

# CHAPTER 1

## INTRODUCTORY AND GENERAL PROVISIONS

### **SECTION 1.010 Authority**

This Ordinance is enacted pursuant to the provisions of ORS Chapters 92, 197, 203 and 215.

### **SECTION 1.020 Title**

This Ordinance shall be known as the Douglas County Land Use and Development Ordinance.

### **SECTION 1.025 Purpose**

This Ordinance is designed to provide and coordinate regulations in Douglas County governing the development and use of lands and to implement the Douglas County Comprehensive Plan. To these ends, it is the purpose of this ordinance to:

1. Insure that the development of property within the County is commensurate with the character and physical limitations of the land, and, in general to promote and protect the public health, safety, convenience and welfare;
2. Protect the economy of the County;
3. Conserve the limited supply of prime industrial lands to provide sufficient space for existing industrial enterprises and future industrial growth;
4. Conserve farm and forest lands for the production of crops, livestock, and timber products;
5. Encourage the provision of affordable housing in quantities sufficient to allow all citizens some reasonable choice in the selection of a place to live;
6. Conserve all forms of energy through sound economical use of land and land uses developed on the land;
7. Provide for the orderly and efficient transition from rural to urban land use;
8. Guarantee the ultimate development and arrangement of efficient public services and facilities within the County;
9. Provide for and encourage a safe, convenient, and economic transportation system within the County;

10. Protect the quality of the air and water resources of the County;
11. Protect life and property in areas subject to floods, landslides, and other natural disasters and hazards;
12. Provide for the recreational needs of residents of Douglas County and visitors to the County;
13. Conserve open space and protect historic, cultural, natural and scenic resources; and
14. Protect, maintain, where appropriate develop, and where appropriate restore the estuaries, coastal shorelands, coastal beach and dune area and the nearshore ocean and continental shelf of Douglas County.

### **SECTION 1.030 Scope and Compliance**

1. A parcel of land may be used or developed, by land division or otherwise, and a structure may be used or developed, by construction, reconstruction, alteration, occupancy or otherwise only as this ordinance permits.
2. In addition to complying with the criteria and other provisions within this ordinance, each development shall comply with the applicable standards published by the Director of Public Works.
3. The requirements of this ordinance apply to the person undertaking a development or the user of a development and to the persons or user's successors in interest.

### **SECTION 1.035 Use of a Development**

A development may be used only for a lawful use. A lawful use is a use that is not prohibited by law and for which the development is designed, and arranged, as permitted or approved, or which is nonconforming pursuant to Chapter 3 of this ordinance.

### **SECTION 1.040 Compliance Required**

1. No person shall engage in or cause to occur a development which does not comply with these regulations. Neither the Building Official nor any other state or local official shall issue a permit for a use or the construction, reconstruction or alteration of a structure or a part of a structure which has not been approved.
2. A development shall be approved by the Director or other Approving Authority according to the provisions of this ordinance. The Director shall not approve a development or use of land that has been previously divided or otherwise developed in violation of this ordinance, regardless of whether the applicant created the violation, unless the violation can be rectified as

part of a development proposal.

3. Unless appealed, a decision on any application shall be final upon expiration of the period provided for filing an appeal or, if appealed, upon rendering of the decision by the reviewing body.

### **SECTION 1.050 Compliance with Comprehensive Plan**

In the event of any conflict between any provision of this ordinance and provisions of the Comprehensive Plan of Douglas County, or duly adopted portions, elements or amendments of such Plan, the more restrictive provisions shall prevail.

### **SECTION 1.055 Effect on Agreements Between Parties**

This Ordinance shall not interfere with or abrogate or annul any easement, covenant or other agreement between parties, provided that where this ordinance imposes a greater restriction than that imposed by the agreement the provisions of this ordinance shall control.

### **SECTION 1.060 Interpretation**

1. When in the administration of this ordinance there is doubt regarding the intent of the Ordinance or the suitability of uses not specified, the Director shall request an interpretation of the provision by the Commission. The Commission shall issue an interpretation to resolve the doubt, but such interpretation shall not have the effect of amending the provisions of this ordinance. Any interpretation of the Ordinance shall be based on the following considerations:
  - a. The Douglas County Comprehensive Plan;
  - b. The purpose and intent of the Ordinance as applied to the particular section in question; and
  - c. The opinion of the County Counsel.
2. The interpretation of the Commission shall be forwarded to the Board. Whenever such an interpretation is of general public interest, copies of such interpretation shall be made available for public distribution.

### **SECTION 1.065 Minor Text Corrections**

The Director may correct the Land Use & Development Ordinance or the Comprehensive Plan, without prior notice or hearing, so long as the Director does not alter the sense, meaning, effect, or substance of any adopted ordinance and, within such limitations, the Director may:

1. Renumber chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals, objectives, and policies of the Land Use & Development Ordinance and Comprehensive Plan;
2. Rearrange chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals, objectives, and policies;
3. Change reference numbers to agree with renumbered chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals, objectives, and policies;
4. Delete references to repealed chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals objectives, and policies;
5. Substitute the proper chapter, article, section, subsection, finding, goal, objective, or policy numbers;
6. Change capitalization and spelling for the purpose of uniformity;
7. Correct manifest clerical, grammatical or typographical errors; and,
8. Change the name of an agency by reason of a name change prescribed by law.

The Director shall maintain a record, available for public access, of all corrections made under this Section.

Corrections to the Land Use & Development Ordinance and Comprehensive Plan made by the Director pursuant to this Section are prima facie evidence of the law, but they are not conclusive evidence. If any correction to the Land Use & Development Ordinance or Comprehensive Plan made pursuant to this Section differs in sense, meaning, effect, or substance from any adopted ordinance, the adopted ordinance shall prevail.

#### **SECTION 1.070 Restrictiveness**

Where the conditions imposed by a provision of this ordinance are less restrictive than comparable conditions imposed by other provisions of this ordinance the provisions which are more restrictive shall govern.

**SECTION 1.080 Severability**

If any provision of this ordinance shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the remainder of this ordinance, and the effect thereof shall be confined to the provision immediately involved in the controversy in which such judgment is rendered, it being the intent of the governing body to enact the remainder of this ordinance notwithstanding the parts so declared unconstitutional or invalid. Further, should any provision of this ordinance be declared unreasonable or inapplicable to a particular premise or to a particular use at any particular location, such declaration shall not affect provisions as to any other premise or use.

**SECTION 1.090 Definitions**

1. Words used in the present tense include the future; the singular number includes the plural; and the word "shall" is mandatory and not directory. Whenever the term "this ordinance" is used herewith, it shall be deemed to include all amendments thereto as may hereafter from time to time be adopted.
2. For the purpose of this ordinance, unless otherwise specifically provided, certain words, terms and phrases are defined as follows:

**ABUTTING:** Adjoining with a common boundary line, except that where two or more lots adjoin only at a corner or corners, they shall not be considered as abutting if the common property line between the two parcels measures less than eight feet in a single direction.

**ACCESS:** The place, means or way by which pedestrians or vehicles shall have adequate and usable ingress and egress to a property, use or parking space.

**ACCESS EASEMENT:** A private street, approved pursuant to Chapter 4 of this ordinance, which is not a part of the lot, parcel or unit of land and which provides access to one or more lots, parcels or units of land.

**ACCESSORY BUILDING:** Any subordinate building or portion of a main building, the use of which is incidental, appropriate and subordinate to that of the main building. No building shall be considered accessory if it is the only building on a lot, parcel or unit of land.

**ACCESSORY USE:** A use incidental, appropriate and subordinate to the main use of a lot or building.

**ACCRETION:** The buildup of land along a beach or shore by the deposition of waterborne or airborne sand, sediment, or other material.

**ADMINISTRATIVE ACTION:** An "Administrative Action" means a proceeding pursuant to this ordinance:

- a. In which the legal rights, duties or privileges of specific parties are determined, and any appeal or review thereof, pursuant to the provisions of this ordinance; or
- b. The Board of County Commissioners so provides by Ordinance, rule or order.

The provisions for "Administrative Action" in Chapter 2 of this ordinance apply to Comprehensive Plan map amendments, zone changes or request for Planned Unit Development approval alone or in conjunction with subdivision platting, as specifically modified by the provisions of this ordinance.

**ALLEY:** A public or private way not less than thirty (30) feet in width affording only secondary means of access to abutting property.

**ALTERATION:** A change in the use of no greater adverse impact than the existing use to the neighborhood; or a change in the structure or physical improvements of no greater adverse impact than the existing structure or physical improvements to the neighborhood.

**AMENDMENT:** A change in a portion of the Douglas County Comprehensive Plan maps pursuant to Chapter 6 of this ordinance, a change in the wording, text, or substance of this ordinance, or a change in the district boundaries or overlay boundaries upon the zoning maps.

**APPROVING AUTHORITY:** The person or body given authority to decide applications for administrative actions under the provisions of §2.060 of this ordinance. Whenever the Approving Authority consists of three or more persons, the action taken by such Authority may be exercised by a majority of a quorum. Upon failure of a majority to agree, the matter before the Authority shall be considered denied.

**AQUACULTURE:** The propagation and harvesting of aquatic life, including but not limited to fish and shellfish farming, development of new seafoods, methods of rearing larvae of clams and oysters, and utilization of seaweed and other aquatic plants as a food source.

**AUTOMOBILE REPAIR GARAGE:** A use providing for the major repair and maintenance of motor vehicles, and includes any mechanical and body work, straightening of body parts, painting, welding, or storage of motor vehicles not in operating condition.

**AUTOMOBILE SERVICE STATION:** A use providing for the retail sale of motor fuels, lubricating oils and vehicle accessories, and includes the servicing and repair of motor vehicles as an accessory use, but excludes all other sales and services except the sale of minor convenience goods for service station customers as accessory and incidental to the principal operation. Uses permitted at an automobileservice station shall not include major mechanical and body work,

straightening of body parts, painting, welding, tire recapping, storage of motor vehicles not in operating condition, or other work generating noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations. An automobile service station shall not be deemed to include a repair garage or a body shop.

**AUTOMOBILE WRECKING YARD:** Any area of land used for the storage, wrecking, dismantling for parts or sale of five or more inoperable motor vehicles, trailers or farm equipment, or parts thereof, where such vehicles, trailers, equipment or parts are stored in the open and are not being actively restored to operating condition, and includes any land used for the commercial salvaging of any other goods, articles or merchandise. This definition excludes the storage of idle farm implements necessary for ongoing agricultural operations.

**BASEMENT:** A story partly or wholly underground. A basement shall be counted as a story for purposes of height measurement where more than one-half of its height is above the average level of the adjoining ground.

**BED AND BREAKFAST ACCOMMODATION:** An accessory use to be carried on within a structure designed for and occupied as a single family dwelling in which no more than five sleeping rooms are provided on a daily or weekly period, not to exceed 29 consecutive days, for the use of travelers or transients for a charge or fee. Provision of a morning meal is customary as implied by title. Bed and Breakfast shall be considered a Home Occupation where not specifically listed as a permitted or conditionally permitted use.

**BIOFUEL:** Liquid, gaseous or solid fuels derived from biomass.

**BIOMASS:** Organic matter that is available on a renewable or recurring basis and that is derived from: forest or rangeland woody debris from harvesting or thinning; wood material from hardwood timber; agricultural residues; offal and tallow from animal rendering; collected food wastes; collected yard or wood debris; wastewater solids; or crops grown solely to be used for energy.

**BLOCK:** An area of land within a subdivision which area may be bounded on all sides by streets, railroad rights of way, unsubdivided land or water courses.

**BOARD:** The Douglas County Board of Commissioners.

**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. Related facilities, such as training arenas, corrals and exercise tracks.

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 a farm use by the property owner of the land qualifying for farm assessment under regulations of the State Department of Revenue.

**BOUNDARY LINE ADJUSTMENT:** The relocation or elimination of a common property line between abutting properties. Also called a Property Line Adjustment.

**BUILDING:** For the purpose of this ordinance, the terms "Building" and "Structure" shall be synonymous. See STRUCTURE.

**BUILDING HEIGHT:** The vertical distance from the average finished grade at the front of the building to the highest point of a building, exclusive of chimneys.

**BUILDING SITE:** The ground area of a building or buildings, together with all open spaces required by this ordinance.

**CAMPGROUND:** An area designed for short-term recreational purposes and where facilities, except commercial activities such as grocery stores and laundromats, are provided to accommodate that use. Space for tents, campers, recreational vehicles, and motor homes are allowed and permanent open air shelters (adirondacks) may be provided on the site by the owner of the development. A private campground may provide yurts (as defined in state statute) for overnight camping provided that no more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. In the exclusive farm use zones, intensively developed recreation uses such as swimming pools, tennis courts, retail stores or gas stations shall not be allowed.

**CARPOR:** A stationary structure consisting of a roof with its supports and no more than two walls or storage cabinets substituting for walls used for sheltering a motor vehicle.

**CEMETERY:** Land used or intended to be used for the burial of the dead, and dedicated for cemetery purposes; including columbaria, crematories, mausoleums and mortuaries, when operated in conjunction with and within the boundary of such cemetery.

**CHURCH:** A building, together with its accessory buildings and uses, where persons regularly assemble for worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship. Church accessory uses include, worship services, religion classes, weddings, funerals, child care and meal programs. A church may offer temporary overnight parking space (on church property) to homeless persons living in vehicles. Any church offering homeless parking space shall 1) limit such space

to three or fewer vehicles at any one time; 2) provide access to sanitary facilities that include toilet, hand washing and trash disposal; and 3) limit length of stay to 14 days.

**CLINIC:** Single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths, and other members of the healing arts, including a pharmacy in any such building.

**CLUB OR LODGE:** A building and facilities owned and operated for a social or recreational purpose, to which membership is required for participation, but is not operated primarily for profit or to render a service which is customarily carried on as a business. A club does not include a public rehabilitation facility of any kind.

**COASTAL WATERS:** Territorial ocean waters of the continental shelf, estuaries, and coastal lakes.

**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, excluding the statutorily allowed "facility for the processing of farm crops". 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 agriculture.
- 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 green-houses 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 for production from fruits, a portion of which are grown on the property, including retail sales.
- k. Feedlot.

- I. Processing of farm crops into biofuel not permitted under the definition of “farm use”, and not meeting the standards of a “facility for the processing of farm crops” in Sections 3.3.075 and 3.4.075.
- m. Other such uses which may be construed as similar to the uses listed above.

COMMISSION: The Planning Commission of Douglas County, Oregon.

COMMITTEE: The Historic Resource Review Committee of Douglas County, appointed by the Board of Commissioners pursuant to provisions of Chapter 9 of this ordinance.

COMMUNICATION FACILITY: A facility constructed for the purpose of transmitting telegraph, telephone, microwave, television, radio, and other similar signals.

COMMUNITY CENTER OR HALL: A building and facilities owned and operated by a governmental agency or nonprofit community organization whose membership is open to any resident of the community in which the center or hall is located.

COMMUNITY SANITARY-SEWER SYSTEM: A public or private system of underground pipes of sufficient capacity to carry domestic sewage from an area to connected treatment and disposal facilities, as approved by the Oregon Department of Environmental Quality.

COMMUNITY WATER-SUPPLY SYSTEM: A public or private system of underground distribution pipes providing a continuous supply of potable water from a central source in quantities sufficient to meet domestic and fire protection needs for three (3) or more dwellings, as approved by the State of Oregon Department of Human Resources, Health Division.

COMPREHENSIVE PLAN: The generalized, coordinated land use map and policy statement of the governing body of Douglas County (or of a city if the development requiring approval is within an Urban Growth Boundary of such city) that interrelates all functional and natural systems and activities relative to the use of lands but not limited to sewer and water systems, transportation systems, educational systems, recreational facilities, and natural resources and air and water quality management programs.

CONDOMINIUM: "Property" or "Condominiums" means the land, whether leasehold or in fee simple and whether contiguous or noncontiguous, all buildings, improvements and structures thereon, and all easements, rights, and appurtenances belonging thereto, which are submitted according to the provisions of ORS 100.005 to 100.910 and 100.990.

CONSULTANT ENGINEER: A professional engineer, registered in the State of Oregon, who is retained by and responsible to an applicant for the design and construction of subdivisions and required public or private improvements. Although a Civil Engineer is preferable, any engineer who is qualified to perform the work involved,

and so certifies, may be a consultant engineer.

**CONTIGUOUS LOTS:** Two or more abutting lots having at least one common boundary line greater than eight feet in length.

**COUNTY ROAD:** A public road which has been designated as a county road and formally accepted for maintenance by the Douglas County Board of Commissioners. For the purposes of regulating access for development, any road maintained by a public body shall be treated as a county road.

**DAY NURSERY:** Any institution, establishment or place in which are commonly received at one time, three or more children not of common parentage, under the age of six years, for a period or periods not exceeding twelve hours, for the purpose of being given board, care or training apart from their parents or guardians for compensation or reward.

**DECLARANT:** The person who files a declaration under ORS 92.075.

**DECLARATION:** Means the instrument described on ORS 92.075 by which the subdivision or partition plat was created.

**DENSITY:** The number of dwelling units to be contained within a specified land area.

**DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but not limited to the construction, alteration, installation or use of buildings, division of land, creation of private or public streets, mining, excavation, farming, forest use, open storage of materials, or any other activity specifically regulated by the provisions of this ordinance.

**DIRECTOR:** The Douglas County Planning Director or his duly authorized representative.

**DIRECTOR OF PUBLIC WORKS:** The Douglas County Director of Public Works, also known as the County Engineer.

**DISTRICT:** A portion of the unincorporated territory of the County within which certain uses of land and buildings are permitted and certain other uses of land and buildings are prohibited as set forth and specified in this ordinance.

**DUPLEX:** See DWELLING, TWO-FAMILY definition.

**DWELLING:** A building or portion thereof which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily, but excluding hotels and motels.

**DWELLING, MULTIPLE-FAMILY:** A building designed and used for occupancy by three or more families, all living independently of each other, and having separate housekeeping facilities for each family.

**DWELLING, SINGLE-FAMILY:** A detached building designed or used exclusively for the occupancy of one family and having housekeeping facilities for only one family (See FAMILY).

**DWELLING, TWO-FAMILY (DUPLEX):** A building designed or used exclusively for the occupancy of two families living independently of each other and having separate housekeeping facilities for each family.

**DWELLING UNIT:** One or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with housekeeping facilities for living, sleeping, cooking and eating.

**ESTUARY:** A body of water semi-enclosed by land, connected with the open ocean, and within which salt water is usually diluted by freshwater derived from the land. The estuary includes: (a) estuarine water; (b) tidelands; (c) tidal marshes; and (d) submerged lands. Estuaries extend upstream to the head of tidewater.

**EXPEDITED LAND DIVISION:** A land division process approved by the 1995 State Legislature (Oregon Laws 1995, chapter 959, sections 7. to 11.) that may be applied as an applicant option to residential land divisions in urban growth boundaries so long as statutory provisions are met. The expedited land division is not a land use decision under ORS 197. If requested, an expedited land division shall be subject to the same fee as that for a partitioning and shall be processed pursuant to statutory provisions.

**FACILITY:** A structure that is constructed, placed or erected for the purpose of furthering a permitted or conditional use.

**FAMILY:** An individual or two or more persons related by blood, marriage, adoption, legal guardianship, living together as one housekeeping unit using one kitchen, and providing meals or lodging to not more than two additional persons, excluding servants; or a group of not more than five unrelated persons, living together as one housekeeping unit using one kitchen; or five or fewer unrelated physically or mentally handicapped persons and staff, living together as one housekeeping unit using one kitchen. (C293 OR Laws 1983).

**FAMILY CHILD CARE PROVIDER:** A person who provides care in their home to 12 or fewer children (depending on how the care provider is licensed by the State under OAR Division 414), including children of the provider, regardless of full-time or part-time status. A family child care provider's home shall be considered a residential use of property for zoning purposes.

**FAMILY HARDSHIP DWELLING:** A mobile home or recreational vehicle used temporarily during a family hardship situation, pursuant to Chapter 3 of this ordinance when an additional dwelling is allowed to house aged or infirm persons or persons physically incapable of maintaining a complete separate residence apart from their family.

**FARM USE:** The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops, or by feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honey bees 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 bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by Oregon Department of Fish & Wildlife rules. "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 321 (timber taxation), except land used exclusively for growing cultured Christmas trees as defined by ORS 215.203(3).

"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 the land specified in subparagraph (d) of this paragraph, 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 or grazeable, 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) except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.283(1)(u) and the processing of farm crops into biofuel as commercial activities in conjunction with a farm use under ORS 215.283(2)(a); (g) water impoundments lying in or adjacent to and in common ownership with farm use land; (h) any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use; (i) land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family (illness includes injury or infirmity whether or not such illness results in death); (j) any land described under ORS 321.267(3) or 321.824(3); and, (k) land used for the processing of farm crops into biofuel, if: 1) only the crops of the landowner are being processed, 2) the biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner, or 3) the landowner is custom processing crops into biofuel from other landowners in the area for their use or sale.

**FEEDLOT:** Any structure, pen or corral wherein cattle, sheep, horses, goats or swine are maintained in close quarters for the purpose of fattening such livestock for shipment to market. This definition does not apply 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.

**FISH AND WILDLIFE MANAGEMENT:** The protection, preservation, propagation, promotion and control of wildlife by either public or private agencies or individuals.

**FLOODPLAIN:** The area adjoining a stream, tidal estuary or coast that is subject to regional flooding.

**A REGIONAL (100-YEAR) FLOOD:** is a standard statistical calculation used by engineers to determine the probability of severe flooding. It represents the largest flood which has a one-percent chance of occurring in any one year in an area as a result of periods of higher than normal rainfall or stream-flows, extremely high tides, high winds, rapid snow-melt, natural stream blockages, tsunamis, or combinations thereof.

**FLOODWAY:** The normal stream channel and the adjoining area of the natural floodplain needed to convey the waters of a regional flood while causing less than one foot increase in upstream flood elevations.

**FLOODFRINGE:** The area of the floodplain lying outside the floodway, but subject to periodic inundation from flooding.

**FLOOR AREA:** The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, but not including attic space providing headroom of less than seven feet, or basement if the floor above is less than six feet above grade.

**FOREST MANAGEMENT:** The current employment of lands, along with accessory buildings and uses, for the growing, harvesting and management of forest products, including primary processing facilities.

**FOREST OPERATION:** Any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620(6).

**FOREST USE:** (1) Forest operations, practices and auxiliary uses subject only to regulations found in ORS 527.722; (2) uses related to and in support of forest operations; (3) uses to conserve soil, water and air quality, and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment; and (4) locationally dependent uses.

**FORESTRY:** A use providing for the growing, harvesting, storage and processing of primary forest products and the management and protection of forest land as defined in ORS 321.257, the Douglas County Comprehensive Plan and the Statewide Planning Goals, and includes the location, construction and maintenance of forest access roads and forest protection facilities. Forestry includes "forest use" as defined herein but does not include "farm use" as herein defined.

**GARAGE, PRIVATE PARKING:** A publicly or privately-owned structure having one or more tiers or heights used for the parking of automobiles for the tenants, employees, or owners of the property for which the parking spaces contained in or on said garage are required by this ordinance, and which is not open for use by the general public.

**GARAGE, PUBLIC PARKING:** A publicly or privately-owned structure having one or more tiers or heights used for the parking of automobiles and open garages may include parking spaces for customers, patrons or clients which are required by the

Ordinance, provided said parking spaces are clearly identified as free parking space(s) for the building or use which is required to provide said space(s).

**GEOHERMAL RESOURCES:** The natural underground reservoirs of heat that may be exploited for the production of heat energy, including but not limited to all minerals obtained from naturally or artificially injected fluid, brine or associated gas and steam in any form whatsoever, but excluding oil, hydrocarbon gas and other hydrocarbon substances and hot waters of less than 250 degrees Fahrenheit and bottom hold temperature.

**GRADE:** The average of the finished ground level at the center of all walls of a building. When the walls are parallel to and within five feet of a sidewalk, the grade shall be measured at the sidewalk.

**GRAZING:** The use of land for the pasture of horses, cattle, sheep, goats, and or other domestic or herbivorous animals alone or in conjunction with agricultural pursuits.

**GUEST HOUSE:** A subordinate residential use that is accessory to, and dependent on, an existing primary dwelling located on the same lot or parcel as the guest house. A guest house may either be a separate area located within or attached to the primary dwelling, or a separate structure (either constructed on site or a manufactured dwelling, but not a recreational vehicle). A guest house is considered to be part of the primary dwelling. It is not intended to be separate or independent from the primary dwelling. Together, the primary dwelling and guest house are considered to be one dwelling unit. Land divisions separating an approved guest house from the primary dwelling shall not be allowed. A guest house may only be occupied by members of the family residing in the primary dwelling or by their non-paying guests. A guest house shall not be offered for rent, except as approved through a conditional use permit process. A guest house shall conform to the following standards:

- a. A guest house shall be permitted in any non-resource zone where a single family dwelling is listed as a use, as long as the coverage, set back and height standards of the zone can be met. Only one guest house shall be allowed on a lot or parcel.
- b. The lot or parcel on which the guest house is located shall be at least 10,000 square feet if located within an urban area, and shall be at least one acre if located outside of an urban area.
- c. The guest house shall not exceed a total floor area of 600 square feet of living area, excluding a garage. Kitchen facilities in a guest house shall not exceed 100 square feet.
- d. The guest house shall either be located within or attached to the primary dwelling, or be no further than 100 feet from the primary dwelling (as measured in a straight line between the closest part of each structure).
- e. The guest house shall receive all utilities via extensions of the same service lines as that of the primary dwelling. The guest house shall not have

separate utility services from that of the primary dwelling (nor shall it have separate meters) for water, sewer, electric or gas. If the primary dwelling is on a septic system, then the guest house shall use the same septic system as the primary dwelling, pending certification that the existing system is adequate to accommodate the additional residential use.

**HABITABLE FLOOR:** Any floor usable for living purposes which includes working, eating, cooking or recreation or a combination thereof. A basement, as that word is defined in the Oregon State Structural Specialty Code and Fire and Life Safety Code, is a habitable floor.

**HARDSHIP:** A substantial injustice which deprives the landowner of beneficial use of his land. "Hardship" applies to the property itself including structures, and not to the owner or applicant; and is applicable to property which is unique or unusual in its physical characteristics so that the regulations render the property substantially unusable.

**HEARINGS OFFICER:** The Hearings Officer of Douglas County, Oregon.

**HEIGHT:** The vertical distance from the "grade" to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.

**HELIPORT:** An area used or intended to be used for landing or take off of helicopters or other VTOL aircraft capable of hovering and may include any or all of the area or buildings which are appropriate to accomplish these functions.

**HISTORIC RESOURCE REVIEW COMMITTEE:** See COMMITTEE.

**HOME FOR THE AGED:** Any home or other institution that maintains facilities for rendering board and domiciliary care for compensation to three or more persons who are of the age of sixty five years or more, or persons of less than sixty-five years who, by reason of infirmity, require domiciliary care.

**HOME OCCUPATION:** Any occupation or profession and associated parking of vehicles subject to the following standards:

- a. It shall be operated by a resident or employee of a resident of the property on which the business is located;
- b. It shall employ on the site no more than five full or part-time persons;
- c. It shall be operated substantially in:
  - i. The dwelling; or
  - ii. Other buildings normally associated with uses permitted in the zone in which the property is located;
- d. It shall not unreasonably interfere with other uses permitted in the zone in

which the property is located;

- e. Not more than 25% of the total floor area shall be used for retail sales; all items sold on premises shall be grown, manufactured, compounded or processed on the premises; and
- f. It will comply with all conditions imposed by the Approving Authority pursuant to Article 39.

The existence of home occupations shall not be used as justification for a zone change.

**HOSPITAL:** An institution devoted primarily to the rendering of healing, curing and nursing care, which maintains and operates facilities for the diagnosis, treatment and care of two or more non-related individuals suffering from illness, injury or deformity, or where obstetrical or other healing, curing and nursing care is rendered over a period exceeding 24 hours.

**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.

**HUNTING AND FISHING PRESERVE:** An area wherein the hunting of privately owned game birds and angling for privately owned game fish are permitted by state or federal law.

**IMMEDIATE FAMILY MEMBER:** Family member of the first degree of kinship or equivalent thereof.

**INFLATABLE ADVERTISING:** A temporary advertising display designed to be inflated with a gaseous substance and which is intended to float in the air while being secured on a tether attached to a structure or the ground. Such advertising shall be limited to 60 days in one location and in any one calendar year unless a Temporary Use Permit is granted.

**INTER TIDAL:** Between the levels of mean lower low tide (MLLT) and mean higher high tide (MHHT).

**INTERMEDIATE CARE FACILITY:** See NURSING HOME.

**KENNEL:** A use providing for the accommodation of four or more dogs, cats, or other household pets at least four months of age, where such animals are kept for board, propagation, training or sale. However, a new kennel is not permitted on lands designated as High Value farmland as defined in OAR 660-33-020(8).

**KITCHEN:** Any room, all or any part of which is designed, built, equipped, used or intended to be used for the preparation of food and or the washing of dishes.

**LAND USE COMPATIBILITY STATEMENT (LUCS):** State agencies in Oregon are required to consider the Statewide Planning Goals and Acknowledged

Comprehensive Plans prior to approval of State permits. A LUCS is a document issued by a State agency, where the agency provides information concerning a pending permit, and seeks a local government determination concerning whether or not the pending permit is consistent with the local Comprehensive Plan. A local government determination on a LUCS is a ministerial decision, unless the Director determines the requested determination requires a higher level of discretion because: 1) the proposed use (as described in the LUCS) is not specifically listed in the applicable zone, or 2) the proposed use requires interpretation of the LU&DO, or 3) an objector to the proposed permit is known to exist. Where such discretion is involved, the Director may issue a decision with written findings pursuant to 2.060.1, and shall mail a 10 day notice of decision to property owners within the appropriate notice distance pursuant to Section 2.065. An objector may appeal the Director's decision for review by the Planning Commission. Local government authorization of a LUCS advising a state agency that a use: has already been authorized; is permitted; or, requires review, does not constitute a land use decision.

**LIMITED HOME OCCUPATION:** Any occupation or profession carried on by a member of the family residing on the premises, provided the following conditions are satisfied:

- a. No sign shall be used which exceeds three square feet in area;
- b. There is no display that will indicate from the exterior that the building is used in whole or in part for any purpose other than a dwelling;
- c. The building retains the characteristics of a residence;
- d. There is no outside storage of materials;
- e. No non-family paid employees shall perform work or render services to clients upon the premises;
- f. No dwelling shall be used as a headquarters for the assembly of employees for instructions or other purposes, or for dispatch for work at other locations;
- g. All aspects of a home occupation shall be contained and conducted within a completely enclosed building which shall be the same structure as the principal residence or appropriate accessory building;
- h. The aggregate of all space within any building devoted to one or more home occupation shall not exceed 500 square feet in floor area, except such space within or on a lot occupied by an apartment dwelling containing three or more units shall not exceed one hundred square feet in floor area for any one dwelling unit;
- i. Products made or sold shall be disposed of primarily by delivery from the premises to the homes or places of business of customers;

- j. Customer and client contact shall be primarily by telephone, mail or in their homes and places of business, except for those home occupations which by their very nature cannot otherwise be conducted except by personal contact upon the premises;
- k. Instruction in music shall be limited to no more than two students on the premises at one time and, in crafts to no more than six students on the premises at one time.

**LIMITED MAINTENANCE AND REPAIR:** An enclosed facility used to repair and maintain commercial vehicles and equipment used by the owner operator in occupations other than those normally associated with agricultural or forest activities occurring as a permitted use on the property. The following conditions shall be met:

- a. No sign shall be used which exceeds six square feet in area;
- b. The building retains the character of an accessory building normally permitted within the zone which the use is located;
- c. There shall be no outside storage of materials other than those required by ordinance or statute;
- d. The use does not destroy the character of the area as recognized by the applicable zone classification;
- e. All parking will be provided off street;
- f. The equipment and vehicles shall be limited to a total of ten (10) such vehicles;
- g. The structure shall be limited to a maximum floor area of 3,500 square feet;
- h. The height of the structure shall be limited to 45 feet;
- i. The structure shall be located a minimum of 100 feet from all adjoining property lines and the road right-of-way; and
- j. Suitable visual screening shall be required when determined necessary by the reviewing body.

**LIVESTOCK:** Animals of the bovine species, horses, mules, asses, sheep, goats, swine and fowl. In residential zones where livestock is allowed, all livestock animals shall be subject to zoning limitations, except that an adult female and her offspring up to six months old shall be considered as one animal.

**LOAD SPACE:** An off-street space or berth on the same lot with a building for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

**LOCAL ACCESS ROAD:** An existing public road which is open to public travel and is not maintained by a public body.

**LOT:** A single unit of land created by a subdivision of land.

**LOT AREA:** The total horizontal area within the lot lines of a lot, exclusive of streets and easements of access to other property (Also applies to PROPERTY).

**LOT, CORNER:** A lot abutting on two or more streets other than an alley, at their intersection. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees (Also applies to PROPERTY).

**LOT COVERAGE:** The total horizontal area within the vertical projection of the exterior walls of the buildings on a lot, expressed as a percentage of the lot area (Also applies to PROPERTY).

**LOT FRONTAGE:** The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to a street other than an alley shall be considered frontage, and yards shall be provided as indicated under "Yards" in this section (Also applies to PROPERTY).

**LOT, INTERIOR:** A lot other than a corner lot with only one frontage on a street (Also applies to PROPERTY).

**LOT LINE:** The property line bounding a lot (Also applies to PROPERTY).

**LOT LINE, FRONT:** The lot line or lines common to the lot and a street other than an alley, and in case of a corner lot, the shortest lot line along a street other than an alley (Also applies to PROPERTY).

**LOT LINE, REAR:** The lot line or lines opposite and most distant from the front lot line. In the case of irregular, triangular or other shaped lot, a line ten (10) feet in length within the lot parallel to and at a maximum distance from the front lot line (Also applies to PROPERTY).

**LOT LINE, SIDE:** Any lot line or lines not a front or rear lot line. An interior side lot line is a lot line common to more than one lot or to the lot and an alley. An exterior side lot line is a lot line common to the lot and a street other than an alley (Also applies to PROPERTY).

**LOT MEASUREMENTS:**

- a. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rear-most points of the side lot lines in the rear.

- b. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than 80 percent of the required lot width, except in the case of lots on the turning circle of cul-de-sac, where the 80 percent requirement shall not apply (Also applies to PROPERTY).

**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 Douglas 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.

**MANUFACTURED DWELLING:** A residential trailer, mobile home or manufactured home.

**MANUFACTURED DWELLING PARK:** Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, parcel or unit of land under the same ownership, the primary purpose of which is to rent or lease space or manufactured dwellings for a charge or fee paid or to be paid for the rental, lease, or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

**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, that was built after June 15, 1976 and was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

**MANUFACTURED STRUCTURE:** A recreational vehicle or manufactured dwelling.

**MARINA:** Public or private piers, docks, boat launching and moorage facilities used for both commercial and pleasure-craft, including fueling and other similar service activities, but not including industrial activities.

**MARINE REPAIR:** An activity involving major alteration, disassembling, reassembly or other physical change or modification to water craft, including, but not limited to major engine work, painting, welding, structural repair or modification and other similar uses.

**MARINE SERVICES:** A retail activity involving the sale of goods and services for consumption by the boating public, including, but not limited to, fuels and lubricants, minor repair and maintenance activities not involving physical or structural change to the craft, and other similar uses.

**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 under the State Mobile Home Code in effect at the time of construction. A mobile home shall also mean a recreational vehicle used for residential purposes for a period of 90 days or longer in any calendar year. For the purpose of a land use action permitted under this Ordinance, "mobile home" and "manufactured home" shall be interchangeable terms.

**MOBILE HOME PARK:** Any place where four or more manufactured structures are located within 500 feet of one another on a lot, parcel or unit of land under the same ownership, the primary purpose of which is to rent or lease space or manufactured structures for a charge or fee paid or to be paid for the rental, lease, or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

**MOTEL:** A building or groups of buildings on the same lot containing guest units, which building or group is intended or used primarily for the accommodation of transient automobile travelers.

**NONCONFORMING LOT OF RECORD:** A unit of land which lawfully existed in compliance with all applicable ordinances and laws, but which, because of the application of subsequent zoning regulations, no longer conforms to the lot dimension requirements for the zoning district in which it is located.

**NONCONFORMING STRUCTURE OR NONCONFORMING USE:** Use of structure or land, or structure and land in combination, which was lawfully established in compliance with all applicable ordinances and laws or development which has continuously existed for at least 20 years, but which, because of the application of zoning regulations, does not conform to the dimension or use requirements for the zoning district in which it is located.

**NURSING HOME:** Any home, place or institution which operates and maintains facilities providing convalescent and/or chronic care, for a period exceeding twenty-four hours for two or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage. Convalescent and chronic care may include, but need not be limited to, the procedures commonly employed in nursing and caring for the sick.

**ONSITE FILMING AND RELATED ACCESSORY USES:** Includes filming and site preparation, construction of sets, staging, makeup and support services customarily provided for onsite filming. Onsite filming and related accessory uses also includes the production of advertisements, documentaries, feature films, television services and other film productions that rely on the rural qualities of an exclusive farm use

zone in more than an incidental way. Onsite filming and related accessory uses does not include facilities for marketing, editing and other such activities that are allowed only as a home occupation; or construction of new structures that require a building permit.

**OUTDOOR GATHERING:** An outdoor event or assembly where either the anticipated attendance will be more than 1,000 persons or the event is expected to continue for more than three days and which is held outside of a public park primarily in open spaces and not in any permanent structure. Gatherings meeting the definition in the previous sentence are subject to the provisions of Article 41 (Temporary Use Permit) and the requirements of ORS 433.750 to 433.763 that are found to be applicable in the review process. Gatherings meeting the statutory definition of a “mass gathering” shall be subject to the provisions of ORS 433.735 to 433.770. Temporary outdoor gatherings of 1,000 or less people that will not continue for more than three days within any three month period may be exempt from a land use decision process providing they comply with Health and Sanitation requirements, provide for off street parking for all vehicles associated with the gathering, shall not be a traffic hazard, provide for fire protection and suppression by a public entity or on-site equipment, and except for non-profit organizations, shall not contain any commercial aspect including admission to the event.

**OVERLAY DISTRICT:** A set of zoning requirements described in Chapter 3 of this ordinance, mapped on the zone maps, and applied in addition to the zoning requirements of the underlying districts.

**OWNER:** The owner of record of real property as shown on the latest tax rolls or deed records of the County, or a person who is purchasing a parcel of property under recorded contract.

**OWNERS' AGREEMENT:** A contract or set of deed restrictions whereby agreement and terms are established for the use and maintenance of zero lot line dwelling units that share a common zero lot line or other areas of common interest. Such agreement, consisting of a declaration of easements, covenants, conditions and restrictions, shall be filed with the County Clerk and be attached to the deed of each property.

**PARCEL:** A single unit of land created: (a) by a partition of land as defined in ORS 92.010; (b) in compliance with all applicable planning, zoning, and partitioning ordinances and regulations; or (c) by deed or land sales contract, if there were no applicable planning, zoning or partitioning ordinances or regulations. Parcel does not include a unit of land created solely to establish a separate tax account.

**PARK:** An open or enclosed tract of land set apart and devoted for the purposes of pleasure, recreation, ornament, light and air for the general public or, in the case of a private development, for invited guests or controlled access use.

**PARKING AREA, AUTOMOBILE:** Space within a public parking area or a building, exclusive of driveways, ramps, columns, office and work areas, for the temporary parking or storage of one automobile.

**PARKING AREA, PRIVATE:** Privately or publicly-owned property, other than streets and alleys, on which parking spaces are defined, designated or otherwise identified for use by the tenants, employees, or owners of the property for which the parking area is required by this ordinance, and which is not open for use by the general public.

**PARKING AREA, PUBLIC:** Privately or publicly-owned property, other than streets and alleys, on which parking spaces are defined, designated or otherwise identified for use by the tenants, employees, or owners of the property for which the parking area is required by this ordinance, and which is open for use by the general public.

**PARKING SPACE:** An area nine feet by eighteen feet within a private or public parking area, building or structure, for the parking of one automobile.

**PARTITION:** An act of partitioning land or an area or tract of land partitioned as defined in this section.

**PARTITION LAND:** To divide land to create two or three parcels of land within a calendar year, but does not include:

- 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 is not reduced below the minimum lot size established by the applicable zoning or other provisions of this ordinance;
- c. The division of land resulting from the recording of a subdivision or condominium plat;
- 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 complying with the Comprehensive Plan; or
- e. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property.

**PARTITION PLAT:** Includes a final map and other writing containing all the descriptions, location, specifications, provisions, and information concerning a partition.

**PARTY:** The following persons or entities only, who file a timely statement or request for hearing as provided by general provisions of this ordinance, are hereby defined as a party:

- a. The applicant and all owners or contract purchasers of record, as shown in the files of the Douglas County Assessor's office, of the property which is the subject of the application.
- b. All property owners of record, as provided in a. above, within the area of notification as described in §2.065.
- c. A Planning Advisory Committee recognized by the Board pursuant to the Citizen Involvement Program approved pursuant to ORS 197.160.
- d. Any affected unit of local government or state or federal agency which has entered into an agreement with Douglas County to coordinate planning efforts.
- e. Any other person, or entity whether or not a timely statement or request is made, may be recognized at the hearing if the person or entity is found by the presiding officer to be specially, personally, or adversely affected in the subject matter.

**PERSON:** A natural person, his heirs, executors, administrators, or assigns, or a firm, partnership or corporation, its heirs or successors or assigns, or the agent of any of the aforesaid, or any political subdivision, agency, board or bureau of the state.

**PHARMACY:** A dispensary for physicians, surgeons, dentists, chiropractors, osteopaths and other members of the healing arts to handle merchandise primarily of a nature customarily prescribed.

**PLANNED DEVELOPMENT (PD):** A unit of land planned for residential purposes as a single unit, processed under the PD overlay zone provided in this ordinance rather than an aggregate of individual lots, with design flexibility from traditional siting or land use regulations.

**PLANNING ADVISORY COMMITTEE (PAC):** A group of persons appointed by the Board pursuant to the Citizen Involvement Program adopted in accordance with ORS 197.160, for the purpose of representing a specified geographical portion of Douglas County in matters dealing with certain types of land use proceedings.

**PLANNING COMMISSION:** The Planning Commission of Douglas County, Oregon.

**PLANNING DEPARTMENT:** The Douglas County Planning Department.

**PLANNING DIRECTOR:** See DIRECTOR.

**PLAT:** Includes a final subdivision plat, replat or partition plat.

**PRIMARY PROCESSING FACILITY:** A facility for the primary processing of forest products. The primary processing of a forest product means the use of a portable or temporary chipper, stud mill or other similar equipment for the initial treatment of a forest product, to facilitate its shipment for further processing. Forest products,

as used in this section, mean timber and other resources grown upon the land or contiguous units of land where the primary processing facility is located.

**PRIVATE ROAD:** A road which is not public, but which intersects with an existing public road, including but not limited to:

- a. roads designed primarily for resource use and under the jurisdiction of Bureau of Land Management (BLM), U.S. Forest Service, or Oregon State Forestry Department;
- b. gateway roads; and
- c. statutory ways of necessity.

**PROFESSIONAL OFFICE:** The place of business of a person engaged in a profession such as but not limited to: accountant, architect, artist, attorney-at-law, professional engineer, land surveyor, insurance agent, real estate broker, landscape architect, or practitioner of the human healing arts.

**PROPERTY:** a unit of land, but also includes a nonconforming lot of record.

**PUBLIC AND SEMI-PUBLIC BUILDINGS AND USE:** A building or use operated by a governmental agency or a religious, charitable, or other nonprofit organization; a public utility; a church, school, auditorium, meeting hall, grange hall, hospital, stadium, library, art gallery, museum, fire station, utility substation or uses such as a park or playground or community center, community halls, or pumping stations.

**PUBLIC ROAD:** A road over which the public has a right of use that is a matter of public record and was legally created at the time of dedication.

**PUBLIC UTILITY:** Any corporation, company, individual, association of individuals, or its lessees, trustees or receivers, that owns, operates, manages or controls all or any part of any plant or equipment for the conveyance of telegraph, telephone messages with or without wires, for the transportation as common carriers, or for the production, transmission, delivery or furnishing of heat, light, water or power, directly or indirectly to the public.

**RECREATIONAL MINING:** mining that is locationally dependent and that is conducted in a manner that is consistent with a hobby or casual use, or using pans, sluices, rocker boxes, or other equipment as outlined in ORS 517.120(4). Recreational mining includes prospecting, using motorized or non-motorized methods, for samples of gold, silver or other precious metals from among small quantities of aggregate or ore.

**RECREATIONAL VEHICLE:** A vacation trailer or other unit with or without motive power which is designed for human occupancy and is used temporarily for recreational or emergency residential purposes and has a gross floor space of less than 400 square feet. "Recreational vehicle" includes camping trailers, camping vehicles, motor homes, park trailers, bus conversions, van conversions, travel trailers, truck

campers and any vehicle converted for use or partial use as a recreational vehicle. A recreational vehicle used for residential purposes for a period of 90 days or longer in any one calendar year shall be subject to the same regulations as a mobile home. A recreational vehicle or travel trailer may be located on a federal mining claim for the duration of the mining exploration so long as the mining activity remains in compliance with local, state and federal regulations; accommodation is made for the proper disposal of domestic waste water; and, the recreational vehicle or travel trailer wheels remain attached and road ready.

**RECREATIONAL VEHICLE PARK:** A development designed primarily for transient service on which travel trailers, pickup campers, tent trailers and self-propelled motorized vehicles are parked and used for the purpose of supplying to the public a temporary location while traveling, vacationing or recreating.

**REPLAT:** Includes a final map of the reconfiguration of lots and easements of a recorded subdivision or partition plat and other writings containing all the descriptions, locations, specifications, dedications and provisions, and information concerning a recorded subdivision.

**RESIDENTIAL FACILITY:** A facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet Department of Human Resources shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

**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.

**RESOURCE CAPABILITY:** The degree to which a natural resource can be physically, chemically or biologically altered, or otherwise assimilate an external use, and still function to achieve the purpose of the management unit in which it is located.

**RESTORE:** Revitalizing, returning or replacing original attributes and amenities, such as natural biological productivity, aesthetic and cultural resources, which have been diminished or lost by past alterations, activities or catastrophic events.

**ACTIVE RESTORATION** involves the use of specific positive remedial actions, such as removing fills, installing water treatment facilities, or rebuilding deteriorated urban waterfront areas.

**PASSIVE RESTORATION** is the use of natural processes, sequences, and timing or which occurs after the removal or reduction of adverse stresses without other specific positive remedial action.

**RESOURCE CAPABILITIES TEST: Natural Management Unit:** A use or activity is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education.

**Conservation Management Unit:** A use or activity is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values and aquaculture.

**RESTRICTED MAINTENANCE AND REPAIR:** An enclosed facility used to repair and maintain vehicles and equipment used by the owner or operator of such vehicles or equipment. The following conditions shall be met:

- a. No sign shall be used which exceeds six square feet in area;
- b. The building retains the character of an accessory building normally permitted within the zone which the use is located;
- c. There shall be no outside storage of materials other than those required by ordinance or statute;
- d. The use does not destroy the character of the area as recognized by the applicable zone classification;
- e. All parking will be provided off street;
- f. The equipment and vehicles shall be limited to a total of three such vehicles and equipment;
- g. The structure shall be limited to a maximum floor area of 1,500 square feet;
- h. The height of the structure shall be limited to 45 feet;
- i. The structure shall be located a minimum of 100 feet from all adjoining property lines and the road right-of-way; and
- j. Suitable visual screening shall be required when determined necessary by the Approving Authority.

**ROAD:** The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

- a. Ways described as streets, highways, throughways or alleys;
- b. Road related structures that are in the right-of-way such as tunnels, culverts or similar structures; and
- c. Structures that provide for continuity of the right-of-way such as bridges.
- d. Excavations or reprocessing of aggregate material, or grading operations, within the public right-of-way reasonably necessary for the construction, reconstruction or maintenance of a public highway.

**ROADSIDE STAND:** A use providing for the retail sale of any agricultural produce where more than one-half of the gross receipts result from the sale of produce grown on the unit of land where the roadside stand is located.

**SALVAGE YARD:** Any property where scrap, waste material or other goods, articles or second-hand merchandise are dismantled, sorted, stored, distributed, purchased or sold in the open.

**SCHOOL:** Any public or private institution for learning which meets the Oregon Board of Education standards.

**SEASONAL FARM WORKER HOUSING:** Housing limited to occupancy by seasonal farm workers and their immediate families which is occupied no more than nine months a year.

**SIGN:** Any fabricated sign for use outdoors, including its structure, consisting of any letter(s), figure, character, mark, point, plane, design, poster, picture, stroke, stripe, line, trademark, reading matter or illuminating device which is constructed, attached, erected, fastened or manufactured in any manner whatsoever to attract the public in any manner for recognized purposes to any place, subject, person, firm, corporation, public performance, article, machine or merchandise display.

Exempted from this definition are:

1. Signs not oriented or intended to be legible beyond the property line of the property where the sign is located.
2. Address numbers required under Chapter 7.
3. Signs designed and erected solely for the purpose of traffic or pedestrian direction and placed on the property to which the public is directed.
4. Signs legally placed within public rights-of-way.
5. Temporary signs (signs erected for less than sixty days in any one calendar year) including lawn signs. Lawn signs may not be greater than 6 square feet in area and may not be over 42 inches in height.

**SIGN AREA:** The entire area within a single, continuous perimeter formed by lines joined at right angles which encloses the extreme limits of such sign, and which in no case passes through or between any adjacent elements of the same. However, such perimeter shall not include any structural elements lying outside and below the limits of such sign, and not forming an integral part of the display. Only one side of a double faced sign is counted as the area.

**SPECIAL HOUSEHOLD:** A household, living together as a family unit, and containing an individual(s) such as an elderly or handicapped person with special housing needs in a dwelling modified to accommodate those special needs.

**STABLE, PUBLIC:** A building or use for which horses are kept for remuneration, hire or sale.

**STORY:** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the top-most floor and the ceiling above. (See BASEMENT)

**STREET:** The term "street" is synonymous with "road".

**STREET WIDTH:** The distance between right-of-way lines.

**STRUCTURE:** That which is built or constructed; an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some manner and which requires location on the ground or which is attached to something having a location on the ground. This definition shall include, for the purpose of this ordinance, a mobile home and accessories thereto.

**SUBDIVIDE LAND:** To divide land into four or more lots within a calendar year when such land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

**SUBDIVISION:** Either an act of subdividing land or an area or a tract of land subdivided as defined in this section.

**SUBDIVISION PLAT:** Includes a final map and other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision.

**SUBTIDAL:** Below the level of mean lower low tide (MLLT).

**TEMPORARY MOBILE COMMERCIAL VENDOR:** A commercial business operating within a pre-fabricated structure that is constructed for movement on the public highway. Such a use may locate in any commercial zone so long as 1) the structure has been reviewed by the County Building Department; 2) the structure remains road ready with chassis, wheels and trailer tongue attached; 3) the parking requirements of Article 35 have been met; and, 4) the County Health Department has licensed the vendor for food and beverage handling. The structure shall be subject to permit renewal each six months if it was not constructed according to the State Building Code.

**UNIT OF LAND:** An area of contiguous land at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are required by this ordinance; such property shall have frontage on a public street, or such other access approved by the Commission or Board under provisions of this ordinance. A unit of land may be:

- a. A single lot of record;
- b. A lot as defined herein; or
- c. A parcel, as defined herein.

**USE:** The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

**USE, PERMITTED:** A building, structure, or use permitted outright in a zoning district, and which complies with all of the regulations applicable in that district.

**USE, PRINCIPAL:** The primary use of a lot or site and includes a permitted or conditional use.

**UTILITY EASEMENT:** An easement noted on a subdivision plat or partition plat for the purpose of installing or maintaining public or private utility infrastructure for the provision of water, sewer, storm drains, power, heat or telecommunications to the public. Unless specifically requested by a public or private utility provider, the decision making authority may not require a utility easement except for a utility easement abutting a street. Utility infrastructure may not be placed within one foot of a survey monument location noted on a subdivision or partition plat. The decision making authority may not place additional restrictions or conditions on a utility easement granted under these provisions. [This definition is derived from revisions to ORS Chapter 92 in HB 2755 enacted by the 2005 State Legislature, and subsequently by the 2007 Legislature in HB 2713.]

**UTILITY FACILITY:** A communication facility or a facility constructed for a public utility, including but not limited to: facilities for generating power on less than 10 acres; new distribution lines (gas-oil-geothermal) with a right-of-way of 50 feet or less width, or new distribution lines for electric transmission with a right-of-way of 100 feet or less width; water intakes, treatment, pumping and distribution; wastewater treatment; rural fire protection facility; utility lines, accessory facilities or structures not limited to an individual end user and not in a public right-of-way which are necessary for public service (electricity, gas, water, telephone, cable); and, equipment for the production, transmission, delivery or conveyance of communications, with or without lines, including towers. These uses may be subject to limitations as specified in the applicable zoning designation. Utility facilities are locationally dependent if they must cross or be located on land to achieve reasonably direct routes or service or to meet unique geographic needs. Temporary workforce housing facilities may be provided in accordance with OAR 660-033-0130.

**UTILITY FACILITY SERVICE LINES:** The 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 a public right of way; on land immediately adjacent to a public right of way (provided the written consent of all adjacent property owners has been obtained); or, on the property to be served by the utility.

**VETERINARY CLINIC:** A business establishment in which veterinary services are rendered to domestic animals.

**VISION CLEARANCE:** A triangular area at the street or highway corner of a corner lot, or the alley-street intersection of a lot, the space being defined by a line across the corner, the ends of which are on the street or alley right-of-way lines an equal and specified distance from the corner and containing no planting, walls, structures or temporary or permanent obstruction exceeding three feet in height above the curb level.

**WATER-DEPENDENT:** A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production, or source of water.

**WATER IMPOUNDMENT:** reservoir, tank or other natural or manmade place where water is collected and stored.

**WATER-RELATED:** Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered.

**WINERY, ACCESSORY USES:** Uses in conjunction with a winery such as wine tasting, music and art festivals, charitable and non profit organization fund raisers, private parties and weddings, and other activities which promote the sale of wine produced at the winery are considered permitted accessory uses provided that they comply with the following:

- a. Sponsored or co-sponsored by the winery;
- b. Located on the same tract of land as the winery;
- c. The event will have a total anticipated attendance of less than 1000 people;
- d. Comply with Health and Sanitation laws and obtain the required permits;
- e. Provide for off street parking;
- f. Not be a restaurant or headquarters for other commercial use;
- g. Is not a continuous event throughout the year; and
- h. Will not cause a traffic hazard.

**YARD:** An open space on a property which is unobstructed from the ground upward except as otherwise provided in these regulations.

**YARD, REAR:** A yard between side property lines measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a main building.

**YARD, SIDE:** A yard between the front and rear yard measured horizontally and at right angles from the side property line to the nearest point of the building. In the case of a corner lot, the side yard bordering the street shall extend from the front yard to the rear lot line.

**ZERO LOT LINE DWELLING:** A single-family detached dwelling or duplex where each unit is placed on its lot in such a manner that one wall is located on a lot line, hence, a setback of zero (0) feet on one side.