shall then allow for public testimony regarding the view.

3. Disqualification of Members. Except for legislative hearings conducted by the Planning Commission or County Court, a member of a hearing body shall not participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:

   A. Any of the following have a direct or substantial financial interest in the proposal: the hearing body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.

   B. The member owns property within the area entitled to receive notice of the public hearing.

   C. The member has a direct private interest in the proposal.

   D. For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.

4. Challenges for Bias, Prejudgment or Personal Interest.

   A Any proponent or opponent of a proposal to be heard by the Planning Commission or County Court may challenge the qualification of any Planning Commission or County Court member to participate in such a hearing and decision.

   B Such written challenge must be delivered by personal service to the Director of the Planning Department or Chairman of the County Court and the member whose qualification is challenged not less than 48 hours preceding the time set for public hearing.

   C Such challenge must state facts in writing, by affidavit, relied upon by the submitting party relating to a member/s bias, prejudgment, personal interest, or other facts, which leads a party to believe that the member will not participate and make a decision in an impartial manner.

   D Such challenge shall be incorporated into the record of the hearing.

   E Any member whose participation has been challenged by an allegation of bias, prejudgment, personal interest or partiality or who has been subject to significant ex parte or prehearing contact from proponents or opponents may make a statement in response thereto or in explanation thereof, for the record, and his

decision to abstain or not. This statement shall not be subject to cross-examination, except upon consent of that member, but shall be subject to rebuttal by any person.

Section 9.080. Authorization of Similar Uses

The Planning Commission may permit in a particular zone a use not listed in this Ordinance, provided the use is of the same general type as the uses permitted there by this Ordinance. However, this section does not authorize inclusion in a zone of a use not specifically listed as a use in another zone, or a use which is of the same general type and similar to the use specifically listed in another zone.

Section 9.090. Site Plan Review

1. The proposed use shall not impose an undue burden on the public transportation system. For developments that are likely to generate more than 400 average daily motor vehicle trips (ADT's), the applicant shall provide adequate information, such as a traffic impact study or traffic counts, to demonstrate the level of impact to the surrounding road system. The developer shall be required to mitigate impacts attributable to the project.

2. The determination of impact or effect and the scope of the impact study should be coordinated with the provider of the affected transportation facility.

3. Dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or access ways shall be required where the existing transportation system will be impacted by or is inadequate to handle the additional burden caused by the proposed use.

4. Improvements such as paving, curbing, installation or contribution to traffic signals, construction of sidewalks, bikeways, accessways, paths, or streets that serve the proposed use where the existing transportation system may be burdened by the proposed use are required.

Section 9.100. Road Naming and Rural Addressing

Sub-Sections:

1. **Authority**
2. **Purpose**
3. **Road Naming and Renaming**
4. **Rural Addressing**

The intent of these provisions is to provide clear directions and guidelines when naming a road or providing rural addresses to new residences.

1. Authority: The following legislative procedural requirements relating to the naming and renaming of roads and the numbering of properties within the unincorporated portion of Harney County are hereby adopted pursuant to the authority granted Harney County by ORS 215.110.

2. Purpose: The procedures set forth herein are for the purpose of establishing and maintaining a uniform rural addressing policy in Harney County for the naming and renaming of roads and the assignment of rural addresses. It is intended that this policy will clarify and set the requirements and responsibilities of individuals, public bodies and departments involved in the naming and renaming of roads and the assignment of rural addresses. In addition, it provides the public with an outline of the required process for road naming and renaming and the assignment of rural addresses.

3. Road Naming And Renaming:

   A. Required Review and Action for Road Naming: The County Court shall review and take appropriate action on all road naming and renaming when:

      a. Any existing public or County road is named or renamed;

      b. Any public or County road is established, except when new public or County roads will have names established within the provisions of the Harney County Zoning, Partition and Subdivision Ordinance or in the provisions for establishing a public way as provided by ORS Chapter 368; or,

      c. Any private road that provides access to three or more buildings and requires a name in order to promote the health, safety and welfare of the public.

B. Application:

a. An application to name or rename a road shall be submitted to the Harney County Court and shall include at a minimum the following:

I. Name of applicant;

II. Location of roadway by description and/or map;

III. Legal status i.e., ownership of road, if known (attach map showing area);

IV. Existing road name, if known;

V. Proposed road name;

VI. Reasons for request;

VII. Petition (attach, if any); and,

VIII. Fee (see Section 3(C)).

b. The application may be submitted by any of the following applicants:

I. The property owner(s) or person(s) living along the road;

II. Any public or semi-public agency whose function is affected by road names; or,

III. Harney County:

i. County Court;

ii. Clerk's Office;

iii. Planning Department;

iv. Road Department;

v. Assessor or Tax Collector;

vi. Sheriff.

c. The proposed road name must comply with the following standards:

I. Name limited to a maximum of fifteen (15) letters and three (3) words, excluding the suffix directional indicator, i.e., Road, Lane, Loop or Drive;

II. No duplication with other existing road names;

III. No similar sounding or confusing names; and,

IV. The designation of roads shall generally conform to the following:

i. Roads running predominantly north-south shall be known as a "Road";

ii. Roads running predominantly east-west shall be known as a "Lane";

iii. Roads dead-ending 1000 feet or less from their beginning points shall be known as a "Drive";

iv. Roads whose beginning and ending points intersect on a common road shall be known as a "Loop"; and,

v. Where road name changes are proposed, every effort will be made to maintain historical road names.

C. Fee:

a. An application fee will be charged for new and changed road names based on current sign construction and installation costs and the number of new signboards required (Section 9.050(5)).

b. The foregoing application and supplemental fees shall not be applicable to an application made by Harney County or any of its departments.

D. Processing Road Name Applications: The Harney County Planning Department shall have the responsibility for processing and maintaining applications for road naming and renaming and shall perform such function in the following manner:

a. Verify legal status, i.e., ownership and maintenance of road;

b. Check proposed road name(s) for duplication or similarity with other existing road names;

c. Perform a field check, when necessary;

d. Assist applicant or other affected person(s) to find alternate names when required; and,

e. Notify appropriate departments and agencies if the road, i.e., name change or new name, affects them.

I. Road Department;

II. Assessor's Office and Tax Office;

III. Post Office;

IV. Planning Department;

V. County Clerk's Office;

VI. Utility Companies;

i. Telephone company;

ii. Local Electric Company;

iii. Gas Company;

iv. Sewer and water districts or similar companies; and,

v. Cable companies.

VII. Affected fire district(s);

VIII. Local school district(s);

IX. County Surveyor;

X. Emergency Services; and,

XI. Adjacent urban jurisdictions.

E. Completion: The original documentation shall be recorded in the office of the County Clerk with a copy of the original to be kept in the office of the Planning Department. County maps and files shall be updated as appropriate.

F. Installation and Maintenance of Road Guide Signs (added 8/21/02 via Ord. 2002-53):

a. The signboards shall be ordered by the Harney County Planning Department; all other materials necessary for the installation of the sign (i.e. sign posts, hardware, etc.) shall be handled by the Harney County Planning Department.

b. The Harney County Planning Department shall be responsible for installing the road guide signs within a reasonable period of time after the County

Court has approved of the road name and all other procedures have occurred.

c. Road Guide Signs shall be maintained by Harney County with these timeframes:

I. Road Guide Signs on County Roads shall be replaced when damage occurs within a short timeframe once all materials are obtained (i.e. new road guide signs are obtained).

II. Road Guide Signs on Private Roads shall be replaced when damage occurs once a year unless otherwise deemed to be replaced more quickly.

4. Rural Address Numbers:

A. Purpose: The purpose of this subsection is to provide a uniform property numbering system, which allows adequate space between numbers for development and also provides a simple and logical method for expedient response in locating all buildings (defined in (C) below) within the County's road network.

B. Exceptions: Rural addresses shall primarily encompass areas outside city limits or urban growth areas. Rural addresses may also be applied to areas of conflict such as an urban growth boundary dividing a road.

C. Definitions: The following definitions shall apply to the provisions of this ordinance:

a. Building: A structure designed for human occupancy, such as a residence or place of business, or other structures as determined by the Planning Department.

b. Driveway: A private way that provides vehicular access to less than three buildings.

D. Address Assignment Program: Rural address numbers shall be assigned based on a five-digit number derived from the Oregon State Coordinate System with appropriate alterations to meet local needs for a uniform number system.

E. Address Assignment: The Harney County Planning Department shall have responsibility for processing rural address applications for new or replacement buildings.

F. Rural Address Application:

a. An application for a rural address shall be submitted to the Harney County Planning Department and shall include the following:

I. Name of applicant;

II. Location of property for which an address is to be assigned;

III. Name of the road or roads abutting the property for which an address is to be assigned;

IV. Location of access point from adjacent property or roads abutting the property; and,

V. Site plan location of the structure proposed for addressing.

b. The application may be submitted by any of the following applicants:

I. The property owner(s) or persons occupying the property;

II. Any public or semi-public agency whose function is affected by rural addresses; or,

III. Harney County departments:

i. County Court;

ii. Planning Commission;

iii. Planning Department;

iv. Road Department;

v. Assessor or Tax Collector;

vi. Sheriff; and,

vii. Surveyor.

G. Assignment Process: The Harney County Planning Department shall perform the following functions:

a. Verify property location and appropriate access road;

b. Assign an address number which conforms to the established numbering system recognizing the following:

I. Buildings accessed from roads predominantly extending north-south will have a modified five-digit number derived from the north-south axis, or x-axis, of the State Plane Coordinate System. Addresses for buildings west of a road shall end in an even number and addresses for buildings east of a road shall end in an odd number.

II. Buildings accessed from lanes predominantly extending east-west will have a modified five digit number derived from the east-west axis, or y-axis of the State Coordinate System.

III. Addresses for buildings essentially south of a lane shall end in an even number and addresses for buildings north of a lane shall end in an odd number.

IV. Address numbers are derived from a combination of Assessor maps and the United States Geological Survey Maps.

c. Notify the applicant of the assigned address.

H. Fees:

a. A fee will be charged for new and changed rural addresses based on current number stake construction and installation costs and the number of new number stakes required (see current fee schedule).

b. The property owner may exercise the option of installing the number stake at which point the fee will coincide with the current fee schedule.

c. The foregoing application fees shall not be applicable to an application made by Harney County or any of its departments.

I. Installation and Maintenance (added 8/21/02 via Ord. 2002-53):

a. The number stakes shall be ordered and prepared by the Harney County Planning Department; all other materials necessary for the installation of the number stakes (i.e. stake driver, etc.) shall also be the responsibility of the Harney County Planning Department.

b. The Harney County Planning Department shall be responsible for installing the number stakes within a reasonable period of time after the assignment of the rural address has been approved and all other procedures have occurred (i.e. within 2-4 weeks).

c. The property owner may install the number stake. A deposit will be held for the use of the number stake driver and the deposit becomes the County's if the driver is not returned to the Harney County Planning Department within 7 calendar days.

d. Number Stakes shall be maintained by the Harney County Planning Department. Replacement of number stakes shall occur when requested by the property owner with installation occurring within a reasonable period of time by the Harney County Planning Department (i.e. 2-4 weeks).

ORDINANCE HISTORY NOTES: The Site Plan Review provisions, Section 9.090 of the Harney County Zoning Ordinance, were developed by the Harney County Planning Department as part of the Harney County TSP Implementation program and adopted by Harney County Ordinance 2001-47 on April 18, 2001. The Road Naming and Rural Addressing provisions, Section 9.100 of the Harney County Zoning Ordinance, were previously known as Ordinance 25 adopted by the Harney County Court on August 17, 1994. There were modifications made and the ordinance was incorporated into the Harney County Zoning Ordinance via Ordinance 2002-53 on August 21, 2002. Any changes from this point forward will have the effective date listed after each modified paragraph with subsequent historical notes.

Article 10. General Provisions

Sections:

10.010. Interpretation
10.020. Severability
10.030. Abatement and Penalty
10.040. Validity of Ordinances and Development Patterns

Section 10.010. Interpretation

Where the conditions imposed by a provision of this Ordinance are less restrictive than comparable conditions imposed by any other provisions of this Ordinance or any other Ordinance, the provisions which are more restrictive shall govern.

Section 10.020. Severability

The provisions of this Ordinance are severable. If any section, sentence, clause or phrase of this Ordinance is adjudged by a Court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Ordinance.

Section 10.030. Abatement and Penalty

A person violating a provision of the Ordinance shall be subject to the provisions of ORS 215.185; and 215.190.

1. The Planning Department relies on the honesty and accuracy of an applicant's land-use application in determining eligibility for and lawful approval of any land-use application. By affixing the applicant's signature to the application, the applicant warrants and certifies that all application information is correct and an accurate reflection of the applicant's intended land-use application.

2. The Planning Department, when issuing a land-use permit includes findings and decisions which constitutes the conditions under which a land-use permit is approved and authorized by Harney County. The applicant by accepting the land-use permit and paying the required fees to Harney County has agreed to all terms and conditions stated within the permit. This permit shall establish the minimum standards which shall apply to any and all development granted under the permit.

The applicant shall adhere to the terms and conditions of the land-use permit or shall be otherwise deemed to be in non-conformance with said land-use permit.

3. The Planning Department may at their sole discretion inspect the subject property to determine whether the applicant has complied with the terms and conditions of the issued land-use permit. The applicant by accepting the permit grants Harney County a limited right to enter their property for the purposes of determining substantial compliance with Harney County land-use permit. If the applicant has not complied with the terms or conditions of the permit, then the Planning Director and/or a departmental designee shall issue a formal letter of "Notice of Non-Compliance" to the owner/applicant advising them of the violation and requesting that they respond in writing as to the timeframe for bringing the land-use action into compliance with the Harney County permit. The applicant/owner shall be required to respond in writing to the Planning Director and/or request a formal hearing before the Planning Commission within thirty (30) days of the date of notice. If the applicant/owner does not respond in writing to the Planning Director or request said formal hearing before the Planning Commission, the Planning Department may issue the applicant/owner a "Notice of Revocation" as described in 10.030(5).

4. The applicant/owner should they request a formal hearing before the Planning Commission, shall be subject to all notification requirements set forth by state statue and shall be responsible for all fees associated with the requested hearing. After appropriate notification to all affected property owners and parties to the original action, a hearing date and time shall be set. The Planning Commission shall review the issues of non-compliance and set a timetable for compliance with the terms and conditions of the land-use permit. The purpose of the hearing is to determine a compliance schedule and strategy not to modify the original permit. If the Planning Commission determines that a schedule for compliance is not possible, then they must revoke the previous permit and the applicant must reapply subject to all statutory and procedural requirements. An action of the Planning Commission may be appealed to the Harney County Court by filing with the Planning Department a written "Notice of Intent to Appeal". Any hearing before the Harney County Court will be considered on the original record and shall be final. The applicant/owner shall be subject to all notification requirements set forth by state statue and shall be responsible for all fees associated with the requested appeal hearing. Any appeal of this nature is only granted to the original applicant/owner.

5. Should the applicant/owner refuse to comply with the action of the Planning Director and/or the Planning Commission, then the Harney County Planning Department shall issue a "Notice of Revocation" which shall advise the applicant/owner that effective thirty days from the date of the issuance of the formal letter that the permit shall be null and void and that the applicant is no longer authorized to proceed in any manner previously approved in the Harney County Land-use permit.

6. Should the applicant not comply with the revocation of the land-use permit, then Harney County shall at their sole discretion assess a $250.00 fine for each day that

the violation remains in effect, beginning on the 31st day after date of the issuance of the "Notice of Revocation".

7. Should the violation constitute a health and safety issue for the citizens of Harney County, then the Notice of Revocation shall be issued in writing stating the health and safety issues. The applicant/owner shall have seven (7) days to remedy the violations or be subject to fines that are double the standard fine of $250.00 until such time as the violations have been abated or corrected.

8. Should the applicant/owner fail to respond to any of the notices or access any due process provided under this ordinance, then the County may seek injunctive relief which would include a judgment for all outstanding fines and also such attorney and court fees as determined appropriate by the court.

Section 10.040. Validity of Ordinances and Development Patterns

All Development patterns made and adopted prior to September 1963 shall be deemed to meet the requirements of ORS 215.010, 215.030, 215.050, 215.060, 215.110, 215.213, 215.223 and 215.233. Nothing in the above references shall impair the validity of ordinances adopted prior to September 2, 1963 (ORS 215.233).