

## **ARTICLE IV**

### **DEVELOPMENT STANDARDS**

#### **SECTION 4.000: GENERAL REQUIREMENTS**

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

#### **SECTION 4.005: RESIDENTIAL AND COMMERCIAL ZONE STANDARDS**

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

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

#### **SECTION 4.010: CLEAR-VISION AREAS**

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

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

#### SECTION 4.020: SIGNS

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

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

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

#### SECTION 4.021: OFF-SITE ADVERTISING SIGN STANDARDS

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

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

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

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

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

#### SECTION 4.040: GENERAL PROVISIONS REGARDING ACCESSORY USES

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

#### SECTION 4.060: ACCESS

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

#### SECTION 4.070: DUAL USE OF REQUIRED OPEN SPACE

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

#### SECTION 4.080: DISTANCE BETWEEN BUILDINGS

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

#### SECTION 4.100: GENERAL EXCEPTION TO LOT SIZE REQUIREMENTS

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

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

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

#### SECTION 4.110: EXCEPTIONS TO YARD SETBACK REQUIREMENTS

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



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

(8) DECKS, PORCHES, AND STEPS:

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

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

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

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

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

SECTION 4.120: GENERAL EXCEPTIONS TO BUILDING HEIGHT LIMITATIONS

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

## SECTION 4.130: DEVELOPMENT REQUIREMENTS FOR GEOLOGIC HAZARD AREAS

### Sections

- 4.130(1) Purpose
- 4.130(2) Applicability
- 4.130(3) Geologic Hazard Assessment Review
- 4.130(4) Geologic Hazard Report Standards
- 4.130(5) Decisions of Geologic Hazard Assessment Reviews
- 4.130(6) Development Standards for Uses Subject to Review

#### **4.130(1) Purpose**

The purpose of these Development Requirements for Geologic Hazard Areas is to protect people, lands and development in areas that have been identified as being subject to geologic hazards.

The provisions and requirements of this section are intended to provide for identification and assessment of risk from geologic hazards, and to establish standards that limit overall risk to the community from identified hazards to a level acceptable to the community. Development in identified hazard areas is subject to increased levels of risk, and these risks must be acknowledged and accepted by present and future property owners who proceed with development in these areas

#### **4.130(2) Applicability**

The following areas are considered potentially geologically hazardous and are therefore subject to the requirements of Section 4.130:

- a) All lands partially or completely within categories of “high” and “moderate” susceptibility to shallow landslides as mapped in Oregon Department of Geology and Mineral Industries (DOGAMI) Open File Report O-20-13, Landslide hazard and risk study of Tillamook County, Oregon;
- b) All lands partially or completely within categories of “high” and “moderate” susceptibility to deep landslides as mapped in DOGAMI Open File Report O-20- 13, Landslide hazard and risk study of Tillamook County, Oregon;
- c) All lands partially or completely within a “debris flow fan” as mapped in DOGAMI Open File Report O-20-13, Landslide hazard and risk study of Tillamook County, Oregon;
- d) All lands partially or completely within a rapidly moving landslide as mapped in DOGAMI IMS-22, GIS Overview Map of Potential Rapidly Moving Landslide Hazards in Western Oregon, 2002.
- e) All lands along the oceanfront. An oceanfront lot is a lot or parcel that abuts the ocean shore state recreation area (as defined in OAR 736-021-0010) or a lot or parcel where there is no portion of a buildable lot between it and the ocean shore state recreation area. Lots or parcels that are fronted by roads, parks, beach accesses, or other minimal improvements are also considered oceanfront.
- f) Lots or parcels where the average existing slopes are equal to or greater than 19 percent within or adjacent to hazard risk zones described in 4.130(2)(a) through (d) for any lot or parcel less than or equal to 20,000 square feet or lots or parcels where the average existing slopes are equal to or greater than 29 percent

within or adjacent to hazard risk zones described in 4.130(2)(a) through (d) for any lot or parcel greater than 20,000 square feet.

1. For the purpose of this section, slopes are determined by:

- Lots or parcels less than 20,000 square feet where the average existing slopes are equal to or greater than 19% measured from the highest to lowest point of the property.
- The average existing slope of the building footprint or area to be disturbed measured from the highest to lowest point within the footprint or area to be disturbed is 29 percent or greater for properties 20,000 square feet or larger.

g) Any other documented geologic hazard area on file, at the time of inquiry, in the office of the Tillamook County Community Development Department. A “documented geologic hazard area” means an area of land that is shown by reasonable written evidence to contain geological characteristics or conditions which are hazardous or potentially hazardous for the improvement thereof.

The publications referenced above are not intended to be used as a site-specific analysis tool. The County will use these publications to identify when a Geologic Hazard Assessment Review is needed on a property prior to development.

#### **4.130(3) Geologic Hazard Assessment Review**

- a) Except for activities identified in Subsection 4.130(3)(b) as exempt, any new development or substantial improvement (as defined in Article 11) in an area subject to the provisions of this section shall require a Geologic Hazard Assessment Review.
- b) The following development activities are exempt from the requirement for a Geologic Hazard Assessment Review:
1. Maintenance, repair, or alterations to existing structures that do not alter the building footprint or foundation and do not constitute substantial improvement as defined in Article 11.
  2. Exploratory excavations under the direction of a certified engineering geologist or registered geotechnical engineer;
  3. Construction of structures for which a building permit is not required;
  4. An excavation which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;
  5. Fill that is less than two feet in depth or that involves less than twenty-five cubic yards of volume;
  6. Yard area vegetation maintenance and other vegetation removal on slopes less than 20%;
  7. Removal of trees smaller than 8 inches dbh (diameter breast height);
  8. Removal of trees larger than 8 inches dbh (diameter breast height) provided the canopy area of the trees that are removed in any one-year period is less than 25% of the lot or parcel area;
  9. Forest operations subject to regulation under ORS 527 (the Oregon Forest Practices Act);
  10. Maintenance and reconstruction of public and private roads, streets, parking lots, driveways, and

utility lines, provided the work does not extend outside the existing right-of-way boundary;

11. Maintenance and repair of utility lines, and the installation of individual utility service connections;
12. Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazard; and
13. Beachfront protective structures subject only to regulation by the Oregon Parks and Recreation Department under OAR Chapter 736, division 20.

- c) Application, review, decisions, and appeals for a Geologic Hazard Assessment Review shall be a Type I procedure in accordance with Article 10. Applications for a Geologic Hazard Assessment Review may be made prior to or concurrently with any other type of application required for the proposed use or activity. Except for exempt activities listed under Section 4.130(3)(b), Geologic Hazard Assessment Review shall be completed prior to any ground disturbance.
- d) All applications for Geologic Hazard Assessment Review shall be accompanied by a Geologic Hazard Report prepared by a qualified licensed geoprofessional (as defined in Article 11) that meets the content requirements of Section 4.130(4), at the applicant/property owner's expense.
- e) For development activities that are subject both to this section and Section 3.530: Beach and Dune Overlay Zone, one complete Geologic Hazard Report can be submitted for meeting the requirements of this section and Section 3.530. The report shall include requirements for both sections as applicable.

#### **4.130(4) Geologic Hazard Report Standards**

- a) For the purposes of Section 4.130, a Geologic Hazard Report refers to engineering geologic reports, geotechnical reports, and geotechnical engineering reports.
- b) .Geologic Hazard Reports required pursuant to this section shall be prepared consistent with standard geologic practices employing generally accepted scientific and engineering principles, and shall at a minimum contain the applicable provisions outlined in the Oregon State Board of Geologist Examiners publication "Guidelines for the Preparation of Engineering Geologic Reports," 2nd Edition, 5/30/2014 or other published best practice guidelines for engineering geologic or geotechnical engineering reports, consistent with current scientific and engineering principles. Reports shall reference the published guidelines upon which they are based.
- c) For oceanfront property (lots or parcels abutting the ocean shore), Geologic Hazard Reports shall also address all the requirements of Section 3.530 (6)(f) to the extent applicable and based on best available information.
- d) Geologic Hazard Reports required by this section shall include the following from the preparer(s) of the report:
  - a. A statement that all the applicable content requirements of subsection 4.130(4) have been addressed or are not applicable to the review. An explanation shall be accompanied with any requirement identified as not applicable;
  - b. A description of the qualifications of the professional(s) that prepared the report. If multiple licensed professionals contributed to the report, each professional shall individually sign and stamp their own work products; and
  - c. A statement by the preparer(s) that they have the appropriate qualifications to have completed the report and all its contents.

- e) All Geologic Hazard Reports are valid for purposes of meeting the requirements of Section 4.130 for a period of five (5) years from the date of preparation. Such reports are valid only for the development plan addressed in the report. Tillamook County assumes no responsibility for the quality or accuracy of such reports. Within that five-year period, the Planning Director can require at their discretion an addendum by a qualified licensed geoprofessional certifying that site conditions have not changed from the original report. If site conditions have changed, a new Geologic Hazard Report shall be required.

#### **4.130(5) Decisions of Geological Assessment Reviews**

A decision on a Geologic Hazard Assessment Review shall be based on findings of compliance with the following standards:

- a) The Geologic Hazard Report shall meet the content standards set forth in Section 4.130(4).
- b) In approving a Geologic Hazard Assessment Review, the decision maker may impose any conditions which are necessary to ensure compliance with the provisions of this section or with any other applicable provisions of the Tillamook County Land Use Ordinance.
- c) The development plans for the application conform, or can be made to conform, with all the recommendations and specifications contained in the Geologic Hazard Report.
- d) In the event the decision maker determines that additional review of the Geologic Hazard Report by a qualified licensed geoprofessional is necessary to determine compliance with this section, Tillamook County may retain the services of such a professional for this purpose. The applicant shall be responsible for all costs associated with the additional review. The results of that evaluation shall be considered in the decision of the Geologic Hazard Assessment Review.

#### **4.130(6) Development Standards for Uses Subject to Review**

In addition to the conditions, requirements and limitations imposed by a required Geologic Hazard Report, all uses subject to a Geologic Hazard Assessment Review shall conform to the following requirements:

- a) Hazard Disclosure Statement: All applications for new development or substantial improvements subject to Geologic Hazard Assessment Review shall provide a Hazard Disclosure Statement recorded with the Tillamook County Clerk's Office and signed by the property owner that acknowledges:
  - 1. The property is subject to potential natural hazards and that development thereon is subject to risk of damage from such hazards;
  - 2. The property owner has commissioned a Geologic Hazard Report for the subject property, a copy of which is on file with Tillamook County Department of Community Development, and that the property owner has reviewed the Geologic Hazard Report and has thus been informed and is aware of the type and extent of hazards present and the risks associated with development on the subject property;
  - 3. The property owner accepts and assumes all risks of damage from natural hazards associated with the development of the subject property.
  - 4. The property owners shall refrain from interfering with mitigation measures or improvements on the site and shall maintain them.
- b) Mitigation measures: Mitigation measures required to make the site suitable for the proposed development, including their design and construction specifications, shall be included in the Geologic Hazard Report and followed.

- c) Safest site requirement: All new structures shall be limited to the recommendations contained in the Geologic Hazard Report; and
  - 1. Property owners should consider use of construction techniques that will render new buildings readily moveable in the event they need to be relocated; and
  - 2. Properties shall possess access of sufficient width and grade to permit new buildings to be relocated or dismantled and removed from the site.
  
- d) Minimum Oceanfront Setbacks: For oceanfront lots or parcels, the building footprint of all new development or substantial improvement subject to a Geologic Hazard Assessment Review shall also comply with the requirements of Section 3.530(8) Oceanfront Setbacks.
  
- e) Erosion Control Measures: All uses subject to a Geologic Hazard Assessment Review shall address the following erosion control measure requirements, designed by a qualified licensed geoprofessional:
  - 1. Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one-time during construction;
  - 2. Development plans shall minimize cut or fill operations so as to prevent off-site impacts;
  - 3. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;
  - 4. Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;
  - 5. Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;
  - 6. Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching, seeding, planting, or armoring with rolled erosion control products, stone, or other similar methods;
  - 7. All drainage provisions shall be designed to adequately carry existing and potential surface runoff from the twenty-year frequency storm to suitable drainageways such as storm drains, natural watercourses, or drainage swales. In no case shall runoff be directed in such a way that it significantly decreases the stability of known landslides or areas identified as unstable slopes prone to earth movement, either by erosion or increase of groundwater pressure;
  - 8. Where drainage swales are used to divert surface waters, they shall be vegetated or protected as necessary to prevent offsite erosion and sediment transport;
  - 9. Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:
    - i. Energy absorbing devices to reduce runoff water velocity;
    - ii. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;

iii. Dispersal of water runoff from developed areas over large undisturbed areas.

10. Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures; and

11. Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, site monitoring and clean-up activities.

f) Certification of compliance: Permitted development shall comply with the recommendations in the required Geologic Hazard Report. Certification of compliance shall be provided as follows:

a. Plan Review Compliance: Building, construction or other development plans shall be accompanied by a written statement from a certified engineering geologist or licensed geotechnical engineer stating that the plans comply with the recommendations contained in the Geologic Hazard Report for the Geologic Hazard Assessment Review.

b. Inspection Compliance: Upon the completion of any development activity for which the Geologic Hazard Report recommends an inspection or observation by a certified engineering geologist or licensed geotechnical engineer, the certified engineering geologist or licensed geotechnical engineer shall provide a written statement indicating that the development activity has been completed in accordance with the applicable Geologic Hazard Report recommendations.

c. Final Compliance: No development requiring a Geologic Hazard Report shall receive final approval (e.g., certificate of occupancy, final inspection, etc.) until the department receives:

i. A written statement from a certified engineering geologist or licensed geotechnical engineer indicating that all performance, mitigation, and monitoring measures specified in the Geologic Hazard Report have been satisfied;

ii. If mitigation measures incorporate engineering solutions designed by a licensed professional engineer, a written statement of compliance by the design engineer;

iii. A written statement by the qualified licensed geoprofessional indicating that all erosion control measure requirements were met.

g) Restoration and replacement of existing structures:

a. Notwithstanding any other provisions of this ordinance, application of the provisions of this section to an existing use or structure shall not have the effect of rendering such use or structure nonconforming as defined in Article 7.

b. Replacement, repair or restoration of a lawfully established building or structure subject to this section that is damaged or destroyed by fire, other casualty or natural disaster shall be permitted, subject to all other applicable provisions of this ordinance, and subject to the following limitations:

i. Replacement authorized by this subsection is limited to a building or structure not larger than the damaged/destroyed building.

ii. Structures replaced pursuant to this subsection along the oceanfront shall be located no further seaward than the damaged structure being replaced.

iii. Replacement or restoration authorized by this subsection shall commence within one year of

the occurrence of the fire or other casualty which necessitates such replacement or restoration.

- c. A building permit application for replacement, repair, or restoration of a structure under the provisions of this subsection shall be accompanied by a Geologic Hazard Report prepared by a qualified licensed geoprofessional that adheres to the Geologic Hazard Report Standards outlined in Section 4.130(4). All recommendations contained in the report shall be followed.
- d. A building permit application for replacement, repair, or restoration authorized by this subsection shall be processed and authorized as Type I review pursuant to Section 10.020.

[TCLUO Section 4.130 Adopted May 11, 2022]

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

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

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

- (2) All development shall be located outside of areas listed in (1) above, unless:
  - (a) For a bridge crossing; or
  - (b) Direct water access is required in conjunction with a water dependent use; or
  - (c) Because of natural features such as topography, a narrower riparian area protects equivalent habitat values; or
  - (d) A minimal amount of riparian vegetation is present and dense development in the general vicinity significantly degrades riparian habitat values.

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

- (3) Exemptions from (2) above and from the applicable setback requirement for the front or rear yard that is opposite the riparian area may be granted without a variance for uses on:
  - (a) Lots located in areas identified in the Comprehensive Plan's Goal 2 exception element as "built and



committed" and which existed as of the date of adoption of this Ordinance, and single family residential "lots of record" as defined and used in Chapter 884 Oregon Laws 1981 as amended, with a depth measured according to (1) above that is;

- i. Less than 95 feet in places where the area of riparian vegetation is 50 feet wide; or
  - ii. Less than 70 feet in places where the area of riparian vegetation is 25 feet wide.
- (b) Other lots in identified Abuilt and committed areas and other Alots of record≅ where the combination of setbacks required by this section result in a buildable lot depth of less than 45 feet.

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

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

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

#### SECTION 4.150: DEMOLITIONS OR ALTERATIONS OF HISTORIC STRUCTURES

- (1) Demolitions of HISTORIC STRUCTURES identified in the Comprehensive Plan inventory of HISTORIC BUILDINGS:
- (a) The Planning Department shall hold applications for demolition for 45 days before issuing the permit.
  - (b) During the 45 day period, the Planning Department shall take the following action: Notify the State Historic Preservation Office and the Pioneer Museum of the proposed demolition; advertise in a newspaper of general circulation the nature of the request and the historical values that would be lost; inform the applicant of the historic character of the building and the incentive associated with historic preservation.

- (c) If after 45 days the Planning Department finds that there is no reasonable possibility for protecting the building, the demolition permit shall be issued.
- (2) Alterations of the following buildings identified in the Comprehensive Plan as having significant historic and architectural merit: Isom/Fox Cottage, Povey Cottage, Wentz Cottage, Doyle Cottage, Churchill Cottage, Tillamook Naval Air Station Blimp Hangars.
    - (a) Exterior alterations (except painting), additions, and construction of auxiliary buildings shall be reviewed by the Planning Department and the Curator of the Pioneer Museum.
    - (b) Alterations shall be approved if proposed exterior materials and details are consistent with the building's historical character and maintenance of the building's predominant architectural features.

#### SECTION 4.160: PROTECTION OF ARCHAEOLOGICAL SITES

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

#### SECTION 4.170: MIXED USE DEVELOPMENT (MUD)

- (1) PURPOSE: The purpose of a MIXED USE DEVELOPMENT is to allow greater freedom, diversity and cohesiveness in the planning and integrated development of relatively large tracts of land for a range of uses which could not effectively be accommodated under the provisions of this Ordinance. The use of these provisions is dependent upon three conditions:
  - (a) That a specific development proposal cannot effectively be reviewed under the provisions of the zone within which it is proposed;
  - (b) That the individual proposed uses are not incompatible with the established surrounding land uses; and
  - (c) That the proposal involves at least three different types of land use within a single site plan. For the purposes of a MIXED USE DEVELOPMENT review, a "type of land use" is one which differs in nature or character from other uses contained within a single development proposal.
- (2) APPLICABILITY: These provisions cannot be utilized without the submission of an acceptable plan, with satisfactory assurance that it can be carried out, and a preliminary determination by the Department that the three conditions listed in (1) above have been met. A MUD is considered a Conditional Use in the RR, CSFR, CR-1, CR-2, CR-3, RC, CC and RI and unincorporated community zones where permitted. However, in the RR zone, only parcels within a Community Growth Boundary will be considered for a MUD proposal. Additional RR zoned properties may be designated for a MUD through a Plan Amendment according to the provisions of Article IX of this Ordinance. All permitted uses listed in the RR, CSFR, CR-1, CR-2, CR-3

and RC and unincorporated community zones are permitted in a MUD in any of these zones. All permitted uses in the CC and RI zones, as well as those in the RR, CSFR, CR-1, CR-2, CR-3 and RC and unincorporated community zones where permitted are permitted in a MUD in the CC and RI zones.

- (3) **STANDARDS:** Standards pertaining to lot size, density, off-street parking, yards, building heights, or other aspects of development shall be governed by the standards of the underlying zone or zones in which the MUD is proposed. The requirements of all applicable overlay zones must be met by the proposed development. Where Variances from applicable standards are required, they shall be considered under the provisions of Article VIII at the time of Planning Commission review. Where applicable standards conflict, the more restrictive shall apply. Preliminary review of proposals involving the division of land shall take place, at the time of Planning Commission review, under the provisions of the Tillamook County Land Division Ordinance.

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

- (4) **MIXED USE DEVELOPMENT PROCEDURES AND CRITERIA:** The following procedures and criteria shall govern a request to review and approve a MUD proposal:

- (a) The applicant shall arrange a pre-application meeting with the Department so as to determine the standards, requirements, and procedures governing a MUD request, and to inform the Department of the nature of the proposed development.
- (b) The applicant shall submit a complete preliminary development plan to the Department for review, along with six (6) copies of a report summarizing the proposal. The plan shall include the following information:
- i. A map showing the entire parcel, the proposed land uses and building locations, and the vehicular and pedestrian circulation patterns. Such a map shall be of such detail to indicate that all applicable Ordinance standards and requirements can be met.
  - ii. A topographic map rendered in the same scale as the map in (1) above.
  - iii. Housing unit densities for areas of residential development.
  - iv. Proposed uses and ownership and maintenance arrangements for all areas to be left in open space, and the ownership status of all streets.
  - v. Proposed property lines upon the completion of the project.
  - vi. A preliminary grading and drainage plan.
  - vii. The method of water supply and sewage disposal.
  - viii. An outline of proposed deed restrictions, if any.
  - ix. A discussion of the economic justification for proposed land uses which are in conflict with the zoning on the parcel, and the relations of such uses to all other uses proposed within the MUD.
  - x. The proposed time frame for completion of the entire development.
  - xi. A Geologic Hazard report where required by the Land Use Ordinance.
  - xii. A map indicating flood hazard areas if required by this Ordinance.

- xiii. Filing and review fees, which shall be established by order of the Board of County Commissioners, and which shall be non-refundable despite Planning Commission action. Such fees shall not be applied to any concurrent application.
- (c) The Planning Department shall distribute the preliminary plan, for review and comment, to those agencies and departments which it deems necessary to determine the feasibility and adequacy of the plan. Such agencies and departments shall be given at least 21 days for review.
- (d) Following the preliminary review as described above, the Department shall notify the applicant of changes which have been suggested or would be required by the agencies and departments reviewing the plan.
- (e) After the Department's notification of what changes are considered necessary in order to meet the purposes of all applicable Ordinances and to protect the rights of property owners surrounding the proposed development, the developer shall submit, for Planning Commission review, a final proposal of the project. Planning Commission review will not take place until the complete plan is submitted.
- (f) The Commission shall apply the following criteria in the consideration of all MUD requests:
  - i. The proposed plan is internally cohesive and is consistent with Comprehensive Plan Policies for the vicinity.
  - ii. There are special development objectives that the project will satisfy which warrant review under these provisions.
  - iii. The parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, and natural features.
  - iv. Proposed uses which are not otherwise permitted by the zoning on the parcel are accessory uses within the entire development.
  - v. The proposed use will not have a substantial impact upon adjacent uses, nor will it alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for permitted uses listed in the underlying zone.
  - vi. The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.
- (5) In approving a MUD proposal, the Planning Commission may impose whatever conditions are necessary in order to ensure that the purposes of this Ordinance are met.
- (6) The approved site plan for a MIXED USE DEVELOPMENT cannot be substantially amended or altered unless approved by the Planning Commission under the provisions of Article VI of this Ordinance. Determination of the substance of such changes or amendments shall be the responsibility of the Planning Director.

#### SECTION 4.180: HOME OCCUPATION PERFORMANCE STANDARDS

- (1) **PURPOSE:** To provide for occupational activities in residences or their accessory structure, as provided by ORS 215.448, while assuring compatibility with existing and permitted uses within the area affected by the home occupation.
- (2) **APPLICABILITY:** HOME OCCUPATIONS are allowed outright or conditionally, depending upon the

intensity of the use and the zone within which they are located. In the F-1, F and SFW-20 zones, a HOME OCCUPATION includes a "Foster Family Home" and a "Bed and Breakfast Enterprise".

(3) STANDARDS:

(a) All HOME OCCUPATIONS shall meet the following standards or conditions in addition to other applicable ordinance requirements:

- i. The HOME OCCUPATION is operated by the resident of the property upon which the activity is located, within the residence or accessory structures.
- ii. The HOME OCCUPATION will employ no more than five full- or part-time persons.
- iii. The HOME OCCUPATION will not interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located.
- iv. Where HOME OCCUPATIONS are allowed conditionally, conditions of approval shall limit retail sales, signs, traffic, noise, obnoxious odors, hazardous activities, and other identifiable adverse off-site impacts.
- v. The existence of a HOME OCCUPATION shall not be used as justification for a zone change.

(b) HOME OCCUPATIONS permitted outright shall meet the following additional standards or requirements:

- i. Those employed in the HOME OCCUPATION must be members of the family residing on the premises.
- ii. There shall be no activities that give the outward appearance or manifest the characteristics of a retail business, such as signs other than those permitted under Section 4.020, advertising of the dwelling as a business location, more than six customers daily entering the business premises, more than two customer vehicles at a time, noise that adversely affects neighbors, obnoxious odors, hazardous activities, or other adverse off- site impacts.
- iii. Complaints from neighbors may be cause for requiring a Conditional Use review of the activity.

(4) REVIEW: The Director shall review all Conditional Use Permits approving HOME OCCUPATIONS every 12 months following the date of approval, and may allow the use to continue if the HOME OCCUPATION continues to comply with Ordinance requirements.