

## ***ARTICLE VII. CONDITIONAL USES***

### **Section 7.010. Authorization to Grant or Deny Conditional Uses.**

Uses designated in this ordinance as conditional uses may be permitted, enlarged or altered in accordance with the requirements of Sections 7.020 through 7.050. In permitting a conditional use the county may impose conditions in addition to the provisions set for uses within each zone in order to protect the best interests of the surrounding property, the neighborhood, or the county as a whole. A change in use, the size of the site area of use, or a structure that is classified as conditional and in existence prior to the effective date of this ordinance shall conform to all provisions of this ordinance pertaining to conditional uses.

### **Section 7.020. Application for Conditional Use.**

A request for a conditional use, modification of an existing conditional use or a alteration of a discontinued nonconforming use may be initiated by filing an application in accordance with Article II of this ordinance. The application shall include plans of the proposed use, or modification of an existing use, or reinstatement of a discontinued nonconforming use.

### **Section 7.030. Notification of Public Agencies.**

For conditional uses within the MA, CON, ER, AH, SW, and SO Zones, the County shall notify the following agencies by mail, not less than ten days prior to the date of the public hearing if the proposed conditional use relates to that agency:

1. State Agencies:
  - a) Division of State Lands
  - b) Department of Fish and Wildlife
  - c) Department of Environmental Quality
  - d) Department of Forestry
2. Federal Agencies:
  - a) Army Corps of Engineers
  - b) National Marine Fisheries Service
  - c) U.S. Fish and Wildlife Service
3. Other Notification
  - a) State Water Resource Department (uses including appropriation of water only)
  - b) State Department of Geology and Mineral Industries (mining and mineral extraction only)

- c) State Department of Energy (generating and other energy facilities only)
- d) Department of Economic Development (docks, industrial, and port facilities, and marinas only)
- e) State Office of the Historical Preservation (historical structures and archeological sites)
- f) State and Federal Scenic Waterways agencies (for all developmental permits within scenic river corridors).

**Section 7.040. Standards Governing Conditional Uses.**

In addition to the standards of the zone in which the conditional use is located and the other standards in this ordinance, conditional uses must meet the following standards:

**1. Conditional Uses Generally.**

- a) The County may require property line set-backs or building height restrictions other than those specified in Article IV in order to render the proposed conditional use compatible with surrounding land use.
- b) The County may require access to the property, off-street parking, additional lot area, or buffering requirements other than those specified in Article IV in order to render the proposed conditional use compatible with surrounding land uses.
- c) The County may require that the development be constructed to standards more restrictive than the Uniform Building Code or the general codes in order to comply with the specific standards established and conditions imposed in granting the conditional use permit for the proposed use.
- d) If the proposed conditional use involves development that will use utility services; the applicant shall provide statements from the affected utilities that they have reviewed the applicants' proposed plans. These statements shall explicitly set forth the utilities' requirements, terms and conditions for providing or expanding service to the proposed development and shall be adopted by the Commission or Director as part of the conditional use permit.
- e) If the proposed conditional use involves the development or expansion of a community or non-community public water system, the applicant shall submit a water right permit(s) or documentation that a permit is not required from the Oregon Water Resources Department which indicates that the applicant has the right to divert a sufficient quantity of water from the proposed source to meet the projected need for the proposed use for next twenty year planning period.
- f) If the proposed conditional use involves the development or expansion of a community or non-community public water system, the applicant shall install a raw water supply flow monitoring device (flow meter) on the water system and shall record the quantity of water used in the system on a monthly basis. The monthly record of water usage shall be reported to the Curry County Department of Public Services-Planning Division and Health Department Sanitarian on an annual basis.
- g) If the proposed conditional use included the development or expansion of a community or non-community public water system and the use is located within the service area of a city or special district water system the applicant shall utilize the city or special district water system rather than developing an independent public water system. An independent community or non-community public water system can be developed for the use if the applicant can prove that it would be physically or economically not feasible to connect to the city or special district water system. The city or special district must concur in the conclusion that connection of the proposed use is not feasible.

2. **Dwelling not served by community water or sewer service.**

- a) A dwelling not served by community sewer may be authorized as a conditional use only after the individual sewage disposal system site has been approved in writing by the County Sanitarian or other agent authorized to regulate sewage disposal systems in the county. If the Board, Commission or Director has been informed as to a possible environmental hazard if the conditional use permit were approved, or if records show past environmental violations on the part of the applicant; the Board, Commission or Director shall request that this conditional use be reviewed by the Department of Environmental Quality and that a sewage disposal system plan shall be approved for this conditional use before the permit is granted.
  
- b) A dwelling not served by community water may be authorized as a conditional use only after the description of the proposed method of supplying domestic water to the proposed dwelling have been approved by the decision maker. If the proposed method involves the creation of a community water system; the plans, approved by a licensed engineer, and other related documents including water rights, water quality test(s), water quantity test(s), and letters of approval from the appropriate agency shall be provided to the decision maker. If the proposed method involves the extension of an existing water supply system a statement from the agency that controls the system indicating that it can and will supply water to the proposed dwelling shall be provided to the decision maker. If the proposed water source is an individual on-site source a description of the water source and quantity of flow shall be provided to the decision maker. If the water source is to be a proposed well the applicant shall provide evidence that there is ground water available based on the well records from existing wells within 1/4 mile of the proposed well site.

3. **Church, hospital, nursing home, convalescent home, retirement home, community building.**

- a) A church, hospital, nursing home, convalescent home, retirement home or community building may be authorized as a conditional use after consideration of the following factors as applicable to the proposed structure: sufficient area provided for the building, required yards, and off-street parking (related structures and uses such as a manse, parochial school, or parish house are considered separate principal uses with additional lot area required); location of the site relative to the service area of the church, hospital home or building; projected growth and growth needs; site location relative to land uses in the vicinity, and adequacy of access from principal streets together with the probable effect on traffic volumes of abutting and nearby streets. A church, hospital, nursing home, convalescent home, retirement home, or related building shall be at least thirty (30) feet from a side or rear lot line.

**4. Schools.**

- a) Nursery schools shall provide and maintain at least one hundred square feet of outdoor play area per child. A site enclosing fence at least four feet but not more than six feet high shall separate the play area from abutting lots.
- b) Elementary schools shall provide a basic site area of five acres plus one additional acre for each 100 pupils of predicted enrollment.
- c) Secondary schools shall provide a basic site of ten acres plus one additional acre for each 100 pupils of predicted enrollment.
- d) Schools shall also meet all relevant standards of number 3 of this section.

**5. Utility facilities necessary for public service.**

- a) In any residential zone, all equipment storage on the site shall be within an enclosed building.
- b) The use shall be fenced and provided with landscaping if there is to be outside storage at the site.
- c) The minimum lot size for a public utility facility may be waived on finding that the waiver will not result in noise or other detrimental effect to adjacent property.
- d) As far as possible, transmission tower, poles, overhead wires, pumping stations, and similar gear shall be so located, designed, and installed as to minimize their conflict with adjacent uses.
- e) A power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise on high value farm land or 20 acres from use as a commercial agricultural enterprise on other farm land unless an exception to Statewide Planning Goal 3 is approved.

**6. Mobile/Manufactured home parks, or recreational vehicle park or campground.**

- a) Mobile/Manufactured home park.
  - (1) The proposed use shall be compatible with the comprehensive plan and surrounding land uses or shall be made so by imposing conditions on the proposed use.
  - (2) Parking space requirement. A parking space shall be provided for each space on the site. In addition, guest parking spaces shall also be provided in every park within two hundred feet of the spaces served and at a rate of one parking space for each two mobile /manufactured home spaces. Parking spaces shall have a durable and dustless surface adequately maintained for all weather use and shall be properly drained.
  - (3) Road access to the proposed use shall be adequate to serve the use without creating unsafe traffic conditions within the park or on adjacent public or private roads.
  - (4) Shall meet all requirements of the County Sanitarian or state agency responsible for sewage disposal if community sewage disposal facilities are not available.
  - (5) Shall meet all requirements of any other local or state agency relevant to the proposed development.
- b) Recreational vehicle park rural or urban.
  - (1) Campgrounds and recreational vehicle parks generally.
    - (a) The size and design of the park or campground at a minimum shall conform to any limitations established by law on the proposed public road access or driveway used for access to the park or campground.
  - (2) Recreational vehicle park/urban.
    - (a) Accessory uses within a park shall be limited to those uses which are allowed by the zoning designation in which the park is located.
    - (b) One dwelling for a manager shall be allowed on the park site.
  - (3) Recreational vehicle park/rural.
    - (a) Utilities shall be limited to a size and scale appropriate for rural uses. Drinking water facilities and sewage disposal facilities shall be limited to those located wholly within the property on which the park is located. Water, electric,

telephone, and other utilities may only be developed at a park by extending existing distribution lines located along roads or utility easements contiguous to the park.

- (b) Accessory uses within the park shall be limited to a level appropriate for rural uses and shall be limited to a store, laundry facilities, outdoor recreation play area which are of a size and design to serve only the patrons of the park.
- (c) One dwelling for a manager shall be allowed on the park site.

c) Campgrounds.

- (1) Utilities shall be limited to a size and scale appropriate for rural uses. Drinking water facilities and sewage disposal facilities shall be limited to those located wholly within the property on which the campground is located. Water, electric, telephone, and other utilities may only be developed at a campground by extending existing distribution lines along roads or utility easements contiguous to the campground.
- (2) Accessory uses within a campground shall be limited to a size and scale appropriate for rural uses and shall be limited to structures which are of a size and design that is necessary and appropriate for efficient management of the campground. Campgrounds shall not contain or provide intensively developed recreational uses or facilities, including but not limited to, swimming pools, tennis courts, retail stores, or gas stations.
- (3) One mobile home dwelling for a manager shall be allowed on the campground but shall be removed if the campground use is discontinued for a period of more than two years.

**7. Home Occupation.**

- a) The home occupation must be a secondary use of a dwelling or building accessory to a dwelling; except that a home occupation may not be authorized in a structure accessory to a resource use in a forest or agricultural zone.
- b) Such use shall occupy no more than 30 percent (30%) of the floor area within a dwelling and no more than four hundred (400) square feet within an accessory building.
- c) No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or waste products outside of the dwelling or enclosure.
- d) No materials or commodities shall be delivered to or from the property which are of such bulk or quantity as to require delivery by a commercial vehicle or a trailer, or the parking of customer's vehicles in a manner or frequency as to cause disturbance or inconvenience to nearby residents.
- e) No advertising signs shall be allowed with the exception of one non-lighted sign indicating only the name and trade of the property owner as specifically approved by the County. This sign shall not exceed a size of (9) nine square feet.
- f) No structural alterations shall be allowed to accommodate the home occupation except when otherwise required by law, and then only after the plans for such alterations have been reviewed and approved by the County. Such structural alterations shall not detract from the outward appearance of the building as an accessory structure to a residence.
- g) A home occupation located on high value farm land may employ only residents of the home.

8. **Commercial amusement establishment.** A commercial amusement or recreational establishment may be authorized after consideration of the following factors:

- a) The proposed use shall be compatible with the Comprehensive Plan and surrounding land uses or shall be made so by imposing conditions on the proposed use.
- b) The proposed use shall have adequate access from public and private streets serving the proposed use.
- c) The proposed use shall have adequate off-street parking.
- d) The proposed use shall not create a conflict with adjacent land uses due to noise, dust, smoke, odor, glare from lights, or other aspects of the proposed use.

**9. Mining, quarrying, or other extractive activity.**

- a) Plans and specifications submitted to the Commission for approval must contain sufficient information to allow the Commission to review and set siting standards related to the following standards:
  - (1) Impact of the proposed use on surrounding land uses in terms of Department of Environmental Quality standards for noise, dust, or other environmental factors;
  - (2) The impact of the proposed use on water quality, water flow, or fish habitat on affected rivers or streams;
  - (3) The impact of the proposed use on overall land stability, vegetation, wildlife habitat and land or soil erosion;
  - (4) The adequacy of protection for people residing or working in the area from the proposed mining activity through fencing of the site;
  - (5) The rehabilitation of the land upon termination of the mining activity. The proposed rehabilitation must at least meet the requirements of state surface mining or gravel removal permits.
- b) If the proposed extractive activity involves the removal of rock, gravel, or sediment from a river or stream, the proposal shall be reviewed by the Oregon Department of Fish and Wildlife and it may provide a written statement to the county regarding the possible impact on fish habitat associated with the affected river or stream.
- c) The County will define an area around the specific removal site which includes all lands within 250 feet of the site, based on the site map for a state mining or gravel permit. The applicant shall provide findings which identify the existing uses on those lands included within this area. The Commission shall evaluate the applicant's findings with regard to the potentially conflicting uses identified in the area based on the factors below:
  - 1) If the mining activity can be sited on an alternate site; and
  - 2) where conflicting uses are identified the economic, social environmental and energy consequences of the conflicting uses shall be determined and methods developed to resolve the conflict.
- d) A rock crusher, washer or sorter shall not be located closer than 500 feet to any residential or commercial use. Surface mining equipment and necessary access roads shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practicable, noise, vibration, or dust which are injurious or substantially annoying to persons living in the vicinity.
- e) No uses are permitted relating to offshore oil, gas or marine mineral exploration or development.

**10. Asphalt and cement plants**

- a) The proposed use shall be compatible with the Comprehensive Plan and surrounding land uses or shall be made so by imposing conditions on the proposed use.
- b) Processing plants shall comply with all applicable state and federal regulations for control of discharges from all equipment.
- c) Required licenses for all equipment must be valid and current during operation.
- d) Surface mining equipment and necessary roads shall be constructed, maintained, and operated in a manner as to eliminate noise, vibration, or dust which are injurious or substantially annoying to persons living in the vicinity.
- e) The applicant shall provide the Commission with an assessment of the availability of water necessary for operation of the plant. In addition to the above, the Commission may require that:
  - (1) The applicant construct a berm and install and maintain rapid growth vegetative screening around the site.
  - (2) Operation be limited to daylight hours.
  - (3) No operations be allowed to occur on holidays or weekends.
- f) No plants are permitted that are related to offshore oil, gas or marine mineral activities.

**11. Animal feed lot, or other intensive animal farm or processing facility.**

- a) That the use be located no closer than 500 feet from a lot in a residential or commercial use.
- b) That the use be located not closer than 100 feet to a principal highway or major county road as shown on the Comprehensive Plan.
- c) In addition to the specific requirements as noted above, the Commission may impose such other requirements as it deems necessary for the health, safety, and welfare of the citizens of the county, including, but not limited to, plans for management of surface water and run off, waste control, vector control, location of the use with respect to prevailing winds and other existing or potential development, and the limitation of the number of animals to be kept on the premises.

**12. Marine Activity.**

The following criteria and standards are applied to specific uses and activities allowed in the Marine Activity (MA) zone.

- a) Uses not listed as permissible may be allowed upon a demonstration by the applicant that the uses are in fact water-dependent consistent with the criteria set forth in the definitions;
- b) Storage of materials or products shall be permitted if found to be directly associated with water transportation and an integral part of the operation of a proposed or existing use or activity;
- c) Any applicant for a use shall furnish evidence of compliance with, or intent to comply with, all applicable permit and rule requirements of:
  - (1) any affected port district;
  - (2) the Department of Environmental Quality;
  - (3) the Division of State Lands;
  - (4) the U.S. Army Corps of Engineers; and
  - (5) all other agencies having an interest applicable to the proposed use. If a statement to comply is submitted, the approving authority shall condition approval upon such compliance.
- d) Dwellings for caretakers and attached single family dwellings may be allowed in urban water-dependent shorelands if such uses are an integral part of a water-dependent use and do not interfere with the location and operation of other water-dependent uses.
- e) For temporary uses, a date of permit expiration shall be established as a condition of approval.
- f) Flood and erosion control structures must be consistent with the provisions of the adjacent estuarine management unit.

### 13. Beaches and Dunes.

The following criteria and conditions are applied to specific uses and activities in the Beaches and Dunes Conservation (CON) Zone.

a) A site investigation report shall be prepared by a geologist or engineer competent to evaluate beach and dune erosion which contains the following information:

- (1) Location of the proposed use and the area affected.
- (2) Types of dune forms present.
- (3) Existing vegetation and vegetation to be removed.
- (4) A revegetation plan or other methods of erosion control.
- (5) Proposed grading or fill.
- (6) Areas subject to geologic hazards, wind erosion, undercutting, ocean flooding, erosion by storm waves, or other natural hazards.
- (7) Evidence that adequate measures have been taken to protect the ground water from drawdown which would lead to loss of stabilization vegetation, loss of water quality, or intrusion of salt water into water supplies.
- (8) Provide a plan that adequately addresses the factors identified above and which protect the proposed development and surrounding lands. The County will use the content of the developer's report to impose conditions which will control erosion, protect against ocean flooding, sand accretion, or other hazards, protect groundwater supply and quality, and protect the surrounding area from adverse affects of development.

The County will use the content of the developer's report and plan to deny, approve or approve with conditions which will control erosion, protect against ocean flooding, sand accretion, or other hazards; protect groundwater supply and quality, and protect the surrounding area from adverse affects of proposed development.

b) Beach front protective structures shall be permitted only under the provisions of ORS 390.635-390.655 for uses existing prior to January 1, 1977. Protective structures to protect "development" as defined by Statewide Planning Goal 18 existing prior to January 1, 1977 shall be required to receive a review by all affected agencies and local review by the Planning Commission to determine that they: (a) minimize visual impact, (b) do not impair beach access, (c) do not create negative impact on adjacent property, and (d) do not create long term or recurring costs to the public.

## 14. Estuarine Resources.

The following criteria and conditions are applied to specific uses and activities in the Estuarine Resource (ER) zone.

- a) Resource Capability Test. Certain uses in estuarine areas require findings of consistency with the resource capabilities of the area.
  - (1) A determination of consistency with resource capability shall be based on:
    - (a) Identification of all resources existing at the site and factors relating to the resource capabilities of the area.
    - (b) Evaluation of impacts on those resources by the proposed use.
    - (c) Determination of whether any or all of the identified resources can continue to achieve the purpose of the management unit if the use is approved.
  - (2) In determining the consistency of a proposed use or activity with the resource capabilities of the area, the county shall utilize information from federal or state resource agencies regarding any regulated activities in estuarine areas.
- b) Dredge, fill, or other significant reductions or degradations. Uses and activities which involve dredge, fill, or other reduction or degradation of natural values shall be approved only if:
  - (1) The activity is required for navigation or other water-dependent use; or in the case of fills for nonwater-dependent uses, is needed for a public use and would satisfy a public need that outweighs harm to navigation, fishing, and recreation, as per ORS 196.825(4), and an exception has been taken in this plan to allow such fill;
  - (2) An estuarine location is required;
  - (3) A substantial public benefit is demonstrated;
  - (4) No alternative upland location exists;
  - (5) Adverse impacts are identified and minimized as much as feasible; and
  - (6) The activity complies with the Curry County Flood Damage Prevention Ordinance.
- c) Impact Assessment. The information listed below is required to make findings for paragraphs a) and b) above. An impact assessment should not be lengthy or complex, but it should provide a clear understanding of the impacts to be expected. It should include information on:

- (1) The type and extent of alterations expected;
  - (2) The type of resource(s) affected;
  - (3) The expected extent of impacts of the proposed alteration on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, navigation, and other existing and potential uses of the estuary; and
  - (4) The methods which could be employed to avoid or minimize adverse impacts.
- d) Fill in Conservation and Natural Estuarine Management Units. Fill activities in conservation management units shall be allowed only if listed as an "allowable" use within a respective segment, and then only as part of the following use or activities:
- (1) Maintenance and protection of man-made structures existing as of October 7, 1977.
  - (2) Active restoration if a public need is demonstrated.
  - (3) Low water bridges if:
    - (a) An estuarine location is required;
    - (b) Within the estuary, there are no alternative locations such as in a development management unit;
    - (c) Adverse impacts are minimized as much as feasible.
  - (4) Bridge crossing support structures if:
    - (a) The findings of (3) above are made; and
    - (b) It is consistent with the resource capabilities of the area and purposes of the management unit.
  - (5) Aquaculture, high-intensity, water-dependent recreation and minor navigational improve-mints if:
    - (a) The findings of (4) above are made; and
    - (b) No alternative upland locations exist for the portion of the use requiring fill.
  - (6) Flood and erosion control structures if:
    - (a) Required to protect a water-dependent use as otherwise allowed in (5) above; and

- (b) Land use management practices and nonstructural solutions are inadequate to protect the use.

Fill activities in natural management units shall be allowed only when necessary for the maintenance and protection of man-made structures existing as of October 7, 1977.

- e) Estuarine Mitigation Requirements. Mitigation shall be required when estuarine dredge or fill activities are permitted in intertidal or tidal marsh areas to mitigate the effects of dredging or fill by creation, restoration or enhancement of another area to ensure that the integrity of the estuarine ecosystem is maintained. However, mitigation shall not be required for projects which the Division of State Lands has determined meet the criteria in ORS 196.830(4).
- f) Solutions to Erosion and Flooding Problems. Nonstructural solutions to problems of erosion and flooding shall be preferred to structural solutions. Where shown to be necessary and allowed, water and erosion control structures such as jetties, bulkheads, seawalls, and similar protective structures and fill shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns.

Further, where listed as a permitted activity within the respective management designations, riprap shall only be allowed upon findings that:

- (1) Land use management practices and nonstructural solutions are inadequate; and
- (2) Adverse impacts on water currents, erosion, and accretion patterns are minimized; and
- (3) It is consistent with the development management unit requirements of the Estuarine Resources Goal.
- (4) Riprap is consistent with the resource capabilities of the area and the purposes of maintaining conservation management units, or

Further, where listed as permitted activity within respective management segments, riprap shall only be allowed in Natural Management Unit designations upon findings that:

- (1) There is a need to protect from erosion: uses existing as of October 7, 1977, unique natural resources and historic archaeological values, or public facilities;
- (2) Land use management practices and nonstructural solutions are inadequate;
- (3) It is consistent with the natural management unit as set forth in this plan and required by Estuarine Resources Goal; and

- (4) Adverse impacts on water currents, erosion, and accretion patterns and estuarine organisms and their habitat are minimized.
- g. Proliferation of single-purpose docks and piers. The proliferation of individual single-purpose docks and piers shall be restricted to those found to be consistent with the respective management units identified by the Curry County Comprehensive Plan.

This requirement shall be implemented:

- (1) By the preparation of findings by the applicant and reviewed by local government in response to a "request for comment" by the Division of State Lands (which shall seek local government's determination regarding the appropriateness of a permit to allow the proposed dock or pier) which document that:
  - (a) The size and shape of the proposed dock or pier shall be limited to that required for the intended use; and
  - (b) Alternatives to docks and piers, such as mooring buoys, dryland storage, and launching ramps have been investigated and considered; and
- (2) By encouraging community facilities common to several uses and interests by:
  - (a) Satisfying community needs for docks and moorage facilities in this plan; and
  - (b) Encouraging easements to facilitate multi-ownership.
- h. Limiting Dredge and Fill as Estuarine Restoration. Estuarine dredge or fill actions shall be permitted as estuarine restoration (pursuant to Policy 5) and only upon findings which demonstrate the following:
  - (1) A factual assessment of the nature and extent of the estuarine resource believed to have existed at the proposed restoration site at some time in the past; and
  - (2) A factual assessment of how the estuarine resource at the site was lost; and
  - (3) A comparison of the resource enhancement expected to result from the proposed restoration project, together with a determination that the proposed project will, in fact, probably restore all or some of the resource value lost at the site.
- i. Limiting to Water-dependent Uses. The proposed use must provide for navigation and other identified needs for public, commercial, or industrial

water-dependent uses or must be accessory to and necessary to the proper functioning of such a use.

j. Temporary Alterations. The proposed temporary alteration shall be in support of a use permitted by Statewide Planning Goal 16 and the Estuarine Resources (ER) zone. Application of the resources capabilities test (14a, above) shall ensure:

a) That the short-term damage to resources is consistent with resource capabilities of the area; and

b) That the area and affected resources can be restored to their original condition.

**15. Shoreland Overlay.**

The following criteria and conditions are applied to specific uses and activities in the Shoreland Overlay (SO) zone.

- a) Except where findings are contained in the comprehensive plan, water-dependent commercial, and industrial uses and water-related uses shall require affirmative findings that the proposed use satisfies a need that cannot be satisfied on uplands or in an urban or urbanizable area or in rural areas built upon or irrevocably committed to non-resource use.
- b) Except where findings are contained in the comprehensive plan, subdivisions, partitions and other uses in rural shoreland areas shall require affirmative findings that the proposed use satisfies a need which cannot be met in another upland location, or an urbanizable area. Built and committed exceptions area are specifically excluded from this requirement.
- c) Dredged material disposal (DMD), Restoration (R) or Mitigation (M) sites. These sites are protected for the use designated in the comprehensive plan. Temporary uses within a designated (DMD), (R), or (M) site shall be permitted only upon satisfying all of the following criteria:
  - (1) The proposed use must not entail substantial structural or capital improvements, permanent buildings, or nontemporary water and sewer connections;
  - (2) The proposed use must not require any major alteration of the site that would affect drainage or reduce the usable area or volume of the site, such as extensive site grading/excavation or elevation by fill, and
  - (3) For restoration or mitigation sites the proposed use must not require site changes that would prevent the expeditious conversion of the site to estuarine habitat.

**16. Uses on resource land.**

- a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agricultural or forest land.
- b) The proposed use will not significantly increase fire suppression costs or significantly increase the risks to fire suppression personnel.
- c) A written statement be recorded with the deed or written contract with the county or its equivalent shall be obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and related Oregon Administrative Rules for uses authorized in Section 3.042 (8), (12), (13), (14), (15), (16), (21) and Section 3.052 (8), (12), (13), (14), (16), (17), (22).

**17. Hardship Dwelling.**

The following criteria and conditions shall be applied to the use of a hardship dwelling on a lot or parcel where there is an existing dwelling:

- a) the hardship dwelling shall be a manufactured or mobile home that can be removed from the site once the hardship need has ended;
- b) the hardship dwelling shall use the same on-site sewage disposal system as the existing dwelling if public sewage disposal service is not available;
- c) the need for the hardship dwelling shall be verified by a medical doctor by a written certification explaining the reasons why the resident of the hardship dwelling has to be located in close proximity to the existing dwelling;
- d) the applicant shall agree to provide the county a new written certification from a doctor as to the continuing need for the hardship dwelling every year after the initial approval of the conditional use permit;
- e) the county will provide notice as per Section 2.070 each time renewal of the hardship is requested and public comment received will be considered in the decision regarding the renewal of the permit; and
- f) the applicant shall sign an agreement to remove the hardship dwelling once the resident of the hardship dwelling no longer has the need to reside in close proximity to the existing dwelling.

**18. Accessory Farm Dwelling.**

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

- a) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use will be required by the farm operator;
- b) The accessory dwelling will be located on the same lot or parcel as the dwelling of the farm operator (an accessory farm dwelling may be located on the same tract as the principal farm dwelling if the lot or parcel on which the accessory dwelling will be sited is consolidated with other lots or parcels in the tract into a single parcel when the dwelling is approved);
- c) There is no other dwelling on lands owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and could reasonably be used as an accessory farm dwelling; and
- d) The principal farm dwelling to which the proposed dwelling would be accessory, meets one of the following:
  - (1) On land not identified as high-value farm land, the principal farm dwelling is located on a tract that is currently employed for farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the lower of the following:
    - (i) at least \$40,000 (1994 dollars) in gross annual income from the sale of farm products; or
    - (ii) gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon.

NOTE: In determining the gross income described above, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
  - (2) On land identified as high-value farm land, the principal farm dwelling is located on a tract that is currently employed for farm use, as defined in ORS 215.203, that produced at least \$80,000 (1992 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years.
- e) The county shall not approve any proposed division of a lot or parcel to separate an accessory farm dwelling from the parcel on which the principal farm dwelling is located unless the accessory farm dwelling meets the standards for a "dwelling in conjunction with farm use" and the accessory dwelling will be located on a parcel that meets the minimum lot standard of the zone in which it is located.
- f) An accessory farm dwelling approved under these standards cannot be used to satisfy the requirements for a dwelling not provided in conjunction with farm use (converted to a non-farm dwelling).

**19. Harbor Bench Farm District .**

- a) If the proposed use is located on a lot or parcel zoned for non-agricultural use and is adjacent to land zoned for commercial agricultural use and is in agricultural use then the proposed use shall not force a significant change in, or significantly increase the cost of accepted and typical farming practices on the agricultural land.
- b) As a condition of approval a written easement shall be recorded with the deed of the lot or parcel zoned for non-agricultural use by the land owner which recognizes the rights of the owners of land zoned for commercial agricultural use to conduct farming operations consistent with accepted and typical farming practices used for commercial farming within the Harbor Bench Farm District.
- c) If the proposed use located on a lot or parcel zoned for non-agricultural use within the Harbor Bench Farm District includes the development of a structure or the creation of an impervious ground surface, the person proposing the use shall be required to direct all drainage from the structure or impervious surface away from adjacent or nearby lands zoned for commercial farm use and into the existing storm drainage system. The owner of the nonfarm use parcel may divert surface water drainage onto farm land to receive water for a use beneficial to agriculture. The written agreement shall contain a provision that the owner of the nonfarm parcel will re-direct the surface water drainage into the existing storm water drainage system at any time the farm land owner no longer desire to receive such water.
- d) All residential and commercial outdoor lighting shall be directed away from adjacent farm land.

**Section 7.050. Time Limit on a Permit for Conditional Uses.**

1. Authorization of a conditional use, in general, shall become null and void after one year unless substantial construction has taken place or an extension has been granted under Section 7.050 (4). Substantial construction in this case means obtaining all necessary permits required by governmental agencies to commence construction of any structures or to commence the principal activity permitted by the conditional use permit.
2. Once the construction of the structure or facility specified in the conditional use permit is completed the conditional use permit is considered to be issued on a permanent basis.
3. Authorization of a conditional use permit for transportation-related uses shall be null and void after a period specified by the decision specified by the decision maker as being reasonable and necessary based on seasonal weather conditions, right-of-way acquisition, and other pertinent factors. This period shall not exceed three years.
4. The Director or Commission may at its discretion issue conditional use permits which must be periodically reviewed to ascertain that the conditions of the permit are being complied with on a continuing basis. A discretionary decision approving development on agricultural or forest outside an Urban Growth Boundary (UGB) is void two years from the date of the final decision if the development is not initiated in that period.
5. The County may grant one extension period of up to 12 months if:
  - a) An applicant makes a written request for an extension of the development approval period;
  - b) The request is submitted to the county prior to the expiration of the approval period;

- c) The applicant states reasons that prevented the applicant from beginning development within the approval period; and
  - d) The county determines that the applicant was unable to begin development during the approval period for reasons for which the applicant was not responsible.
6. The one year limit and standards for granting extensions of conditional use permits in subsection 4 above do not apply to those conditional use permits that do not involve structural development.
  7. Approval of an extension granted under this section is not a land use decision and is not subject to appeal as a land use decision.
  8. Additional extensions may be authorized under this section providing the applicable criteria for the decision have not changed.