2021 Unified Development Code (UDC) Update

Planning Commission Work Session – July 20, 2021

On July 20th, the Planning Commission will hold another in a series of work sessions on the package of proposed changes to the City's zoning and development code, known as the Unified Development Code (UDC).

The proposed changes address a variety of issues that have arisen since the last update to the UDC in 2019 and range from minor housekeeping amendments to policy-related changes that respond to concerns from the community and changes in State law.

The focus of the July 20th work session will be on proposed amendments to provisions of Chapters identified in the table below.

A general overview of the proposed changes is provided below. For the specific proposed text of the amendments, please refer the Salem Revised Code (SRC) chapters included with this summary. New language proposed to be added is identified by red underline and existing language proposed to be deleted is identified by ~~red strikethrough~~.

Amendments Implementing State House Bill HB3109 – *Concerning Child Care Facilities*

House Bill HB3109 establishes requirements pertaining to how local governments may regulate family child care homes and child care centers. Under the bill local jurisdictions are required to allow family child care homes in all areas zoned for residential commercial use and allow child care centers in areas zoned for commercial or industrial use, except areas specifically designed for heavy industrial use.

The house bill also establishes revised definitions for “family child care homes” and “child care centers”. For reference, the complete text of HB3109 is included in this packet.

In order to implement the provisions of HB3109, the definitions included under SRC Chapter 111 (Definitions) for “child day care home” and “child day care center have been amended to align with the new definitions included in the bill. The permitted use tables in the following zones and overlay zone are also proposed to be amended to allow child day care homes and child day care centers as required under the bill:

- FMU (Fairview Mixed-Use) Zone – SRC Chapter 530;
- NCMU (Neighborhood Center Mixed-Use) Zone – SRC Chapter 532;
- EC (Employment Center) Zone – SRC Chapter 550; and
- Commercial High-Density Residential Overlay Zone – SRC Chapter 626.

Amendments Implementing State House Bill HB2583 – *Concerning Maximum Occupancy of Residential Dwelling units*

House Bill HB2583 establishes requirements prohibiting local governments from limiting maximum occupancy within residential dwelling units based on whether the occupants within the dwelling unit are a family. For reference, the complete text of HB2583 is included in this packet.

In order to implement the provisions of HB2583 the existing definition of "family" included under SRC Chapter 111 (Definitions) is required to be amended because it currently defines family based on the number of related or unrelated people living together in a dwelling unit.

The proposed definition removes any limits on the number of people who may live together in a dwelling unit. Building code limits on the maximum number of people who can occupy a dwelling unit will still continue to apply.

In addition, amendments to the following zones are proposed to eliminate "taking of boarders and leasing of rooms by a resident family" as a permitted use within those zones:

- RA (Residential Agriculture) Zone – SRC Chapter 510;
- RS (Single Family Residential) Zone – SRC Chapter 511;
- RD (Duplex Residential) Zone – SRC Chapter 512;
- RM-I (Multiple Family Residential-I) Zone – SRC Chapter 513;
- RM-II (Multiple Family Residential-II) Zone – SRC Chapter 514;
- RH (Multiple Family High-Rise Residential) Zone – SRC Chapter 515;
- CO (Commercial Office) Zone – SRC Chapter 521; and
- FMU (Fairview Mixed-Use) Zone – SRC Chapter 530.

Finally, amendments to the Special Use standards applicable to accessory short-term rentals (e.g. Airbnbs) under SRC Chapter 700 are proposed to maintain the current limitations associated with the allowance of non-owner occupied dwelling units being used for accessory short-term rentals.

Formal Code Interpretations *(SRC Chapter 110)*

Amendments are proposed to SRC Chapter 110 to update the review process associated with requests for formal interpretations of the development code. Under the existing requirements the review and approval process is not as clearly prescribed as it should be.

Amendments are therefore proposed to make the process clearer and align the review procedures more closely with those associated with the land use review procedures of SRC Chapter 300, particularly in relation to the processing of appeals. The procedures for the review and approval of formal interpretations will also mirror those which have been proposed for Similar Use Determinations under SRC Chapter 400.

Property Boundary Verifications *(SRC Chapter 205)*

Amendments to the City's land division chapter (SRC Chapter 205) are proposed to eliminate the Property Boundary Verification review process.

Property Boundary Verifications are currently utilized to allow the buildings to be located over existing property lines and still maintain conformance with the Building Code. However, property boundary verifications are not a recognized process under ORS 92 *(Subdivisions and Partitions)* and there are other ORS-recognized mechanisms available to address interior property line issues, such as Property Line Adjustments and Replats. The property boundary verification process is therefore proposed to be eliminated.

General Standards for Lots *(SRC Chapter 800)*

Amendments are proposed to SRC 800.015, concerning general lot standards, to:

- Require that the size and shope of lots shall be such that they're buildable when taking into account required setbacks, easements, and physical limitations of the property *(e.g. riparian corridors, wetlands, flood boundaries, etc..)*; and
- Specify that regardless of whether two or more lots are under common ownership and accommodating a single development, each lot is still a separate lot under the UDC.

Pedestrian Access Standards *(SRC Chapter 800)*

Amendments are proposed to the pedestrian access standards of SRC 800.065 to further clarify when certain standards apply in particular situations.

Tree Preservation *(SRC Chapter 808)*

Amendments to the tree preservation requirements of SRC Chapter 808 are proposed to provide for greater preservation and protection of trees. Highlights of the amendments include:

- Expanding the definition of significant tree to include not only Oregon white oaks but also any tree with a diameter-at-breast-height (dbh) of 40 inches or greater;
- Requiring tree conservations plans for land divisions for Middle Housing (e.g. two family uses, three family uses, four family uses, and cottage clusters) in addition to single family uses and two uses;
- Increasing the minimum tree preservation requirement for tree conservation plans from 25 percent to 50 percent;
- Requiring tree conservation plans to show the critical root zones of trees to allow for better review of tree conservation plans to determine whether proposed lots are buildable in conformance with plan based on their size, configuration, and the location of existing trees;

- Eliminating exemptions for certain activities that do not require a tree removal permit and establishing a new tree removal permit approval criterion for removal of significant trees in connection with construction of a multiple family, mixed-use, commercial, or industrial development; and
- Establishing a new section establishing tree protection measures required during construction.

In addition, consideration is also being given to requiring protection of groves of oaks, regardless of their dbh, consisting of five or more trees whose trunks are spaced not more than 50 feet apart.

CHAPTER 111. DEFINITIONS

(Note: The following amendments are excerpts from SRC Chapter 111. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH111DE

Sec. 111.001. Definitions, generally.

Unless the context otherwise specifically requires, terms used in the UDC shall have the meanings set forth in this chapter; provided, however:

(a) Where chapter specific definitions are included in another chapter of the UDC, those definitions are the controlling definitions; and

(b) Where a term is not defined within the UDC, the term shall have its ordinary accepted meaning within the context in which it is used. Webster's Third New Int'l Dictionary (unabridged ed. 2002) shall be the standard reference to ordinary accepted meanings.

Child day care center means a ~~facility that provides day care for 17 or more children~~ child care facility, other than a child day care home, certified under ORS 329A.280. ~~and providing child care to children in a facility other than a dwelling unit~~.

Child day care home means ~~day care for 16 or fewer children provided in the home of the child day care provider~~ a child care facility registered under ORS 329A.330 or certified under ORS 329A.280 providing child care in a dwelling unit to not more than 16 children.

Commented [BB1]: Definition of "child day care center" amended to conform to the definition established under **State House Bill HB3109**

Commented [BB2]: Definition of "child day care home" amended to conform to the definition established under **State House Bill HB3109**

CHAPTER 530. FMU—FAIRVIEW MIXED-USE

(Note: The following amendments are excerpts from SRC Chapter 530. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH530FAIMIE

Sec. 530.040. Uses.

(a) Except as otherwise provided in this section, the permitted (P), special (S), conditional (C), and prohibited (N) uses in the FMU zone are set forth in Table 530-1.

TABLE 530-1. USES

Use	Status				Limitations & Qualifications
	LI	MI	AU	VC	
Day care	~~N~~ P	P	P	P	~~The following day care activities:~~ ~~■~~ Child day care home. ~~■ Adult day care home.~~
	N	P	P	P	Adult day care home.
	N	N	P	P	All other day care.

Commented [BB3]: State House Bill 3109 requires local governments to allow family child care homes as a permitted use in all areas zoned for residential or commercial purposes, including areas zone for single-family dwellings.

The LI Area of the FMU zone allows primarily residential uses, including single family. Based on the requirements of the bill, child day care homes must therefore be permitted.

CHAPTER 532. NCMU—NEIGHBORHOOD CENTER MIXED-USE

(Note: The following amendments are excerpts from SRC Chapter 532. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH532NCEICEMIE

Sec. 532.015. Uses allowed with neighborhood center master plan.

The permitted (P), special (S), conditional (C), and prohibited (N) uses in the NCMU zone with a neighborhood center master plan are set forth in Table 532-1. The uses set forth in Table 532-1 are only allowed in the NCMU zone as a part of a neighborhood center master plan, approved in accordance with SRC chapter 215, and are allowed based on whether the location of the building or structure housing the use is located inside or outside of the Core Area designated in the master plan.

TABLE 532-1. NCMU ZONE USES WITH MASTER PLAN

Use	Status		Limitations & Qualifications
	Inside Core	Outside Core	
Educational Services			
Day care	P	~~C~~P	Child day care home.
	P	C	All other day care.

Sec. 532.020. Uses allowed in-lieu of neighborhood center master plan.

The permitted (P), special (S), conditional (C), and prohibited (N) uses in the NCMU zone in-lieu of a neighborhood center master plan are set forth in Table 532-2. The uses set forth in Table 532-2 are allowed in the NCMU zone in-lieu of development pursuant to a neighborhood center master plan, and are subject to the development standards set forth in SRC 532.035.

TABLE 532-2. NCMU ZONE USES IN-LIEU OF MASTER PLAN

Use	Status	Limitations & Qualifications
Educational Services		
Day care	~~N~~P	Child day care home.
	N	All other day care.

CHAPTER 550. EC—EMPLOYMENT CENTER

(Note: The following amendments are excerpts from SRC Chapter 550. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH550MPCE

Commented [BB4]: State House Bill 3109 requires local governments to allow family child care homes as a permitted use in all areas zoned for residential or commercial purposes, including areas zone for single-family dwellings.

Within the NCMU zone single family residential is a permitted use outside the core area when the property is developed with pursuant to a master plan.

Based on the requirements of the bill, child day care homes must therefore be permitted. Currently a conditional use permit is required.

Commented [BB5]: State House Bill 3109 requires local governments to allow family child care homes as a permitted use in all areas zoned for residential or commercial purposes, including areas zone for single-family dwellings.

Within the NCMU zone single family residential is a permitted use when the property is developed without a master plan.

Based on the requirements of the bill, child day care homes must therefore be permitted. Currently they are prohibited.

Sec. 550.010. Uses.

(a) *EC zone.* The permitted (P), special (S), conditional (C), and prohibited (N) uses in the EC zone are set forth in Table 550-1.

TABLE 550-1. EC ZONE USES		
Use	**Status**	**Limitations & Qualifications**
Educational Services		
Day care	~~N~~ P	Child day care services.
	N	All other day care

Commented [BB6]: State House Bill 3109 requires local governments to allow **child care centers** as a permitted use in all areas zoned for commercial or industrial use, except areas designated for heavy industrial use.

The EC zone is an industrial zone, but not specifically a heavy industrial zone like the II (Intensive Industrial) zone.

Based on the requirements of the bill, child day care centers must therefore be permitted. Currently they are prohibited.

"Child day care services" are proposed to be permitted in the EC zone the same as they currently are within the IC (Industrial Commercial), IBC (Industrial Business Campus), IP (Industrial Park), IG (General Industrial), and SCI (Second Street Craft Industrial) zones.

CHAPTER 626. COMMERCIAL HIGH-DENSITY RESIDENTIAL OVERLAY ZONE

(Note: The following amendments are excerpts from SRC Chapter 626. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH626COHINSREOVZO

Sec. 626.015. Uses.

(a) *General.* Except as otherwise provided in this section, the uses set forth in Table 626-1 shall be the only permitted (P), special (S), conditional (C), and prohibited (N) uses in the Commercial/High Density Residential Overlay Zone.

TABLE 626-1. USES		
Use	**Status**	**Limitations & Qualifications**
Educational Services		
Day care	P	The following day care activities: ■ Child day care home. ■ Adult day care home. ■ Child day care center..
	C	~~The following day care activities:~~ ~~■ Child day care center.~~ ■ Adult day care center.
	N	All other day care.

Commented [BB7]: State House Bill 3109 requires local governments to allow **child care centers** as a permitted use in all areas zoned for commercial or industrial use, except areas designated for heavy industrial use.

The Commercial High-Density Residential overlay zone is a zone that allows a mixture of uses, including commercial uses.

Based on the requirements of the bill, child day care centers must therefore be permitted. Currently they require a Conditional Use Permit.

CHAPTER 111. DEFINITIONS

(Note: The following amendments are excerpts from SRC Chapter 111. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH111DE

Sec. 111.001. Definitions, generally.

Unless the context otherwise specifically requires, terms used in the UDC shall have the meanings set forth in this chapter; provided, however:

(a) Where chapter specific definitions are included in another chapter of the UDC, those definitions are the controlling definitions; and

(b) Where a term is not defined within the UDC, the term shall have its ordinary accepted meaning within the context in which it is used. Webster's Third New Int'l Dictionary (unabridged ed. 2002) shall be the standard reference to ordinary accepted meanings.

Family means: an individual or any number of persons who need not be related by blood, marriage, domestic partnership, legal adoption, or guardianship living together in a dwelling unit.

~~(a) An individual;~~

~~(b) Two or more persons related by blood, marriage, domestic partnership, legal adoption, or guardianship;~~

~~(c) Two or more persons with disabilities, as defined in the Fair Housing Amendments Act of 1988, who need not be related by blood, marriage, domestic partnership, legal adoption, or guardianship living together in a dwelling unit; or~~

~~(d) A group of not more than five persons who need not be related by blood, marriage, legal adoption, or guardianship living together in a dwelling unit.~~

Commented [BB1]: Definition of "family" amended to conform to the requirements of **State House Bill HB2583** which prohibits local governments from limiting maximum occupancies for residential dwelling units based on familial or non-familial relationships.

CHAPTER 510. RA—RESIDENTIAL AGRICULTURE

(Note: The following amendments are excerpts from SRC Chapter 510. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH510ESAG

Sec. 510.005. Uses.

(a) Except as otherwise provided in this section, the permitted (P), special (S), conditional (C), and prohibited (N) uses in the RA zone are set forth in Table 510-1.

TABLE 510-1. USES		
Use	**Status**	**Limitations & Qualifications**
Other Uses		
Accessory short-term rentals	S	Accessory short-term rental, subject to SRC 700.006.

Temporary uses	P	The following temporary uses: ■ Christmas tree sales, subject to SRC 701.015. ■ Residential sales/development office, subject to SRC 701.030. ■ Replacement single family dwelling, subject to SRC 701.025.
Home occupations	S	Home occupations, subject to SRC 700.020.
Guest houses and guest quarters	P	Guest houses and guest quarters are permitted as an accessory use to single family, provided such houses and quarters are dependent upon the main building for either kitchen or bathroom facilities, or both, and are used for temporary lodging and not as a place of residence.
~~Taking of borders or leasing of rooms by resident family~~	~~P~~	~~Taking of boarders or leasing of rooms by a resident family is permitted as an accessory use to household living, provided the total number of boarders and roomers does not exceed 2 in any dwelling unit.~~
Storage of commercial vehicle as an accessory use to household living	P	Storage of a commercial vehicle as an accessory use to household living is permitted, provided no more than 1 commercial vehicle is stored per dwelling unit.
Historic resource adaptive reuse pursuant to SRC chapter 230	Allowed	Historic resource adaptive reuse pursuant to SRC chapter 230 is allowed, subject to SRC 230.085.
Accessory dwelling units	S	Accessory dwelling units, subject to SRC 700.007.

Commented [BB2]: The allowance of this additional use in the RA zone is no longer necessary as a result of requirements associated with **State House Bill HB2583**.

Under this bill local governments are no longer allowed to limit maximum occupancies within residential dwelling units based on familial or non-familial relationships.

As such a "family" will now include an individual or any number of persons who need not be related by blood, marriage, domestic partnership, legal adoption, or guardianship.

Because any number of unrelated people can now live together in a dwelling unit (subject to compliance with maximum building code occupancy) allowing a resident family to take two additional boards is no longer necessary.

CHAPTER 511. RS—SINGLE FAMILY RESIDENTIAL

(Note: The following amendments are excerpts from SRC Chapter 511. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH511INFARE

Sec. 511.005. Uses.

(a) Except as otherwise provided in this section, the permitted (P), special (S), conditional (C), and prohibited (N) uses in the RS zone are set forth in Table 511-1.

TABLE 511-1. USES		
Use	**Status**	**Limitations & Qualifications**
Other Uses		
Accessory short-term rentals	S	Accessory short-term rental, subject to SRC 700.006
Temporary uses	P	The following temporary uses: ■ Christmas tree sales, subject to SRC 701.015. ■ Residential sales/development office, subject to SRC 701.030.

		■ Replacement single family dwelling, subject to SRC 701.025.
Home occupations	S	Home occupations, subject to SRC 700.020.
Guest houses and guest quarters	P	Guest houses and guest quarters are permitted as an accessory use to single family, provided such houses and quarters are dependent upon the main building for either kitchen or bathroom facilities, or both, and are used for temporary lodging and not as a place of residence.
~~Taking of borders or leasing of rooms by resident family~~	~~P~~	~~Taking of boarders or leasing of rooms by a resident family is permitted as an accessory use to household living, provided the total number of boarders and roomers does not exceed 2 in any dwelling unit.~~
Storage of commercial vehicle as an accessory use to household living	P	Storage of a commercial vehicle as an accessory use to household living is permitted, provided no more than 1 commercial vehicle is stored per dwelling unit.
Historic resource adaptive reuse pursuant to SRC chapter 230	Allowed	Historic resource adaptive reuse pursuant to SRC chapter 230 is allowed, subject to SRC 230.085.
Accessory dwelling units	S	Accessory dwelling units, subject to SRC 700.007.

Commented [BB3]: The allowance of this additional use in the RS zone is no longer necessary as a result of the requirements associated with **State House Bill HB2583**.

Under this bill local governments are no longer allowed to limit maximum occupancies within residential dwelling units based on familial or non-familial relationships.

As such a "family" will now include an individual or any number of persons who need not be related by blood, marriage, domestic partnership, legal adoption, or guardianship.

Because any number of unrelated people can now live together in a dwelling unit (subject to compliance with maximum building code occupancy) allowing a resident family to take two additional boards is no longer necessary.

CHAPTER 512. RD—DUPLEX RESIDENTIAL

(Note: The following amendments are excerpts from SRC Chapter 512. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH512UPRE

Sec. 512.010. Uses.

The permitted (P), special (S), conditional (C), and prohibited (N) uses in the RD zone are set forth in Table 512-1.

TABLE 512-1. USES		
Use	**Status**	**Limitations & Qualifications**
Other Uses		
Accessory short-term rentals	S	Accessory short-term rental, subject to SRC 700.006
Temporary uses	P	Christmas tree sales, subject to SRC 701.015.
Home occupations	S	Home occupations, subject to SRC 700.020.
Guest houses and guest quarters	P	Guest houses and guest quarters are permitted as an accessory use to single family, provided such houses and quarters are dependent upon the main building for either kitchen or bathroom facilities, or both, and are used for temporary lodging and not as a place of residence.
~~Taking of borders or leasing of rooms by a resident family~~	~~P~~	~~Taking of boarders or leasing of rooms by a resident family is permitted as an accessory use to household~~

Commented [BB4]: The allowance of this additional use in the RD zone is no longer necessary as a result of the requirements associated with **State House Bill HB2583**.

Under this bill local governments are no longer allowed to limit maximum occupancies within residential dwelling units based on familial or non-familial relationships.

As such a "family" will now include an individual or any number of persons who need not be related by blood, marriage, domestic partnership, legal adoption, or guardianship.

Because any number of unrelated people can now live together in a dwelling unit (subject to compliance with maximum building code occupancy) allowing a resident family to take two additional boards is no longer necessary.

		~~living, provided the total number of boarders and roomers does not exceed 2 in any dwelling unit.~~
Storage of commercial vehicle as an accessory use to household living	P	Storage of a commercial vehicle as an accessory use to household living is permitted, provided no more than 1 commercial vehicle is stored per dwelling unit.
Historic Resource adaptive reuse pursuant to SRC chapter 230	Allowed	Historic resource adaptive reuse pursuant to SRC chapter 230 is allowed, subject to SRC 230.085.
Accessory dwelling units	S	Accessory dwelling units, subject to SRC 700.007.

CHAPTER 513. RM-I—MULTIPLE FAMILY RESIDENTIAL

(Note: The following amendments are excerpts from SRC Chapter 513. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH513-MFARE

Sec. 513.005. Uses.

The permitted (P), special (S), conditional (C), and prohibited (N) uses in the RM-I zone are set forth in Table 513-1.

TABLE 513-1 USES

Use	Status	Limitations & Qualifications
Other Uses		
Temporary uses	P	The following temporary uses: ■ Christmas tree sales, subject to SRC 701.015. ■ Residential sales/development office, subject to SRC 701.030.
Home occupations	S	Home occupations, subject to SRC 700.020.
~~Taking of borders or leasing of rooms by a resident family~~	~~P~~	~~Taking of boarders or leasing of rooms by a resident family is permitted as an accessory use to household living, provided the total number of boarders and roomers does not exceed 2 in any dwelling unit.~~
Historic resource adaptive reuse pursuant to SRC chapter 230	Allowed	Historic resource adaptive reuse pursuant to SRC chapter 230 is allowed, subject to SRC 230.085.
Accessory dwelling units	S	Accessory dwelling units, subject to SRC 700.007.

Commented [BB5]: The allowance of this additional use in the RM-I zone is no longer necessary as a result of the requirements associated with **State House Bill HB2583**.

Under this bill local governments are no longer allowed to limit maximum occupancies within residential dwelling units based on familial or non-familial relationships.

As such a "family" will now include an individual or any number of persons who need not be related by blood, marriage, domestic partnership, legal adoption, or guardianship.

Because any number of unrelated people can now live together in a dwelling unit (subject to compliance with maximum building code occupancy) allowing a resident family to take two additional boards is no longer necessary.

CHAPTER 514. RM-II—MULTIPLE FAMILY RESIDENTIAL

(Note: The following amendments are excerpts from SRC Chapter 514. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH514LTFARE

Sec. 514.005. Uses.

The permitted (P), special (S), conditional (C), and prohibited (N) uses in the RM-II zone are set forth in Table 514-1.

TABLE 514-1. USES		
Use	**Status**	**Limitations & Qualifications**
Other Uses		
Temporary uses	P	Christmas tree sales, subject to SRC 701.015.
Home occupations	S	Home occupations are allowed subject to SRC 700.020.
Guest houses and guest quarters	P	Guest houses and guest quarters are permitted as an accessory use to single family, provided such houses and quarters are dependent upon the main building for either kitchen or bathroom facilities, or both, and are used for temporary lodging and not as a place of residence.
~~Taking of borders or leasing of rooms by resident family~~	~~P~~	~~The taking of boarders or leasing of rooms by a resident family is permitted as an accessory use to household living, provided the total number of boarders and roomers does not exceed 2 in any dwelling unit.~~
Storage of commercial vehicle as an accessory use to household living	P	Storage of a commercial vehicle as an accessory use to household living is permitted, provided no more than 1 commercial vehicle is stored per dwelling unit.
Historic resource adaptive reuse pursuant to SRC chapter 230	Allowed	Historic resource adaptive reuse pursuant to SRC chapter 230 is allowed, subject to SRC 230.085.
Accessory dwelling units	S	Accessory dwelling units, subject to SRC 700.007.

Commented [BB6]: The allowance of this additional use in the RM-II zone is no longer necessary as a result of the requirements associated with **State House Bill HB2583**.

Under this bill local governments are no longer allowed to limit maximum occupancies within residential dwelling units based on familial or non-familial relationships.

As such a "family" will now include an individual or any number of persons who need not be related by blood, marriage, domestic partnership, legal adoption, or guardianship.

Because any number of unrelated people can now live together in a dwelling unit (subject to compliance with maximum building code occupancy) allowing a resident family to take two additional boards is no longer necessary.

CHAPTER 515. RH—MULTIPLE FAMILY HIGH-RISE RESIDENTIAL

(Note: The following amendments are excerpts from SRC Chapter 515. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH515ULFAHISERE

Sec. 515.005. Uses.

The permitted (P), special (S), conditional (C), and prohibited (N) uses in the RH zone are set forth in Table 515-1.

TABLE 515-1. USES		
Use	**Status**	**Limitations & Qualifications**
Other Uses		
Temporary uses	P	The following temporary uses: ■ Christmas tree sales, subject to SRC 701.015.

		■ Residential sales/development office, subject to SRC 701.030.
Home occupations	S	Home occupations, subject to SRC 700.020.
Guest houses and guest quarters	P	Guest houses and guest quarters are permitted as an accessory use to single family, provided such houses and quarters are dependent upon the main building for either kitchen or bathroom facilities, or both, and are used for temporary lodging and not as a place of residence.
~~Taking of borders or leasing of rooms by a resident family~~	~~P~~	~~The taking of boarders or leasing of rooms by a resident family is permitted as an accessory use to household living, provided the total number of boarders and roomers does not exceed 2 in any dwelling unit.~~
Storage of commercial vehicle as an accessory use to household living	P	Storage of a commercial vehicle as an accessory use to household living is permitted, provided no more than 1 commercial vehicle is stored per dwelling unit.
Nonresidential uses in a mixed-use project	S	Nonresidential uses in a mixed-use project, subject to SRC 700.040.
Historic resource adaptive reuse pursuant to SRC chapter 230	Allowed	Historic resource adaptive reuse pursuant to SRC chapter 230 is allowed, subject to SRC 230.085.
Accessory dwelling units	S	Accessory dwelling units, subject to SRC 700.007.

Commented [BB7]: The allowance of this additional use in the RH zone is no longer necessary as a result of the requirements associated with **State House Bill HB2583**.

Under this bill local governments are no longer allowed to limit maximum occupancies within residential dwelling units based on familial or non-familial relationships.

As such a "family" will now include an individual or any number of persons who need not be related by blood, marriage, domestic partnership, legal adoption, or guardianship.

Because any number of unrelated people can now live together in a dwelling unit (subject to compliance with maximum building code occupancy) allowing a resident family to take two additional boards is no longer necessary.

CHAPTER 521. CO—COMMERCIAL OFFICE

(Note: The following amendments are excerpts from SRC Chapter 521. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH521OMOF

Sec. 521.005. Uses.

The permitted (P), special (S), conditional (C), and prohibited (N) uses in the CO zone are set forth in Table 521-1.

TABLE 521-1. USES		
Use	**Status**	**Limitations & Qualifications**
Other Uses		
Temporary uses	P	Christmas tree sales, subject to SRC 701.015.
Home occupations	S	Home occupations, subject to SRC 700.020.
Guest houses and guest quarters	P	Guest houses and guest quarters are permitted as an accessory use to single family, provided such houses and quarters are dependent upon the main building for either kitchen or bathroom facilities, or both, and are used for temporary lodging and not as a place of residence.

~~Taking of borders or leasing of rooms by resident family~~	~~P~~	~~Taking of boarders or leasing of rooms by a resident family is permitted as an accessory use to household living, provided the total number of boarders and roomers does not exceed 2 in any dwelling unit.~~
Storage of commercial vehicle as an accessory use to household living	P	Storage of a commercial vehicle as an accessory use to household living is permitted, provided no more than 1 commercial vehicle is stored per dwelling unit.
Historic resource adaptive reuse pursuant to SRC chapter 230	Allowed	Historic resource adaptive reuse pursuant to SRC chapter 230 is allowed, subject to SRC 230.085.
Accessory dwelling units	S	Accessory dwelling units, subject to SRC 700.007.

Commented [BB8]: The allowance of this additional use in the CO zone is no longer necessary as a result of the requriements associated with **State House Bill HB2583**.

Under this bill local governments are no longer allowed to limit maximum occupancies within residential dwelling units based on familial or non-familial relationships.

As such a "family" will now include an individual or any number of persons who need not be related by blood, marriage, domestic partnership, legal adoption, or guardianship.

Because any number of unrelated people can now live together in a dwelling unit (subject to compliance with maximum building code occupancy) allowing a resident family to take two additional boards is no longer necessary.

CHAPTER 530. FMU—FAIRVIEW MIXED-USE

(Note: The following amendments are excerpts from SRC Chapter 530. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH530FAIMIE

Sec. 530.040. Uses.

(a) Except as otherwise provided in this section, the permitted (P), special (S), conditional (C), and prohibited (N) uses in the FMU zone are set forth in Table 530-1.

TABLE 530-1. USES					
Use	**Status**				**Limitations & Qualifications**
	LI	**MI**	**AU**	**VC**	
Other Uses					
Accessory short-term rentals	S	-	-	-	Accessory short-term rental, subject to SRC 700.006
Temporary uses	N	P	P	P	Residential sales/development office, subject to SRC 701.030.
Home occupations	S	S	S	S	Home occupations, subject to SRC 700.020.
Accessory dwelling units	P	P	P	P	
~~Taking of boarders or leasing of rooms by a resident family~~	~~P~~	~~P~~	~~P~~	~~P~~	~~Taking of boarders or leasing of rooms by a resident family is permitted as an accessory use to household living, provided the total number of boarders and roomers does not exceed 2 in any dwelling unit.~~

Commented [BB9]: The allowance of this additional use in the FMU zone is no longer necessary as a result of the requirements associated with **State House Bill HB2583**.

Under this bill local governments are no longer allowed to limit maximum occupancies within residential dwelling units based on familial or non-familial relationships.

As such a "family" will now include an individual or any number of persons who need not be related by blood, marriage, domestic partnership, legal adoption, or guardianship.

Because any number of unrelated people can now live together in a dwelling unit (subject to compliance with maximum building code occupancy) allowing a resident family to take two additional boards is no longer necessary.

CHAPTER 700. SPECIAL USE PROVISIONS

(Note: The following amendments are excerpts from SRC Chapter 700. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH700SPUSPR

Sec. 700.006. Accessory short-term rentals.

Where designated as a special use, accessory short-term rentals shall comply with the additional standards set forth in this section. The standards in this section cannot be modified through conditional use approval.

(a) *Operated as accessory use.* An accessory short-term rental shall only be operated as an accessory use to a single family or two family use on the same lot. In order to qualify as an accessory use:

(1) The accessory short-term rental must be operated by the resident family who resides in the dwelling unit; and

(2) The resident family must reside in the dwelling unit for a minimum of 270 days during each calendar year.

(3) For purposes of this subsection, the resident family must be:

(A) The owner of the dwelling unit; or

(B) A tenant of the dwelling unit, provided there are no more than five existing tenants within the dwelling unit.

(b) *Structure type.* An accessory short-term rental shall be located within a lawfully-built single family dwelling unit, two family dwelling unit, or guest house, that meet building code requirements. For purposes of this subsection, a dwelling unit within a condominium is considered a single family dwelling unit. An accessory short-term rental shall not be allowed in:

(1) An accessory dwelling unit (ADU);

(2) A tent or other temporary enclosure or shelter;

(3) A recreational vehicle, travel trailer, or similar structure;

(4) A motor vehicle; or

(5) Any structure not intended for ongoing human occupancy;

(c) *Relationship to other accessory uses on lot.* In order to minimize the cumulative impacts of multiple accessory uses located on one lot, an accessory short-term rental shall not be allowed if any of the following accessory uses are being conducted on the lot:

(1) Accessory dwelling unit (ADU)~~; and~~

~~(2) Taking of boarders or leasing of rooms by a resident family.~~

(d) *Number of guest rooms.*

(1) *Hosted rental.* When the resident family is present as a host, the maximum number of guest rooms, including those within a guest house, that may be rented shall not exceed three.

Commented [BB10]: Subsection amended in response to the requirements associated with **State House Bill HB2583**, which prevents local governments from limiting maximum occupancies within residential dwelling units based on familial or non-familial relationships.

Language retains the underlying intent of the original standard. The proposed five tenants is consistent with the maximum five unrelated people that could previously live in a dwelling unit under the definition of a family. Since accessory short-term rentals could not previously be operated on a property when roomers and boarders were also being taken on, limiting the operation of an accessory short-term rental to a dwelling with no more than five existing tenants remains policy neutral.

Commented [BB11]: Removed in response to the requirements associated with **State House Bill HB2583**.

Under this bill local governments are no longer allowed to limit maximum occupancies within residential dwelling units based on familial or non-familial relationships.

Under HB2583, this use is no longer relevant and has been removed from the zones where it's currently allowed. It also needs to be removed here.

(2) *Non-hosted rental.* When the resident family is not present as a host, the entire dwelling unit, and if applicable guest house, may be rented; there is no maximum limit on the number of guest rooms that may be used.

(e) *Number of guests.*

(1) Hosted rental. The maximum number of guests shall not exceed two per guest room.

(2) Non-hosted rental. When the resident family is not present as a host, the maximum number of guests shall not exceed two per guest room, but in no case shall the total number of guests exceed ten.

(3) For purposes of this subsection, children under 12 years of age do not count toward the maximum number of guests.

(f) *Length of stay.* The maximum length of stay for any guest shall not exceed 29 consecutive days.

(g) *Booking limits.*

(1) *Hosted rental.*

(A) There is no maximum limit on the number of days within a calendar year an accessory short-term rental may be rented when the resident family is present as a host.

(B) Multiple bookings at any given time by more than one group of guests are allowed.

(2) *Non-hosted rental.*

(A) The total number of days within a calendar year an accessory short-term rental may be rented without the resident family being present as a host shall not exceed a maximum of 95 days.

(B) Rental of the accessory short-term rental shall be limited to a maximum of one booking at any given time. Multiple bookings at any given time by more than one group of guests are not allowed.

(h) *Activities allowed.* Accessory short-term rentals shall be limited to the provision of lodging. Activities other than lodging, such as events, gatherings, luncheons, banquets, parties, weddings, meetings, fundraising, or commercial or advertising activities, are prohibited.

CHAPTER 110. GENERAL ZONING PROVISIONS

(Note: The following amendments are excerpts from SRC Chapter 110. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH110GEZOPR

Sec. 110.075. Formal interpretations.

(a) *Purpose.* The purpose of a formal interpretation is to clarify ambiguous provisions in the UDC and their application in particular circumstances. Formal interpretations regarding the classification of land uses that are not readily classifiable within particular use classifications under SRC Chapter 400 (Use Classifications) are not formal interpretations subject to this section, but instead similar use determinations subject to SRC 400.016.

(b) *Procedure.* In lieu of the procedures set forth in SRC chapter 300, formal interpretations shall follow the procedures set forth in this section.

(c) *Review Authority.* The Planning Administrator is authorized to issue formal interpretations of the UDC.

(d) *Submittal requirements.* Requests for formal interpretations shall be submitted on a form provided by the Planning Administrator and shall be accompanied by the following:

(1) A written statement:

(A) Identifying the provision(s) of the UDC for which the formal interpretation is being requested; and

(B) Describing the applicant's understood meaning of the provisions and/or how they are intended to be applied;

(2) Any additional supporting information the applicant deems necessary to provide evidence in support of the requested formal interpretation;

(3) For formal interpretations specific to a particular property that is subject to an active and duly incorporated Homeowner's Association (HOA) registered with the Oregon Secretary of State which includes an identified registered agent, the HOA name and mailing address for the registered agent; and

(4) Payment of the applicable application fee pursuant to SRC 110.090.

~~(c) *Issuance.* The Director is authorized to issue formal interpretations of the UDC. Requests for formal interpretations shall be submitted on a form provided by the Director.~~

~~(1) The Director shall make a written interpretation of the specific provision of the UDC subject to the request for formal interpretation. Appeals of formal interpretations by the Director shall be to the Council.~~

~~(2) In lieu of issuing an interpretation under subsection (c)(1) of this section, the Director may refer the request for formal interpretation to the Hearings Officer, in which case the Hearings Officer shall make a written interpretation of the specific provision of the UDC subject to the formal interpretation request. Appeals of formal interpretations referred to the Hearings Officer shall be to the Council.~~

~~(d) *Notice.* Notice of adoption of the formal interpretation shall be provided within ten days of the date the interpretation is issued. Notice shall be:~~

Commented [BB1]: Requirements for formal code interpretations updated to provide a more clearly prescribed review and approval process, including more clearly defined requirements for public notice and appeals.

The review process is the same as is proposed for similar use determinations under SRC 400.016.

Commented [BB2]: Language added to distinguish between formal interpretations reviewed under SRC 110.075 and similar use determinations reviewed under SRC 400.016.

Commented [BB3]: List of application submittal requirements identified.

~~(1) Provided to the applicant, all City-recognized neighborhood associations, and anyone who has submitted a written request to receive notification of formal interpretations; and~~

~~(2) Posted on the City's website.~~

~~(e) *Appeal and review.* Unless appealed, or review is initiated by the Council pursuant to SRC chapter 300, the formal interpretation shall become final 21 days after the date it appears on the Council agenda.~~

~~(f) *Record of formal interpretations.* The Director shall keep a permanent file of all formal interpretations.~~

~~(g) *Effect of formal interpretation.* Formal interpretations which have become final shall control future application and enforcement of the UDC, unless superseded by subsequent formal interpretations.~~

(e) *Decision*. Subsequent to the application being deemed complete, the Planning Administrator shall review the request and issue a formal interpretation of the specific provision(s) of the UDC for which the formal interpretation has been requested. The interpretation shall:

(1) Be based on the facts contained within the record and the rules of construction for interpreting the UDC included under SRC 110.080; and

(2) Be in the form of a written order containing findings stating the facts relied upon in rendering the interpretation and explaining the justification for the decision.

(f) *Notice of decision.* Notice of the decision for a formal interpretation shall be mailed. An affidavit of mailing shall be prepared and made part of the file.

(1) The notice of decision shall be mailed to:

(A) The applicant(s) and/or authorized representative(s);

(B) All City-recognized neighborhood associations;

(C) Anyone who has submitted a written request to receive notification of formal interpretations; and

(D) The following, when the formal interpretation is specific to a particular property:

(i) The owner of record of the subject property;

(ii) The address of the subject property, based on the City's current addressing records;

(iii) Property owners of record, as shown on the most recent property tax assessment roll, of properties located within 250 feet of the subject property;

(iv) Addresses, based on the City's current addressing records, within 250 feet of the subject property; and

(v) Any active and duly incorporated Homeowner's Association (HOA) involving the subject property that is registered with the Oregon Secretary of State and which includes an identified registered agent. For purposes of this subsection, the HOA shall be the HOA as identified by the applicant. Notice requirements to the HOA shall be deemed to have been met when notice is provided to the registered agent of the HOA utilizing the contact information provided by the applicant.

(2) The notice of decision shall include:

(A) A brief description of the application;

(B) A brief summary of the decision;

(C) A statement of the facts relied upon;

(D) The date the decision becomes effective, unless appealed;

Commented [BB4]: Clarification provided explaining what the Planning Administrator's formal interpretation of the UDC must be based on.

Commented [BB5]: Requirements for what the notice of decision on a formal interpretation must include are established.

(E) The date, time, and place by which an appeal must be filed, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process;

(F) A statement that only those persons with standing may appeal the decision; and

(G) A statement that the complete case file is available for review. The notice shall state where the case file is available and the name and telephone number of the staff case manager to contact about reviewing the case file.

(g) *Appeal.*

(1) *Generally.* Unless appealed, the decision of the Planning Administrator on a formal interpretation shall be the final decision of the City.

(2) *Standing to appeal.* Only the applicant and anyone entitled to notice of the decision have standing to appeal the decision on a formal interpretation.

(3) *Procedure.* Except as otherwise provided in this section, appeals of formal interpretations shall be subject to the procedures set forth under SRC 300.1010 through SRC 300.1045.

(4) *Review Authority.* The review authority for an appeal of a formal interpretation shall be the City Council.

(5) *Public Notice.* Public for an appeal shall be provided as set forth under SRC 300.1040(b) except that posted notice is only required for an appeal of a formal interpretation that is specific to a particular property.

(6) *Decision.* The appeal body may endorse or refute the decision. If the appeal body refutes the decision, it shall issue an interpretation of the provision(s) of the UDC for which the formal interpretation has been requested. The appeal body's interpretation shall be based on the facts contained within the record and the rules of construction for interpreting the UDC included under SRC 110.080. The decision of the appeal body shall be in the form of a written order containing findings stating the facts relied upon in rendering the interpretation and explaining the justification for the decision. The written order shall be mailed to:

(A) The appellant;

(B) The applicant(s) and/or authorized representative(s), if other than the appellant;

(C) The owner of record of the subject property, when the formal interpretation is specific to a particular property;

(D) All City-recognized neighborhood associations;

(E) Anyone who appeared either orally or in writing before the close of the public record on the appeal; and

(F) Anyone who requested to receive notice of the decision.

(7) The decision of the Review Authority on appeal shall be the final decision of the City. Appeal of the City's final decision is to the Oregon Land Use Board of Appeals.

(h) *Effect of formal interpretation.* Formal interpretations which have become final shall control future application and enforcement of the UDC, unless superseded by subsequent formal interpretations. When a formal interpretation has been made in reference to a specific particular property, the interpretation shall apply generally throughout the City and not just to that property.

(i) *Record of formal interpretations.* The Planning Administrator shall keep a permanent file of all formal interpretations.

(Prior Code, § 110.075; Ord. No. 31-13)

Commented [BB6]: A more clearly defined appeal process is prescribed.

Commented [BB7]: Clarification provided explaining what the appeal body's formal interpretation of the UDC must be based on.

Sec. 110.080. Rules of construction.

The following rules of construction shall be used in interpreting the UDC:

(a) An interpretation shall be consistent with generally accepted principles of statutory construction as recognized by the Oregon courts, and shall not, by way of interpretation, add new restrictions, standards, or policies that are not apparent or necessarily implied within the text or context of the provision.

(b) In making an interpretation, the duty is to simply ascertain and declare what is, in terms or in substance, contained in the provision.

(c) No interpretation shall insert what has been omitted or omit what has been inserted.

(d) Where there are several provisions relating to the same subject, a construction shall be given where, if possible, all provisions will be given effect.

(e) As used in the UDC, words used in the present tense include the future, the singular number includes the plural, and the word "shall" is mandatory and not directory.

(f) An interpretation shall consider the Salem Area Comprehensive Plan, where applicable. No interpretation shall be inconsistent with the Salem Area Comprehensive Plan.

(g) In construing an ambiguous provision, the legislative history of the provision may be considered.

(h) In making interpretations, great weight shall be given to prior interpretations of the same or any related provision.

(i) Chapters in the UDC contain purpose statements which are intended to provide general explanatory information concerning the chapter. The content of these sections does not constitute approval criteria.

(Prior Code, § 110.080; Ord. No. 31-13)

CHAPTER 205. LAND DIVISION AND RECONFIGURATION[1]

(Note: The following amendments are excerpts from SRC Chapter 205. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH205LADIRE

~~Sec. 205.065. Property boundary verification.~~

~~(a) *Applicability.* The purpose of this section is to provide a process whereby the outside boundary of two or more contiguous units of land held under the same ownership may be established as the property line for purposes of application of the Building Code.~~

~~(b) *Procedure type.* A property boundary verification is processed as a Type I procedure under SRC chapter 300.~~

~~(c) *Submittal requirements.* In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for property boundary verification shall include:~~

~~(1) A copy of the recorded deeds for the existing units of land; and~~

~~(2) A copy of the proposed legal description defining the outside boundary of the units of land to be considered as a single lot for purposes of the Building Code.~~

~~(d) *Criteria.* A property boundary verification shall be approved if the following criteria are met:~~

~~(1) The proposed modification does not substantially change the original approval; and~~

~~(1) The proposed property boundary verification involves units of land that are under the same ownership; and~~

~~(2) The proposed legal description accurately defines the outside boundary of the units of land to be considered as a single lot for purposes of the Building Code.~~

~~(e) *Recording.* The approved legal description defining the outside boundary of the units of land to be considered as a single lot for purposes of the Building Code shall be recorded with the county. Prior to issuance of a building permit, a copy of the recorded legal description shall be provided to the Director.~~

~~(Prior Code, § 205.065; Ord. No. 31-13)~~

[1]State law reference(s)—Planning and development, ORS 227.010 et seq.

CHAPTER 800. GENERAL DEVELOPMENT STANDARDS

(Note: The following amendments are excerpts from SRC Chapter 800. The complete chapter can be found via the below link)

https://library.municode.com/or/salem/codes/code_of_ordinances?nodeId=TITXUNDECO_UDC_CH800GEDEST

Sec. 800.015. Lot standards, generally.

(a) *Lot shape and size.* In addition to meeting all applicable lot standards of the UDC, all lots, as far as practicable, shall be regular in shape and shall be of a size and configuration so that their net remaining area exclusive of required setbacks, easements, riparian corridors, and mapped floodplain/floodway boundaries and wetlands is buildable.

(b)~~(a)~~ *Buildings to be on a lot.* Every building or structure shall be entirely located on a lot. ~~Where two or more lots are under single ownership to accommodate a single development, the entire combined area shall be considered as a single lot for purposes of the UDC.~~ Buildings that are attached at a common property line, but which otherwise meet all requirements of SRC chapter 56 as separate buildings shall be considered as separate buildings for purposes of this subsection.

(c)~~(b)~~ *Side lot lines.* As far as is practicable, side lot lines shall run at right angles to the street upon which the lot faces, except that on curved streets they shall be radial to the curve.

(Prior Code, § 800.015; Ord. No. 31-13)

Commented [BB1]: Standard proposed to ensure that all lots created are of a size and shape so they are buildable when taking into consideration required setbacks, easements, and physical limitations of the property (e.g. riparian corridors, wetlands, flood boundaries).

Commented [BB2]: Section amended to remove language which specifies that lots under common ownership accommodating a single development are considered a single lot for purposes of the UDC.

Each individual lot, regardless of whether it's under common ownership, is a separate lot under the UDC.

Sec. 800.065. Pedestrian access.

Commented [BB3]: Pedestrian access standards proposed to be amended to further clarify their applicability in certain situations.

Except where pedestrian access standards are provided elsewhere under the UDC, and unless otherwise provided in this section, all development~~s~~, other than development of ~~than~~ single family, two family, three family, four family, and multiple family ~~developments~~uses, shall include an on-site pedestrian circulation system developed in conformance with the standards in this section. For purposes of this section development means the construction of, or addition to, a building or accessory structure or the construction of, or alteration or addition to, an off-street parking or vehicle use area. Development does not include construction of, or additions to, buildings or accessory structures that are less than 200 square feet in floor area.

Commented [BB4]: "Development" defined for purposes of establishing the applicability of the pedestrian access standards in this section.

Development includes:

- The construction or addition to a building or accessory structure; or
- The construction, alteration, or addition to an off-street parking or vehicle use area.

(a) *Pedestrian connections required.* The on-site pedestrian circulation system shall provide pedestrian connectivity throughout the development site as follows:

(1) *Connection between building entrances and streets.*

(A) Except as otherwise provided in this subsection, ~~A~~ a pedestrian connection shall be provided between the primary building entrance of each building on the development site and each adjacent street. Where a building has more than one primary building entrance, a single pedestrian connection from one of the building's primary entrances to each adjacent street is allowed; provided each of the building's primary entrances are connected, via a pedestrian connection, to the required connection to the street (see Figure 800-11).

(B) Where an adjacent street is a transit route and there is an existing or planned transit stop along street frontage of the development site, at least one of the required pedestrian

connections shall connect to the street within 20 feet of the transit stop (see Figure 800-12).

(C) A pedestrian connection is not required between the primary building entrance of a building and each adjacent street if:

(i) The development site is a corner lot and the building has a primary building entrance that is located within 20 feet of, and has a pedestrian connection to, the property line abutting one of the adjacent streets; or

(ii) The building is a service, storage, maintenance, or similar type building not primarily intended for human occupancy.

Commented [BB5]: Exemption from pedestrian access standard between building primary entrances and streets established for:

- Service, storage, and maintenance-type buildings not primarily intended for human occupancy; and
- Buildings on corner lots that have a primary building entrance located within 20 feet of, and which has a pedestrian to, one of the adjacent streets.

FIGURE 800-11. PEDESTRIAN CONNECTIONS BETWEEN BUILDING ENTRANCES AND STREET

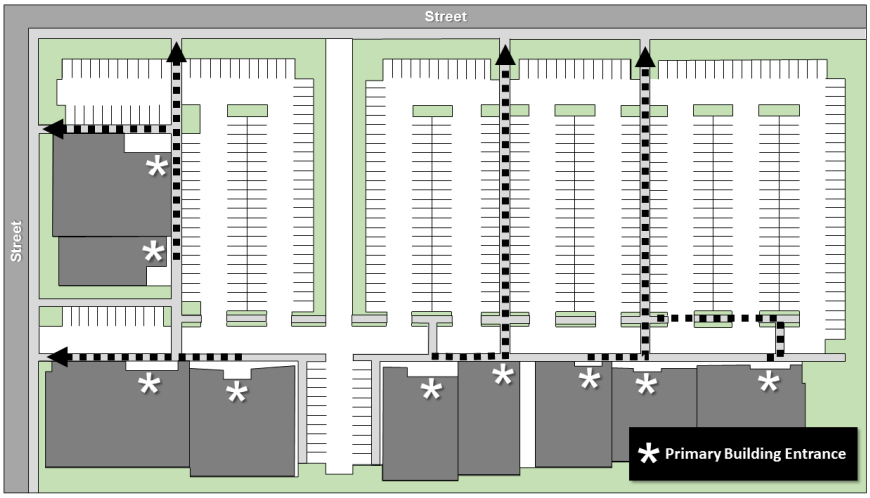
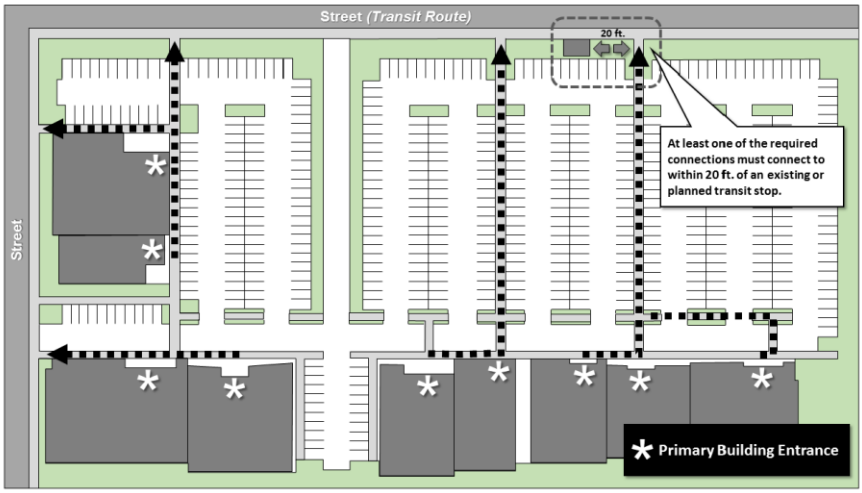


FIGURE 800-12. PEDESTRIAN CONNECTIONS ABUTTING TRANSIT ROUTE



(2) *Connection between buildings on the same development site.* ~~Where there is more than one building on a development site, a pedestrian connection, or pedestrian connections, shall be provided to connect the primary building entrances of all of the buildings.~~

(A) Except as otherwise provided in this subsection, where there is more than one building on a development site, a pedestrian connection, or pedestrian connections, shall be provided to connect the primary building entrances of all of the buildings.

(B) A pedestrian connection, or pedestrian connections, is not required between buildings on the same development site if:

(i) The buildings have a primary building entrance that is located within 20 feet of, and has a pedestrian connection to, the property line abutting a street; and

(ii) A public sidewalk within the adjacent street right-of-way provides pedestrian access between the primary building entrances; or

(iii) The buildings are service, storage, maintenance, or similar type buildings not primarily intended for human occupancy.

Commented [BB6]: Exemption added allowing buildings located in close proximity to a street to utilize the adjacent public sidewalk for the required pedestrian connection between buildings on the same development site.

Exemption also added for service, storage, maintenance and similar buildings not intended for human occupancy.

(3) *Connection through off-street parking areas.*

(A) Surface parking areas. Except as provided under subsection (a)(3)(A)(iii) of this section, off-street surface parking areas greater than 25,000 square feet in size or including four or more consecutive parallel drive aisles shall include pedestrian connections through the parking area to the primary building entrance or where there is no building, through the parking area as provided in this subsection.

(i) The pedestrian connections shall be:

(aa) Provided in a minimum amount of either one connection for every four drive aisles or one connection for every 250 feet (See Figure 800-13); provided, however, in no case shall less than one pedestrian connection be provided. Where the pedestrian connection requirements of this subsection result in a fractional number, any fractional number greater

than 0.5 shall be round up to require an additional pedestrian connection;

(bb) Spaced a minimum of two drive aisles apart; and

(cc) Connected to a pedestrian connection, or pedestrian connections, that lead to the primary building entrance. Where there is no building, the pedestrian connections shall connect to the street either at the sidewalk or at the public street right-of-way when there is no sidewalk.

(ii) Where the off-street surface parking area is adjacent to a street that is a transit route and there is an existing or planned transit stop along the street frontage of the development site, at least one of the required pedestrian connections shall connect to the street within 20 feet of the transit stop.

(iii) A pedestrian connection provided between a primary building entrance and a street may be counted as a required connection through an off-street surface parking area.

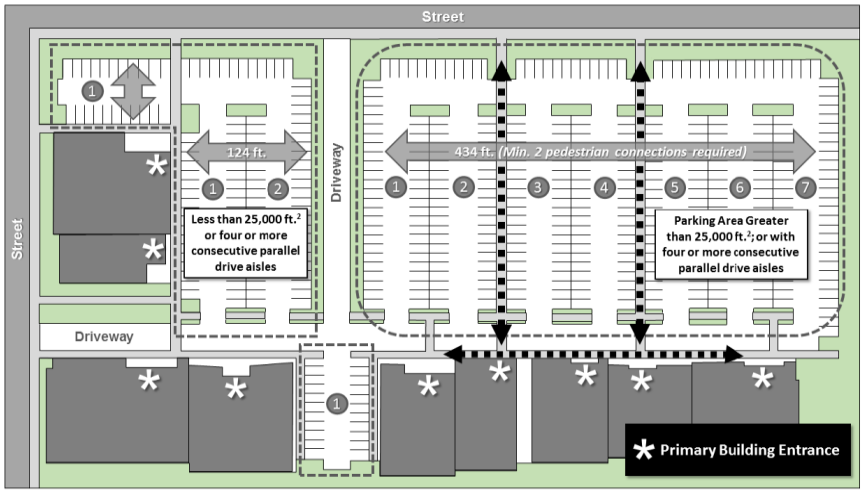
(iv) Regardless of the size of the off-street parking area, pedestrian connections are not required through off-street surface parking areas that have a depth, in all locations, of not more than 124 feet. For purposes of this subsection, parking area depth is measured through the parking area from its outside edge towards the building.

(v) For purposes of this subsection, off-street surface parking area means:

(aa) An off-street surface parking area that is separated from other off-street surface parking areas on the development site by either a driveway, which begins at the street and extends into the site, or other physical separation; or

(bb) An off-street surface parking area located in a separate location on the development site from other off-street surface parking areas.

FIGURE 800-13. PEDESTRIAN CONNECTIONS THROUGH OFF-STREET PARKING AREAS



(B) Parking structures and parking garages. Where an individual floor of a parking structure or parking garage exceeds 25,000 square feet in size, a pedestrian connection shall be provided through the parking area on that floor to an entrance/exit.

(4) *Connection to existing or planned paths and trails.* Where an existing or planned path or trail identified in the Salem Transportation System Plan (TSP) or the Salem Comprehensive Parks System Master Plan passes through a development site, the path or trail shall:

(A) Be constructed, and a public access easement or dedication provided; or

(B) When no abutting section of the trail or path has been constructed on adjacent property, a public access easement or dedication shall be provided for future construction of the path or trail.

(5) *Connection to abutting properties.* Whenever a vehicular connection is provided from a development site to an abutting property, a pedestrian connection shall also be provided. A pedestrian connection is not required, however:

(A) To abutting properties used for activities falling within the following use classifications, use categories, and uses under SRC Chapter 400:

(i) Single family;

(ii) Two family;

(iii) Group living;

(iv) Industrial;

(v) Infrastructure and utilities; and

(vi) Natural resources.

(B) Where the use of an abutting property has specific security needs that make providing a connection impractical or undesirable;

(C) Where on-site activities on abutting properties, such as the operation of trucks, forklifts, and other equipment and machinery would present safety conflicts with pedestrians;

(D) Where buildings or other improvements on abutting properties physically preclude a connection now or in the future; or

(E) Where physical conditions of the land, such as topography or existing natural resource areas, including, but not limited to, wetlands, ponds, lakes, streams, or rivers, make providing a connection impractical.

(b) *Design and materials.* Required pedestrian connections shall be in the form of a walkway, or may be in the form of a plaza. Where a path or trail identified in the Salem Transportation System Plan (TSP) or Salem Comprehensive Parks System Master Plan is required, the path or trail shall conform to the applicable standards of the TSP or Salem Comprehensive Parks System Master Plan in-lieu of the standards in this subsection.

(1) Walkways shall conform to the following:

(A) *Material and width.* Walkways shall be paved with a hard-surface material meeting the Public Works Design Standards, and shall be a minimum of five feet in width.

(B) Where a walkway crosses driveways, parking areas, parking lot drive aisles, and loading areas, the walkway shall be visually differentiated from such areas through the use of elevation changes, a physical separation, speed bumps, a different paving material, or other similar method. Striping does not meet this requirement, except when used in a parking structure or parking garage.

(C) Where a walkway is located adjacent to an auto travel lane, the walkway shall be raised above the auto travel lane or separated from it by a raised curb, bollards, landscaping or other physical separation. If the walkway is raised above the auto travel lane it must be raised a minimum of four inches in height and the ends of the raised portions must be equipped with curb ramps. If the walkway is separated from the auto travel lane with bollards, bollard spacing must be no further than five feet on center.

(2) Wheel stops or extended curbs shall be provided along required pedestrian connections to prevent the encroachment of vehicles onto pedestrian connections.

(c) *Lighting.* The on-site pedestrian circulation system shall be lighted to a level where the system can be used at night by employees, customers, and residents.

(d) *Applicability of standards to development sites comprised of lots under separate ownership.*

(1) When a development site is comprised of lots under separate ownership, the pedestrian access standards set forth in this section shall apply only to the lot, or lots, proposed for development, together with any additional contiguous lots within the development site that are under the same ownership as those proposed for development.

(2) Where the pedestrian access standards of this section would otherwise require additional pedestrian connections throughout the development site beyond just the lot, or lots, proposed for development and any contiguous lots under the same ownership, the required pedestrian connections shall be extended to the boundaries of the lot, or lots, proposed for development and any contiguous lots under the same ownership in order to allow for future extension of required pedestrian connections through the other lots within the development site in conformance with the standards in this section.

(Ord. No. 6-19 , § 1(Exh. A), 6-24-2019, eff. 7-24-2019; Ord. No. 1-20 , § 2(Exh. B), 2-24-2020)

Commented [BB7]: Clarification added concerning the standards that are applicable to paths or trails required by the TSP or Parks Master Plan.

When a path or trail is required by the TSP or Parks Master Plan, the path or trail shall meet the applicable standards of the TSP or the Parks master plan.

Commented [BB8]: Clarification provided concerning the applicability of pedestrian access standards to development sites where the lots within the development site are under separate ownership.

For development sites comprised of lots under separate ownership, the pedestrian access standards are required to be met for only the lot that's proposed for development and any contiguous lots to that lot that are under the same ownership as the lot being developed.

In order to ensure that pedestrian connections are provided from the portion of the development site that's being developed to other lots in the development site that are not under the same ownership, pedestrian connections are required to be extended to the perimeter of the lot to allow for future pedestrian access to those properties.

CHAPTER 808. PRESERVATION OF TREES AND VEGETATION

Sec. 808.001. Purpose.

The purpose of this chapter is to provide for the protection of heritage trees, significant trees, and trees and native vegetation in riparian corridors, as natural resources for the City, and to increase tree canopy over time by requiring tree preservation and planting of trees in all areas of the City.

(Prior Code, § 808.001; Ord. No. 31-13)

Sec. 808.005. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arborist means a person who has met the criteria for certification from the International Society of Arboriculture, the American Society of Consulting Arborists, or similar professional organization, and maintains accreditation.

Caliper means the diameter of a tree trunk measured at six inches above ground level for trunks up to and including four-inch caliper size and at 12 inches above ground level for larger sizes, when measuring nursery stock.

Critical root zone means the circular area beneath a tree established to protect the tree's trunk, roots, branches, and soil to ensure the health and stability of the tree. The critical root zone measures one-foot in radius for every one-inch of dbh of the tree.

Commented [BB1]: Definition of "critical root zone" established for purposes of tree protection during construction.

Development means to construct or structurally alter a structure or to make alterations or improvements to land for the purpose of enhancing its economic value or productivity.

Development proposal means any land division, mobile home park permit, conditional use, variance, greenway permit, planned unit development, or site plan review.

Grove means a group of trees providing at least one-half acre of canopy.

Hazardous tree means a tree that is cracked, split, leaning, has a dead top or a large dead limb high in the crown, or is otherwise physically damaged, to the degree that it is likely to fall and injure persons or property. Hazardous trees include diseased trees, meaning those trees with a disease of a nature that, without reasonable treatment or pruning, is likely to spread to adjacent trees and cause such adjacent trees to become diseased or hazardous trees.

Heritage tree means a tree designated as a heritage tree pursuant to SRC 808.010(a).

Invasive non-native vegetation means plant species that are not indigenous to Oregon and which, due to aggressive growth patterns and lack of natural enemies spread rapidly into native plant communities, and which are designated as invasive, non-native vegetation in the tree and vegetation technical manual.

Preserved means the tree appears to be healthy and shows no signs of significant damage due to construction.

Restoration means the return of a stream, wetland, or riparian corridor to a state consistent with habitat that is needed to support a healthy ecosystem.

Significant tree means a rare, threatened, or endangered tree~~s~~ of any size, as defined or designated under state or federal law and included in the tree and vegetation technical manual, ~~and~~ an Oregon white oak~~s~~ (Quercus garryana) with a dbh of 24 inches or greater, and any tree with a dbh of 40 inches or greater.

Suitable for preservation means the health of the tree is such that it is likely to survive the process of development and construction in good condition and health.

Top of bank means the elevation at which water overflows the natural banks and begins to inundate the upland.

Tree means any living, woody plant, that grows to 15 feet or more in height, typically with one main stem called a trunk, which is ten inches or more dbh, and possesses an upright arrangement of branches and leaves. The term "tree" also means any tree planted under SRC 808.035, regardless of dbh. For the purposes of this chapter, in a riparian corridor, the term "tree" includes a dead or dying tree that does not qualify as a hazardous tree.

Tree and Vegetation Technical Manual means that document adopted by the Council which contains administrative regulations to implement the provisions of this chapter, including, but not limited to, lists of invasive non-native vegetation and nuisance vegetation, native vegetation which may be planted to fulfill the requirements of this chapter, identification of waterways, and planting techniques.

Tree removal means to cut down a tree or remove 30 percent or more of the crown, trunk, or root system of a tree; or to damage a tree so as to cause the tree to decline or die. The term "removal" includes, but is not limited to, topping, damage inflicted upon a root system by application of toxic substances, operation of equipment and vehicles, storage of materials, change of natural grade due to unapproved excavation or filling, or unapproved alteration of natural physical conditions. The term "removal" does not include normal trimming or pruning of trees.

~~*Waterway* means any river, perennial stream, or creek within the City as designated by the Director.~~

Water-dependent activity means an activity which can be carried out only on, in, or adjacent to a waterway because the activity requires access to the waterway for water-borne transportation, recreation, energy production, or source of water.

(Prior Code, § 808.005; Ord. No. 31-13)

Sec. 808.010. Heritage trees.

(a) *Designation of heritage trees.* The Council may, by resolution, designate a heritage tree upon nomination by the property owner, in recognition of the tree's location, size, or age; botanical interest; or historic or cultural significance.

(b) *Protection of heritage trees.* No person shall remove a heritage tree unless the tree has been determined to be a hazardous tree by a certified arborist, and such determination is verified by the Planning Administrator.

(c) *Rescinding heritage tree designation.* The Council shall rescind a heritage tree designation if the tree has been removed pursuant to subsection (b) of this section.

(Prior Code, § 808.010; Ord. No. 31-13)

Sec. 808.015. Significant trees.

No person shall remove a significant tree, unless the removal is undertaken pursuant to a tree and vegetation removal permit issued under SRC 808.030, undertaken pursuant to a tree conservation plan approved under SRC 808.035, or undertaken pursuant to a tree variance granted under SRC 808.045.

(Prior Code, § 808.015; Ord. No. 31-13)

Commented [BB2]: Definition of significant tree expanded to include any tree with a dbh of 40 inches or greater.

Commented [BB3]: Definition of waterway moved to definitions chapter (SRC 111).

Sec. 808.016. Oregon white oak groves.

Sec. 808.020. Trees and native vegetation in riparian corridors.

No person shall remove a tree in a riparian corridor or native vegetation in a riparian corridor, unless the removal is undertaken pursuant to a tree and vegetation removal permit issued under SRC 808.030, undertaken pursuant to a tree conservation plan approved under SRC 808.035, or undertaken pursuant to a tree variance granted under SRC 808.045. Roots, trunks, and branches of trees removed in riparian corridors shall remain within the riparian corridor, unless determined to be a potential hazard or impediment to stream flow by the Director.

(Prior Code, § 808.020; Ord. No. 31-13)

Sec. 808.025. Trees on lots or parcels 20,000 square feet or greater.

No person shall, prior to site plan review or building permit approval, remove a tree on a lot or parcel that is 20,000 square feet or greater, or on contiguous lots or parcels under the same ownership that total 20,000 square feet or greater, unless the removal is undertaken pursuant to a tree and vegetation removal permit issued under SRC 808.030, undertaken pursuant to a tree conservation plan approved under SRC 808.035, or undertaken pursuant to a tree variance granted under SRC 808.045. Nothing in this section shall be construed to require the retention of trees, other than heritage trees, significant trees, and trees and vegetation in riparian corridors, beyond the date of site plan review or building permit approval, if the proposed development is other than single family residential or two family residential.

(Prior Code, § 808.025; Ord. No. 31-13)

Sec. 808.030. Tree and vegetation removal permits.

(a) *Applicability.*

(1) Except as provided in subsection (a)(2) of this section, no trees or native vegetation protected under SRC 808.015, SRC 808.020, or SRC 808.025 shall be removed unless a tree and vegetation removal permit has been issued pursuant to this section.

(2) Exceptions. A tree and vegetation removal permit is not required for the removal of trees or native vegetation protected under SRC 808.015, SRC 808.020, or SRC 808.025 when the removal is:

(A) Necessary for maintenance of a vision clearance area, as required in SRC chapter 805;

(B) Required by the City or a public utility for the installation, maintenance, or repair of roads or utilities, including water lines, sewer lines, gas lines, electric lines, and telecommunications lines. This exception does not apply to new development or construction in a riparian corridor;

(C) Necessary for continued maintenance of existing landscaping. For the purposes of this exception, the term "existing landscaping" means an area within a riparian corridor which was adorned or improved through the planting of flowers and trees, contouring the land, or other similar activity prior to June 21, 2000;

(D) Necessary for the installation, maintenance, or repair of public irrigation systems, stormwater detention areas, pumping stations, erosion control and soil stabilization features, and pollution reduction facilities. Maintenance includes the cleaning of existing drainage facilities and trash removal;

(E) Removal of invasive non-native or nuisance vegetation in riparian corridors;

(F) Necessary for public trail or public park development and maintenance;

Commented [BB4]: Consideration is being given as to whether groves of Oregon white oaks, regardless of their size (dbh), should be protected.

It is envisioned that a grove would be defined as a **grouping of five or more oaks whose trunks are located not more than 50 feet of each other**.

Groupings of oaks which meet the definition of a grove would be required to be protected under tree conservation plans associated with subdivisions and partitions creating residential lots. A tree removal permit would be required to remove a tree from a grove where no residential land division is proposed, such as for a multiple family, mixed-use, commercial, or industrial development.

Specific language has not been drafted yet and staff is seeking the Planning Commission's opinion on whether such a standard should be established.

(G) Necessary to conduct flood mitigation;

(H) Necessary to effect emergency actions which must be undertaken immediately, or for which there is insufficient time for full compliance with this chapter, when it is necessary to prevent an imminent threat to public health or safety, prevent imminent danger to public or private property, or prevent an imminent threat of serious environmental degradation. Trees subject to emergency removal must present an immediate danger of collapse. For purposes of this subsection, the term "immediate danger of collapse" means that the tree is already leaning, with the surrounding soil heaving, and there is a significant likelihood that the tree will topple or otherwise fall and cause damage. The person undertaking emergency action shall notify the Planning Administrator within one working day following the commencement of the emergency activity. If the Planning Administrator determines that the action or part of the action taken is beyond the scope of allowed emergency action, enforcement action may be taken;

(I) A commercial timber harvest conducted in accordance with the Oregon Forest Practices Act, ORS 527.610—527.992, on property enrolled in a forest property tax assessment program, and which is not being converted to a non-forestland use. Properties from which trees have been harvested under the Oregon Forest Practices Act may not be partitioned, subdivided, developed as a planned unit development, or developed for commercial uses or activities for a period of five years following the completion of the timber harvest;

(J) Associated with mining operations conducted in accordance with an existing operating permit approved by the Oregon Department of Geology and Mineral Industries under Oregon Mining Claim law, ORS 517.750—517.955;

~~(K) Removal of Oregon white oaks (Quercus garryana) on undeveloped lots or parcels of record as of August 9, 2005, that are less than 20,000 square feet. For the purposes of this section, the term "undeveloped" means that no single family dwelling unit or duplex dwelling unit has been constructed on the lot or parcel as of August 9, 2005;~~

Commented [BB5]: Tree removal permit exemption proposed for removal. It has been roughly 16 years now since August 9, 2005.

~~(L) Removal of Oregon white oaks (Quercus garryana) where the removal is necessary in connection with construction of a commercial or industrial facility;~~

Commented [BB6]: Tree removal permit exemption for removal of Oregon white oaks in connection with the construction of a commercial or industrial facility proposed for removal.

Proposed to be replaced with new tree removal permit criterion established under **SRC 808.030(d)(5)** for removal of significant *trees (including Oregon white oaks)* in connection with multiple family, mixed-use, commercial, or industrial development.

(K)~~(M)~~Necessary as part of a restoration activity within a riparian corridor undertaken pursuant to an equivalent permit issued by the Oregon Division of State Lands and/or the United States Corps of Engineers; provided, however, that the permittee must provide, prior to the removal, a copy of the permit and all required monitoring reports to the Planning Administrator;

(L)~~(N)~~ Removal of trees on a lot or parcel 20,000 square feet or greater, or on contiguous lots or parcels under the same ownership that total 20,000 square feet or greater, and the removal does not result in:

(i) Removal of more than five trees or 15 percent of the trees, whichever is greater, within a single calendar year;

(ii) Removal of more than 50 percent of the trees within any five consecutive calendar years; and

(iii) Removal of heritage trees, significant trees, and trees in riparian corridors;

(M)~~(O)~~Undertaken pursuant to a tree conservation plan, required in conjunction with any development proposal for the creation of lots or parcels to be used for single family uses, ~~or~~ two family uses, three family uses, four family uses, or ~~activities~~cottage clusters, approved under SRC 808.035;

(N)~~(P)~~Undertaken pursuant to a tree conservation plan adjustment granted under SRC 808.040; or

(O)~~(Q)~~Undertaken pursuant to a tree variance granted under SRC 808.045.

(b) *Procedure type.* A tree and vegetation removal permit is processed as a Type I procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for a tree and vegetation removal permit shall include the following:

(1) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:

(A) The total site area, dimensions, and orientation relative to north;

(B) Site topography shown at two-foot contour intervals;

(C) The location of any existing structures on the site;

(D) The type, size, and location of trees and native vegetation to be preserved or removed;

(E) The locations and descriptions of staking or other protective devices to be installed for trees and native vegetation to be preserved; and

(F) The site plan may contain a grid or clear delineation of phases that depict separate areas where the work is to be performed.

(2) In addition to the information required by subsection (c)(1) of this section, an application for tree or native vegetation removal connected with restoration activity in a riparian corridor shall include:

(A) A delineation of the boundaries of the riparian corridor on the site plan;

(B) A conceptual tree and vegetation planting or replanting plan;

(C) A completed wetland delineation or determination, if applicable;

(D) A grading plan, if grading is planned or anticipated;

(E) A verification from the Department of Public Works that erosion control measures will be initiated, if required; and

(F) A monitoring and maintenance plan, if required by Oregon Division of State Lands or the United States Corps of Engineers.

(3) Waiver of submittal requirements for certain restoration activities in riparian corridors. The Planning Administrator may waive the requirement to submit all or part of the information required by subsections (c)(1) and (2) of this section for a restoration activity in a riparian corridor that affects less than one-quarter acre and does not require a permit from the Oregon Division of State Lands or United States Corps of Engineers.

(d) *Approval criteria.* An application for a tree and vegetation removal permit shall be granted if one or more of the following criteria are met:

(1) *Hazardous tree.* The condition or location of the tree presents a hazard or danger to persons or property; and the hazard or danger cannot reasonably be alleviated by treatment or pruning, or the tree has a disease of a nature that even with reasonable treatment or pruning is likely to spread to adjacent trees and cause such trees to become hazardous trees.

(2) *Repair, alteration, or replacement of existing structures.* The tree or native vegetation removal is reasonably necessary to effect the otherwise lawful repair, alteration, or replacement of structures existing as of June 21, 2000, the footprint of the repaired, altered, or replacement structure is not enlarged, and no additional riparian corridor area is disturbed beyond that essential to the repair, alteration, or replacement of the existing structure.

(3) *Water-dependent activities.* The tree or native vegetation removal is necessary for the development of a water-dependent activity, and no additional riparian corridor area will be disturbed beyond that essential to the development of the water-dependent activity.

(4) *Restoration activity within riparian corridor.* The tree or native vegetation removal is required for a restoration activity within a riparian corridor designed to improve the habitat, hydrology, or water quality function of the riparian corridor, and:

(A) The short-term impacts of the restoration activity will be minimized;

(B) Effective erosion control measures will be implemented;

(C) All necessary permits have been applied for or obtained; and

(D) No trees or native vegetation will be removed unless the removal is justified for the long term benefit of the environment and is in keeping with acceptable riparian restoration guidance.

(5) *Removal of significant tree in connection with the construction of a multiple family, mixed-use, commercial, or industrial development.* The removal of the significant tree is necessary for the construction of a multiple family, mixed-use, commercial, or industrial development and:

(A) Without approval of the tree removal permit the proposed development cannot otherwise meet the applicable development standards of the UDC without a variance or adjustment;

(B) There are no reasonable design alternatives that would enable preservation of the tree; and

(C) Not more than five significant trees or 15 percent of the significant trees, whichever is greater, on contiguous lots or parcels under the same ownership are proposed for removal.

Commented [BB7]: New Tree Removal Permit approval criterion proposed addressing significant tree removal. Approval criterion proposed to be expanded to apply to not only commercial and industrial development but also multiple family and mixed-use development.

(e) *Conditions of approval.*

(1) Conditions may be imposed on the approval of a tree and vegetation removal permit to ensure compliance with the approval criteria.

(2) In addition to the conditions imposed under subsection (e)(1) of this section, tree and vegetation removal permits for the removal of trees or native vegetation in connection with a restoration activity within a riparian corridor shall include the following condition:

(A) Trees and native vegetation removed shall be replaced in compliance with the tree and native vegetation replacement standards set forth in SRC 808.055.

(Prior Code, § 808.030; Ord. No. 31-13)

Sec. 808.035. Tree conservation plans.

(a) *Applicability.* A tree conservation plan is required in conjunction with any development proposal for the creation of lots or parcels to be used for single family uses, ~~or~~ two family uses, three family uses, four family uses, or cottage clusters ~~, if the development proposal will result in the removal of trees~~.

Commented [BB8]: Tree conservation plans are proposed to be required for three family uses, four family uses, and cottage clusters in order to ensure consistency in application of tree preservation requirements with single family and two family uses.

(b) *Procedure type.* A tree conservation plan is processed as a Type I procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for a tree conservation plan shall include the following:

(1) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:

(A) The total site area, dimensions, and orientation relative to north;

(B) Proposed lot or parcel lines;

(C) Site topography shown at two-foot contour intervals;

(D) Identification of slopes greater than 25 percent;

(E) The location of any existing structures on the site;

(F) Identification of the type, size, ~~and~~ location, and critical root zone of all existing trees on the property;

(G) Identification of those trees proposed for preservation and those designated for removal;

(H) The location of all utilities and other improvements;

(I) Required setbacks for the proposed lots or parcels;

(J) The locations and descriptions of staking or other protective devices to be used during construction; and

(K) The site plan may contain a grid or clear delineation of phases that depict separate areas in which work is to be performed and identification of those trees proposed for preservation and those designated for removal with each phase.

(2) In addition to the information required by subsection (c)(1) of this section, when a riparian corridor is located on the property, the tree conservation plan shall include:

(A) A delineation of the boundaries of the riparian corridor on the site plan;

(B) A description of the vegetation within the riparian corridor;

(C) A tree and native vegetation replanting plan, in compliance with the standards set forth in SRC 808.055, if trees and native vegetation within the riparian corridor are proposed for removal.

(d) *Approval criteria.* An application for a tree conservation plan shall be granted if the following criteria are met:

(1) No heritage trees are designated for removal;

(2) No significant trees are designated for removal, unless there are no reasonable design alternatives that would enable preservation of such trees;

(3) No trees or native vegetation in a riparian corridor are designated for removal, unless there are no reasonable design alternatives that would enable preservation of such trees or native vegetation;

(4) Not less than ~~25~~ 50 percent of all trees located on the property are designated for preservation; provided, however, if less than ~~25~~ 50 percent of all trees located on the property are designated for preservation, only those trees reasonably necessary to accommodate the proposed development shall be designated for removal.

(e) *Conditions of approval.*

(1) Conditions may be imposed on the approval of a tree conservation plan to ensure compliance with the approval criteria.

(2) In addition to any conditions imposed under subsection (e)(1) of this section, every tree conservation plan shall include the following conditions:

(A) All trees and native vegetation designated for preservation under the tree conservation plan shall ~~be marked and~~ protected during construction as set for in SRC 808.046. ~~Any heritage tree or significant tree shall require that at least 70 percent of a circular area beneath the tree measuring one foot in radius for every one inch of dbh be protected by an above ground silt fence, or its equivalent. Protection measures shall continue until the issuance of a notice of final completion for the single family dwelling or two family dwelling~~.

Commented [BB9]: Submittal requirements for tree conservation plans amended to require the critical root zone of trees to be shown on tree conservation plans.

Because the critical root zones of all trees identified for preservation under a tree conservation are proposed to be protected, showing the critical root zones of trees on the tree conservation plan will enable the plan to be more accurately reviewed to determine whether the proposed lots are buildable based on their size, configuration, and the location of existing trees.

Commented [BB10]: Minimum tree preservation requirements for tree conservation plans proposed to be increased from 25 percent to 50 percent.

Commented [BB11]: Required tree protection measures moved to new section under **SRC 808.046**.

(B) Each lot or parcel within the development proposal shall comply with the tree planting requirements set forth in SRC 808.050.

(f) *Expiration.* A tree conservation plan shall remain valid as long as the development proposal the tree conservation plan is issued in connection with remains valid.

(Prior Code, § 808.035; Ord. No. 31-13)

Sec. 808.040. Tree conservation plan adjustments.

(a) *Applicability.*

(1) Except as provided under subsection (a)(2) of this section, no tree or native vegetation designated for preservation in a tree conservation plan shall be removed unless a tree conservation plan adjustment has been approved pursuant to this section.

(2) Exceptions. A tree conservation plan adjustment is not required for:

(A) A tree that has been removed due to natural causes; provided, however, that evidence must be provided to the Planning Administrator demonstrating the removal was due to natural causes.

(B) Removal of a hazardous tree, subject to a tree and vegetation removal permit issued under SRC 808.030.

(C) Removal necessary to effect emergency actions excepted under SRC 808.030(a)(2)(H).

(b) *Procedure type.* A tree conservation plan adjustment is processed as a Type I procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type I application under SRC chapter 300, an application for a tree conservation plan adjustment shall include the following:

(1) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:

(A) The total site area, dimensions, and orientation relative to north; and

(B) Identification of the type, size, and location of those trees proposed for removal under the tree conservation plan adjustment.

(2) In addition to the information required by subsection (c)(1) of this section, when a riparian corridor is located on the property, an application for a tree conservation plan adjustment shall include:

(A) A delineation of the boundaries of the riparian corridor on the site plan; and

(B) Identification of the type and location of any native vegetation within the riparian corridor proposed for removal under the tree conservation plan adjustment.

(d) *Approval criteria.* A tree conservation plan adjustment shall be approved if the following criteria are met:

(1) There are special conditions that could not have been anticipated at the time the tree conservation plan was submitted that create unreasonable hardships or practical difficulties which can be most effectively relieved by an adjustment to the tree conservation plan.

(2) When the tree conservation plan adjustment proposes the removal of a significant tree, there are no reasonable design alternatives that would enable preservation of the tree.

(3) When the tree conservation plan adjustment proposes the removal of a tree or native vegetation within a riparian corridor, there are no reasonable design alternatives that would enable preservation of the tree or native vegetation.

(4) When the tree conservation plan adjustment proposes to reduce the number of trees preserved in the original tree conservation plan below ~~25~~ 50 percent, only those trees reasonably necessary to accommodate the proposed development are designated for removal.

(e) *Conditions of approval.* Conditions may be imposed on the approval of a tree conservation plan adjustment to ensure compliance with the approval criteria and to fulfill the intent of the original tree conservation plan, including requiring additional plantings on or off site.

(Prior Code, § 808.040; Ord. No. 31-13)

Sec. 808.045. Tree variances.

(a) *Applicability.* Tree variances may be granted to allow deviation from the requirements of this chapter where the deviation is reasonably necessary to permit the otherwise lawful development of a property.

(b) *Procedure type.* A tree variance is processed as a Type II procedure under SRC chapter 300.

(c) *Submittal requirements.* In addition to the submittal requirements for a Type II application under SRC chapter 300, an application for a tree variance shall include the following:

(1) A site plan, of a size and form and in the number of copies meeting the standards established by the Planning Administrator, containing the following information:

(A) The total site area, dimensions, and orientation relative to north;

(B) The location of any existing structures on the site;

(C) Identification of the type, size, and location of all existing trees on the property;

(D) Identification of those trees proposed for preservation and those designated for removal; and

(E) The location of roads, bridges, utilities, and other improvements;

(2) In addition to the information required by subsection (c)(1) of this section, when a riparian corridor is located on the property, an application for a tree variance shall include:

(A) A delineation of the boundaries of the riparian corridor on the site plan;

(B) Identification of the type and location of any native vegetation within the riparian corridor proposed for removal.

(d) *Approval criteria.* A tree variance shall be granted if either of the following criteria is met:

(1) *Hardship.*

(A) There are special conditions that apply to the property which create unreasonable hardships or practical difficulties which can be most effectively relieved by a variance; and

(B) The proposed variance is the minimum necessary to allow the otherwise lawful proposed development or activity; or

(2) *Economical use.*

(A) Without the variance, the applicant would suffer a reduction in the fair market value of the applicant's property, or otherwise suffer an unconstitutional taking of the applicant's property;

(B) The proposed variance is the minimum necessary to prevent a reduction in the fair market value of the applicant's property or otherwise avoid a taking of property; and

(C) The proposed variance is consistent with all other applicable local, state, and federal laws.

(e) *Conditions of approval.*

(1) Conditions may be imposed on the approval of a tree variance to ensure compliance with the approval criteria and to limit any adverse impacts that may result from granting the tree variance.

(2) In addition to any condition imposed under subsection (e)(1) of this section, where a variance is proposed to the requirements for the preservation of trees and native vegetation in riparian corridors, the approval shall include the following conditions:

(A) Altered riparian corridor areas that can be reasonably restored, shall be restored; and

(B) In no case shall alterations to the riparian corridor:

(i) Occupy more than 50 percent of the width of the riparian corridor measured from the upland edge of the corridor; or

(ii) Result in less than 15 feet of vegetated corridor on each side of the waterway.

(Prior Code, § 808.045; Ord. No. 31-13)

Sec. 808.046. Tree protection measures during construction.

Except where specific tree protection requirements are established elsewhere under the UDC, any trees or native vegetation required to be preserved or protected under the UDC shall be protected during construction as follows:

(a) All trees and native vegetation shall be protected during construction with the installation of an above ground silt fence, or its equivalent.

(1) For trees, the above ground silt fence shall encompass a minimum of 70 percent of the critical root zone of the tree.

(2) For native vegetation, the above ground silt fence shall be located around the perimeter of the native vegetation.

(3) Within the area protected by the above ground silt fence, the tree's trunk, roots, branches, and soil shall be protected to ensure the health and stability of the tree; there shall be no grading, placement of fill, storage of building materials, or parking of vehicles; and native vegetation shall not be removed.

(4) Notwithstanding SRC 808.046(a)(3), grading may be allowed within the area protected by the above ground silt fence in order to accommodate development of the property when a report from a certified arborist is submitted documenting that such grading will not compromise the long-term health and stability of the tree and all recommendations included in the report to minimize any impacts to the tree are followed.

(b) Protection measures shall remain in place until issuance of notice of final completion for the dwelling unit(s) on the lot.

Commented [BB12]: New section created establishing standards for the protection of trees during construction.

Commented [BB13]: Exception provided to allow grading within the protected area around a tree when accompanied by a report form a certified arborist indicating the health and stability of the tree will not be compromised.

Sec. 808.050. Tree planting requirements.

(a) Within development proposals for the creation of lots or parcels to be used for single family uses, ~~or~~ two family uses, three family uses, four family uses, or cottage clusters, each lot or parcel shall contain, at a minimum, the number of trees set forth in Table 808-1.

(b) If there are insufficient existing trees on a lot or parcel to satisfy the number of trees required under Table 808-1, additional trees sufficient to meet the requirement shall be planted. The additional trees shall be a minimum 1.5-inch caliper.

TABLE 808-1. TREE PLANTING REQUIREMENTS

Lot or Parcel Size	Minimum Trees Required
Less than 4,000 ft.^{2}	1
4,000 ft.^{2} to 6,000 ft.^{2} ~~or less~~	2

Commented [BB14]: Established a reduced tree planting requirement for lots less than 4,000 square feet in size, such as townhouse lots.

6,001 ft.^{2} to 7,000 ft.^{2}	3
7,001 ft.^{2} to 8,000 ft.^{2}	4
8,001 ft.^{2} to 9,000 ft.^{2}	5
Greater than 9,000 ft.^{2}	6

(Prior Code, § 808.050; Ord. No. 31-13)

Sec. 808.055. Tree and native vegetation replacement standards within riparian corridors.

Where replacement of trees and native vegetation within a riparian corridor is required by this chapter, the replacement shall comply with the following:

(a) Trees and native vegetation removed shall be replaced at an area replacement ratio of one-to-one. If there is inadequate space for replanting at or near the location where the tree or native vegetation was removed, replanting may occur elsewhere within the riparian corridor on the property.

(b) Replacement trees shall have a minimum 1.5-inch caliper and shall be of species authorized in the Tree and Vegetation Technical Manual.

(c) Replacement vegetation shall be of sizes and species authorized in the Tree and Vegetation Technical Manual.

(Prior Code, § 808.055; Ord. No. 31-13)

Sec. 808.060. Tree canopy preservation fund.

(a) Funds collected from any grants and donations for the planting, maintenance, and preservation of trees or from any assessments associated with violations of this chapter, or any permit issued hereunder, shall go into a tree canopy preservation fund, of which 95 percent of ~~which~~ such funds shall be designated for the acquisition, maintenance, and preservation of groves of trees within the City or the Salem-Keizer Urban Growth boundary. The remaining five percent shall be used to promote the planting of new trees as follows, at the discretion of the Director:

(1) In a public or private park, school yard, riparian corridor, or nature area;

(2) In public rights-of-way, except in storm or sewer easements; or

(3) In the form of a donation to nonprofit organizations for the purposes of planting trees within the City or the Salem-Keizer Urban Growth boundary.

(b) The City shall conduct a tree canopy study every census year, using the most economically feasible method, for the purposes of measuring the effectiveness of this chapter and other development-related ordinances in preserving and improving the amount of tree canopy area within the City or the Salem-Keizer Urban Growth boundary.

(Prior Code, § 808.060; Ord. No. 31-13)

Commented [BB15]: Clarification provided that funds collected from enforcement of violations of this chapter go to the tree canopy preservation fund.

Sec. 808.065. Enforcement.

In any action brought under SRC 110.110 to enforce this chapter, the following shall apply:

(a) *Stop work order.* If the applicant's site plan contains a grid or phases that designate areas in which work is to be performed, only that grid area or phase in which any violation occurred shall be affected by any stop work order.

(b) *Permit revocation.* In addition to the grounds set forth under SRC 110.110, a permit may be revoked if the work is a hazard to property or public safety; is adversely affecting or about to adversely affect adjacent property or rights-of-way, a drainage way, waterway, riparian corridors, significant wetlands or storm water facility; or is otherwise adversely affecting the public health, safety, or welfare.

(c) *Replanting and ~~Restoration~~restoration.* ~~Persons violating this chapter, or any permit issued hereunder, shall be responsible for restoring damaged areas in conformance with a plan approved by the Planning Administrator which provides for repair of any environmental or property damage and restoration of the site. The plan shall result in conditions upon the site which, to the greatest extent practical, equal the conditions that would have existed had the violation not occurred, as verified by a qualified professional. Costs of restoration shall be not less than those determined equal to the monetary value of the regulated trees and/or native vegetation removed in violation of this chapter, or permit issued hereunder, as set forth in an appraisal acceptable to the Planning Administrator, based upon the latest edition of "Guide for Plant Appraisals" (International Society of Arboriculture, Council of Tree and Landscape Appraisers).~~

(1) Persons violating this chapter, or any permit issued hereunder, shall be responsible for providing mitigation for trees and/or native vegetation removed and restoring damaged areas through implementation of a replanting and restoration plan approved by the Planning Administrator. The plan shall require replanting for the trees and/or native vegetation removed and provide for the repair of any environmental or property damage in order to restore the site to a condition which, to the greatest extent practicable, would have existed had the violation not occurred, as verified by a qualified professional.

(2) The planting and restoration costs included in the plan shall not be less than those determined equal to the monetary value of the regulated trees and/or native vegetation removed in violation of this chapter, or permit issued hereunder, as set forth in an appraisal acceptable to the Planning Administrator based upon the latest edition of "Guide for Plant Appraisals" (International Society of Arboriculture, Council of Tree and Landscape Appraisers).

(3) Notwithstanding SRC 808.065(c)(2), when it is not possible to replant enough trees and/or native vegetation in the area to equal the appraised value of the trees and/or native vegetation unlawfully removed, the net remaining balance required to equal the appraised value of the trees and/or native vegetation unlawfully removed shall be assessed as a fee which shall be paid into the tree canopy preservation fund.

(d) *Prohibition of further approvals.* The City shall not issue a notice of final completion for property on which a violation of this chapter has occurred or is occurring, until the violation has been cured by restoration or other means acceptable to the Planning Administrator and any penalty imposed for the violation is paid.

(e) *Injunctive relief.* The City may seek injunctive relief against any person who has willfully engaged in a violation of SRC 808.035 or SRC 808.040, such relief to be in effect for a period not to exceed five years.

(Prior Code, § 808.065; Ord. No. 31-13)

Commented [BB16]: Section revised to clarify the requirements for replanting and restoring the site in connection with violations of the provisions of this chapter.

Commented [BB17]: Clarification provided that funds collected from enforcement of violations of this chapter go to the tree canopy preservation fund.

Enrolled
House Bill 3109

Sponsored by Representatives ZIKA, MARSH; Representatives BYNUM, GRAYBER, KROPF, LEIF, MORGAN, NOBLE, REYNOLDS, SMITH DB

CHAPTER .....

AN ACT

Relating to child care facilities; amending ORS 215.213, 215.283, 329A.030, 329A.250, 329A.280 and 329A.440.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 329A.440 is amended to read:

329A.440. **(1) As used in this section:**

(a) "Child care center" means a child care facility, other than a family child care home, that is certified under ORS 329A.280 (3).

(b) "Family child care home" means a child care facility in a dwelling that is caring for not more than 16 children and is certified under ORS 329A.280 (2) or is registered under ORS 329A.330.

(c) "Land use regulation" and "local government" have the meanings given those terms in ORS 197.015.

[*(1)*] **(2)(a)** [*A registered or certified*] **A** family child care home [*shall be*] **is** considered a residential use of property for zoning purposes. [*The registered or certified family child care home shall be*] **A family child care home is** a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single-family dwellings.

(b) [*A city or county*] **A local government** may not enact or enforce [*zoning ordinances*] **a land use regulation** prohibiting the use of a residential dwelling, located in an area zoned for residential or commercial use, as a [*registered or certified*] family child care home.

[*(2)*] **(c)** [*A city or county may impose zoning*] **A local government may not impose land use regulations, special fees or** conditions on the establishment [*and*] **or** maintenance of a [*registered or certified*] family child care home [*in an area zoned for residential or commercial use if the conditions are no*] more restrictive than [*conditions*] **those** imposed on other residential dwellings in the same zone.

(3) **Notwithstanding subsection (2)(c) of this section,** a county may[*:*]

[*(a) Allow a registered or certified family child care home in an existing dwelling in any area zoned for farm use, including an exclusive farm use zone established under ORS 215.203;*]

[*(b)*] impose reasonable conditions on the establishment of a [*registered or certified*] family child care home in an area zoned for farm use.[*; and*]

[*(c) Allow a division of land for a registered or certified family child care home in an exclusive farm use zone only as provided in ORS 215.263 (9).*]

[*(4) This section applies only to a registered or certified family child care home where child care is offered in the home of the provider to not more than 16 children, including children of the provider, regardless of full-time or part-time status.*]

(4)(a) A child care center is a permitted use in all areas zoned for commercial or industrial use, except areas specifically designated by the local government for heavy industrial use.

(b) A local government may not impose land use regulations, special fees or conditions on the establishment or maintenance of a child care center in an area zoned for commercial or industrial use that are more restrictive than those imposed for other uses in the same zone.

(5) Notwithstanding subsection (4) of this section, a local government may impose reasonable conditions upon the establishment or maintenance of a child care center in an area zoned for industrial uses.

(6) As used in this section, "reasonable conditions" includes, but is not limited to, siting restrictions for properties designated on the Department of Environmental Quality's statewide list of contaminated properties as having known or suspected releases of hazardous substances.

SECTION 2. ORS 329A.280 is amended to read:

329A.280. (1) A person may not operate a child care facility, except a facility subject to the registration requirements of ORS 329A.330, without a certification for the facility from the Office of Child Care.

(2) The Early Learning Council shall adopt rules for the certification of a family child care home caring for not more than 16 children. [*The rules shall be specifically*] **Rules may be** adopted **specifically** for [*the regulation of*] certified child care facilities operated in [*a facility constructed as*] a single-family dwelling **or other dwelling**. Notwithstanding fire and other safety regulations, the rules that the council adopts for certified child care facilities shall set standards that can be met without significant architectural modification [*of a typical home*]. In adopting the rules, the council may consider and set limits according to factors including the age of children in care, the ambulatory ability of children in care, the number of the provider's children present, the length of time a particular child is continuously cared for and the total amount of time a particular child is cared for within a given unit of time.

(3) In addition to rules adopted for and applied to a certified family child care home providing child care for not more than 16 children, the council shall adopt and apply separate rules appropriate for any child care facility that is a child care center.

(4) Any person seeking to operate a child care facility may apply for a certification for the facility from the Office of Child Care and receive a certification upon meeting certification requirements.

(5) A facility described in ORS 329A.250 (5)(d) may, but is not required to, apply for a certification under this section and receive a certification upon meeting certification requirements.

NOTE: Sections 3 through 6 were deleted by amendment. Subsequent sections were not renumbered.

SECTION 7. ORS 329A.250 is amended to read:

329A.250. As used in ORS 329A.030 and 329A.250 to 329A.450, unless the context requires otherwise:

(1) "Babysitter" means a person who goes into the home of a child to give care during the temporary absence of the parent or legal guardian or custodian.

(2) "Certification" means the certification that is issued under ORS 329A.280 by the Office of Child Care to a family child care home, child care center or other child care facility.

(3) "Child" means a child under 13 years of age or a child under 18 years of age who has special needs or disabilities and requires a level of care that is above normal for the child's age.

(4)**(a)** [*Subject to ORS 329A.440,*] "Child care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child

during a part of the 24 hours of the day, in a place other than the child's home, with or without compensation.

(b) "Child care" does not include care provided:

[*(a)*] **(A)** In the home of the child;

[*(b)*] **(B)** By the child's parent, guardian, or person acting in loco parentis;

[*(c)*] **(C)** By a person related to the child by blood or marriage within the fourth degree as determined by civil law;

[*(d)*] **(D)** On an occasional basis by a person not ordinarily engaged in providing child care;

[*(e)*] **(E)** By providers of medical services;

[*(f)*] **(F)** By a babysitter;

[*(g)*] **(G)** By a person who cares for children from only one family other than the person's own family;

[*(h)*] **(H)** By a person who cares for no more than three children other than the person's own children; or

[*(i)*] **(I)** By a person who is a member of the child's extended family, as determined by the office on a case-by-case basis.

(5) "Child care facility" means any facility that provides child care to children, including a day nursery, nursery school, child care center, certified or registered family child care home or similar unit operating under any name, but not including any:

(a) Preschool recorded program.

(b) Facility providing care for school-age children that is primarily a single enrichment activity, for eight hours or less a week.

(c) Facility providing care that is primarily group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.

(d) Facility operated by:

(A) A school district as defined in ORS 332.002;

(B) A political subdivision of this state; or

(C) A governmental agency.

(e) Residential facility licensed under ORS 443.400 to 443.455.

(f) Babysitters.

(g) Facility operated as a parent cooperative for no more than four hours a day.

(h) Facility providing care while the child's parent remains on the premises and is engaged in an activity offered by the facility or in other nonwork activity.

(i) Facility operated as a school-age recorded program.

(6) "Family" has the meaning given that term in ORS 329.145.

(7) "Occasional" means that care is provided for no more than 70 days in any calendar year.

(8) "Parent cooperative" means a child care program in which:

(a) Care is provided by parents on a rotating basis;

(b) Membership in the cooperative includes parents;

(c) There are written policies and procedures; and

(d) A board of directors that includes parents of the children cared for by the cooperative controls the policies and procedures of the program.

(9) "Preschool recorded program" means a facility providing care for preschool children that is primarily educational for four hours or less per day and where no child is present at the facility for more than four hours per day.

(10) "Record" means the record that is issued under ORS 329A.255 to a preschool recorded program or under ORS 329A.257 to a school-age recorded program.

(11) "Registration" means the registration that is issued under ORS 329A.330 by the Office of Child Care to a family child care home where care is provided in the family living quarters of the provider's home.

(12) "School age" means of an age eligible to be enrolled in kindergarten or above on or before the first day of the current school year.

(13) "School-age recorded program" means a program for school-age children:

(a) That is not operated by a school district as defined in ORS 332.002;

(b) That is not required to be certified under ORS 329A.280 or registered under ORS 329A.330; and

(c) In which youth development activities are provided to children during hours that school is not in session and does not take the place of a parent's care.

(14) "Youth development activities" means care, supervision or guidance that is intended for enrichment, including but not limited to teaching skills or proficiency in physical, social or educational activities such as tutoring, music lessons, social activities, sports and recreational activities.

SECTION 8. ORS 329A.030 is amended to read:

329A.030. (1) The Office of Child Care shall establish a Central Background Registry and may maintain information in the registry through electronic records systems.

(2)(a) A subject individual shall apply to and must be enrolled in the Central Background Registry as part of the individual's application to operate a program or serve in a position described in subsection (10) of this section.

(b) An individual who has been the subject of a founded or substantiated report of child abuse shall apply to and be enrolled in the Central Background Registry prior to providing any of the types of care identified in ORS 329A.250 [*(4)(a), (g) or (h)*] **(4)(b)(A), (G) or (H)** if:

(A) The child abuse occurred on or after January 1, 2017, and involved a child who died or suffered serious physical injury, as defined in ORS 161.015; or

(B) The child abuse occurred on or after September 1, 2019, and involved any child for whom the individual was providing child care, as defined in ORS 329A.250 (4), or care identified in ORS 329A.250 [*(4)(a), (c), (f), (g), (h) or (i)*] **(4)(b)(A), (C), (F), (G), (H) or (I)**.

(c) Notwithstanding paragraph (a) of this subsection, an individual described in paragraph (b)(B) of this subsection is not required to enroll in the Central Background Registry if more than seven years has elapsed since the date of the child abuse determination.

(3)(a) Upon receiving an application for enrollment in the Central Background Registry, the office shall complete:

(A) A criminal records check under ORS 181A.195;

(B) A criminal records check of other registries or databases in accordance with rules adopted by the Early Learning Council;

(C) A child abuse and neglect records check in accordance with rules adopted by the council; and

(D) A foster care certification check and an adult protective services check in accordance with rules adopted by the council.

(b) In addition to the information that the office is required to check under paragraph (a) of this subsection, the office may consider any other information obtained by the office that the office, by rule, determines is relevant to enrollment in the Central Background Registry.

(4)(a) The office shall enroll the individual in the Central Background Registry if the individual:

(A) Is determined to have no criminal, child abuse and neglect, negative adult protective services or negative foster home certification history, or to have dealt with the issues and provided adequate evidence of suitability for the registry;

(B) Has paid the applicable fee established pursuant to ORS 329A.275; and

(C) Has complied with the rules of the Early Learning Council adopted pursuant to this section.

(b) Notwithstanding subsection (3) of this section and paragraph (a) of this subsection, the office may enroll an individual in the registry if the Department of Human Services has completed a background check on the individual and the individual has received approval from the department for purposes of providing child care.

(5)(a) Notwithstanding subsections (3) and (4) of this section, the office may not enroll an individual in the Central Background Registry if:

(A) The individual has a disqualifying condition as defined in rules adopted by the council; or

(B) The individual is an exempt prohibited individual, as provided by ORS 329A.252.

(b) If an individual prohibited from enrolling in the registry as provided by this subsection is enrolled in the registry, the office shall remove the individual from the registry.

(6)(a) The office may conditionally enroll an individual in the Central Background Registry pending the results of a nationwide criminal records check through the Federal Bureau of Investigation if the individual has met other requirements of the office for enrollment in the registry.

(b) The office may enroll an individual in the registry subject to limitations identified in rules adopted by the council.

(7) An enrollment in the Central Background Registry may be renewed upon application to the office, payment of the fee established pursuant to ORS 329A.275 and compliance with rules adopted by the Early Learning Council pursuant to this section. However, an individual who is determined to be ineligible for enrollment in the registry after the date of initial enrollment shall be removed or suspended from the registry by the office.

(8)(a) A child care facility shall not hire or employ an individual if the individual is not enrolled in the Central Background Registry.

(b) Notwithstanding paragraph (a) of this subsection, a child care facility may employ on a probationary basis an individual who is conditionally enrolled in the Central Background Registry.

(9) The Early Learning Council may adopt any rules necessary to carry out the purposes of this section, including but not limited to rules regarding expiration and renewal periods and limitations related to the subject individual's enrollment in the Central Background Registry.

(10) For purposes of this section, "subject individual" means a subject individual as defined by the Early Learning Council by rule, an individual subject to subsection (2)(b) of this section or a person who applies to be:

(a) The operator or an employee of a child care or treatment program;

(b) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to 329.200;

(c) The operator or an employee of a federal Head Start program regulated by the United States Department of Health and Human Services;

(d) An individual in a child care facility who may have unsupervised contact with children as identified by the office;

(e) A contractor or an employee of the contractor who provides early childhood special education or early intervention services pursuant to ORS 343.455 to 343.534;

(f) A child care provider who is required to be enrolled in the Central Background Registry by any state agency;

(g) A contractor, employee or volunteer of a metropolitan service district organized under ORS chapter 268 who may have unsupervised contact with children and who is required to be enrolled in the Central Background Registry by the metropolitan service district;

(h) A provider of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056 who is providing respite services as a volunteer with a private agency or organization that facilitates the provision of such respite services; or

(i) The operator or an employee of an early learning program as defined in rules adopted by the council.

(11)(a) Information provided to a metropolitan service district organized under ORS chapter 268 about the enrollment status of the persons described in subsection (10)(g) of this section shall be subject to a reciprocal agreement with the metropolitan service district. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the office from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.010.

(b) Information provided to a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056 about the enrollment status of the persons described in subsection (10)(h) of this section shall be subject to an agreement with the private agency or organization. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the

office from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.010.

(c) Information provided to a private agency or organization about the enrollment status of the persons described in subsection (10)(i) of this section shall be subject to an agreement with the private agency or organization. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the office from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.010.

SECTION 9. ORS 215.213 is amended to read:

215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use:

(a) Churches and cemeteries in conjunction with churches.

(b) The propagation or harvesting of a forest product.

(c) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in:

(A) ORS 215.275; or

(B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and 469.300.

(d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.

(e) Nonresidential buildings customarily provided in conjunction with farm use.

(f) Subject to ORS 215.279, primary or accessory dwellings customarily provided in conjunction with farm use. For a primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm operation and is not smaller than the minimum lot size in a farm zone with a minimum lot size acknowledged under ORS 197.251.

(g) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

(h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

(i) One manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. The governing body or its designee shall provide for periodic review of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under paragraph (q) of this subsection.

(j) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(k) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

(L) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

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

(n) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.

(o) Creation, restoration or enhancement of wetlands.

(p) A winery, as described in ORS 215.452 or 215.453.

(q) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS 215.291.

(r) Farm stands if:

(A) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(B) The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.

(s) An armed forces reserve center, if the center is within one-half mile of a community college. For purposes of this paragraph, "armed forces reserve center" includes an armory or National Guard support facility.

(t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(u) A facility for the processing of farm products as described in ORS 215.255.

(v) Fire service facilities providing rural fire protection services.

(w) Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.

(x) Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

(A) A public right of way;

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

(C) The property to be served by the utility.

(y) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.

(z) Dog training classes or testing trials, which may be conducted outdoors or in farm buildings in existence on January 1, 2019, when:

(A) The number of dogs participating in training does not exceed 10 dogs per training class and the number of training classes to be held on-site does not exceed six per day; and

(B) The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.

(aa) A cider business, as described in ORS 215.451.

(bb) A farm brewery, as described in ORS 215.449.

(2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use subject to ORS 215.296:

(a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm operation or woodlot:

(A) Consists of 20 or more acres; and

(B) Is not smaller than the average farm or woodlot in the county producing at least $2,500 in annual gross income from the crops, livestock or forest products to be raised on the farm operation or woodlot.

(b) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than required under paragraph (a) of this subsection, if the lot or parcel:

(A) Has produced at least $20,000 in annual gross farm income in two consecutive calendar years out of the three calendar years before the year in which the application for the dwelling was made or is planted in perennials capable of producing upon harvest an average of at least $20,000 in annual gross farm income; or

(B) Is a woodlot capable of producing an average over the growth cycle of $20,000 in gross annual income.

(c) Commercial activities that are in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or 215.255.

(d) Operations conducted for:

(A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, not otherwise permitted under subsection (1)(g) of this section;

(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

(C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

(D) Processing of other mineral resources and other subsurface resources.

(e) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community, hunting and fishing preserves, public and private parks, playgrounds and campgrounds. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296 (1). A public park or campground may be established as provided under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

(f) Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.

(g) Commercial utility facilities for the purpose of generating power for public use by sale. If the area zoned for exclusive farm use is high-value farmland, a photovoltaic solar power generation facility may be established as a commercial utility facility as provided in ORS 215.447. A renewable energy facility as defined in ORS 215.446 may be established as a commercial utility facility.

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

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

(j) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.

(k)(A) Commercial dog boarding kennels; or

(B) Dog training classes or testing trials that cannot be established under subsection (1)(z) of this section.

(L) Residential homes as defined in ORS 197.660, in existing dwellings.

(m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

(n) Home occupations as provided in ORS 215.448.

(o) Transmission towers over 200 feet in height.

(p) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

(q) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.

(r) Improvement of public road and highway related facilities such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.

(s) A destination resort that is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort.

(t) Room and board arrangements for a maximum of five unrelated persons in existing residences.

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

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

(B) "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65.

(v) Operations for the extraction and bottling of water.

(w) An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks.

(x) A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

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

(z) Equine and equine-affiliated therapeutic and counseling activities, provided:

(A) The activities are conducted in existing buildings that were lawfully constructed on the property before January 1, 2019, or in new buildings that are accessory, incidental and subordinate to the farm use on the tract; and

(B) All individuals conducting therapeutic or counseling activities are acting within the proper scope of any licenses required by the state.

(aa) Child care facilities, preschool recorded programs or school-age recorded programs that are:

(A) Authorized under ORS 329A.250 to 329A.450;

(B) Primarily for the children of residents and workers of the rural area in which the facility or program is located; and

(C) Colocated with a community center or a public or private school allowed under this subsection.

(3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), a single-family residential dwelling not provided in conjunction with farm use may be established on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by the Agricultural Capability Classification System in use by the United States Department of Agriculture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval of the governing body or its designee in any area zoned for exclusive farm use upon written findings showing all of the following:

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

(b) The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land.

(c) Complies with such other conditions as the governing body or its designee considers necessary.

(4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), one single-family dwelling, not provided in conjunction with farm use, may be established in any area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that is not larger than three acres upon written findings showing:

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

(b) If the lot or parcel is located within the Willamette River Greenway, a floodplain or a geological hazard area, the dwelling complies with conditions imposed by local ordinances relating specifically to the Willamette River Greenway, floodplains or geological hazard areas, whichever is applicable; and

(c) The dwelling complies with other conditions considered necessary by the governing body or its designee.

(5) Upon receipt of an application for a permit under subsection (4) of this section, the governing body shall notify:

(a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be established; and

(b) Persons who have requested notice of such applications and who have paid a reasonable fee imposed by the county to cover the cost of such notice.

(6) The notice required in subsection (5) of this section shall specify that persons have 15 days following the date of postmark of the notice to file a written objection on the grounds only that the dwelling or activities associated with it would force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is received, the governing body or its designee shall approve or disapprove the application. If an objection is received, the governing body shall set the matter for hearing in the manner prescribed in ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of this section.

(7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1, 1948, and July 1, 1983. For the purposes of this section:

(a) Only one lot or parcel exists if:

(A) A lot or parcel described in this section is contiguous to one or more lots or parcels described in this section; and

(B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels or lots and parcels by the same person, spouses or a single partnership or business entity, separately or in tenancy in common.

(b) "Contiguous" means lots, parcels or lots and parcels that have a common boundary, including but not limited to, lots, parcels or lots and parcels separated only by a public road.

(8) A person who sells or otherwise transfers real property in an exclusive farm use zone may retain a life estate in a dwelling on that property and in a tract of land under and around the dwelling.

(9) No final approval of a nonfarm use under this section shall be given unless any additional taxes imposed upon the change in use have been paid.

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

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

(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.

(11) The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established in any area zoned for exclusive farm use:

(a) A county may authorize a single agri-tourism or other commercial event or activity on a tract in a calendar year by an authorization that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:

(A) The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;

(B) The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;

(C) The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;

(D) The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;

(E) The agri-tourism or other commercial event or activity complies with ORS 215.296;

(F) The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and

(G) The agri-tourism or other commercial event or activity complies with conditions established for:

(i) Planned hours of operation;

(ii) Access, egress and parking;

(iii) A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads; and

(iv) Sanitation and solid waste.

(b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

(A) Must be incidental and subordinate to existing farm use on the tract;

(B) May not begin before 6 a.m. or end after 10 p.m.;

(C) May not involve more than 100 attendees or 50 vehicles;

(D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;

(E) May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;

(F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and

(G) Must comply with applicable health and fire and life safety requirements.

(c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:

(A) Must be incidental and subordinate to existing farm use on the tract;

(B) May not, individually, exceed a duration of 72 consecutive hours;

(C) May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;

(D) Must comply with ORS 215.296;

(E) May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and

(F) Must comply with conditions established for:

(i) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;

(ii) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;

(iii) The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;

(iv) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and

(v) Sanitation and solid waste.

(d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:

(A) Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;

(B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;

(C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and

(D) Do not exceed 18 events or activities in a calendar year.

(12) A holder of a permit authorized by a county under subsection (11)(d) of this section must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:

(a) Provide public notice and an opportunity for public comment as part of the review process; and

(b) Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by subsection (11)(d) of this section.

(13) For the purposes of subsection (11) of this section:

(a) A county may authorize the use of temporary structures established in connection with the agri-tourism or other commercial events or activities authorized under subsection (11) of this section. However, the temporary structures must be removed at the end of the agri-tourism or other event or activity. The county may not approve an alteration to the land in connection with an agri-tourism or other commercial event or activity authorized under subsection (11) of this section, including, but not limited to, grading, filling or paving.

(b) The county may issue the limited use permits authorized by subsection (11)(c) of this section for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of subsection (11)(c) of this section, any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.

(c) The authorizations provided by subsection (11) of this section are in addition to other authorizations that may be provided by law, except that "outdoor mass gathering" and "other gathering," as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial events and activities.

SECTION 10. ORS 215.283 is amended to read:

215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

(a) Churches and cemeteries in conjunction with churches.

(b) The propagation or harvesting of a forest product.

(c) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in:

(A) ORS 215.275; or

(B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and 469.300.

(d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.

(e) Subject to ORS 215.279, primary or accessory dwellings and other buildings customarily provided in conjunction with farm use.

(f) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

(g) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

(h) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(i) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

(j) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

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

(L) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.

(m) Creation, restoration or enhancement of wetlands.

(n) A winery, as described in ORS 215.452 or 215.453.

(o) Farm stands if:

(A) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(B) The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.

(p) Alteration, restoration or replacement of a lawfully established dwelling, as described in ORS 215.291.

(q) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(r) A facility for the processing of farm products as described in ORS 215.255.

(s) Fire service facilities providing rural fire protection services.

(t) Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.

(u) Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

(A) A public right of way;

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

(C) The property to be served by the utility.

(v) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.

(w) A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135.

(x) Dog training classes or testing trials, which may be conducted outdoors or in preexisting farm buildings, when:

(A) The number of dogs participating in training does not exceed 10 dogs per training class and the number of training classes to be held on-site does not exceed six per day; and

(B) The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.

(y) A cider business, as described in ORS 215.451.

(z) A farm brewery, as described in ORS 215.449.

(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

(a) Commercial activities that are in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or 215.255.

(b) Operations conducted for:

(A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under subsection (1)(f) of this section;

(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

(C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

(D) Processing of other mineral resources and other subsurface resources.

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

(d) Parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.

(e) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. A community center authorized under this paragraph may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

(f) Golf courses on land:

(A) Determined not to be high-value farmland, as defined in ORS 195.300 (10); or

(B) Determined to be high-value farmland described in ORS 195.300 (10)(c) if the land:

(i) Is not otherwise described in ORS 195.300 (10);

(ii) Is surrounded on all sides by an approved golf course; and

(iii) Is west of U.S. Highway 101.

(g) Commercial utility facilities for the purpose of generating power for public use by sale. If the area zoned for exclusive farm use is high-value farmland, a photovoltaic solar power generation facility may be established as a commercial utility facility as provided in ORS 215.447. A renewable energy facility as defined in ORS 215.446 may be established as a commercial utility facility.

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

(i) Home occupations as provided in ORS 215.448.

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

to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

(k) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.

(L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. The governing body or its designee shall provide for periodic review of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under subsection (1)(p) of this section.

(m) Transmission towers over 200 feet in height.

(n)(A) Commercial dog boarding kennels; or

(B) Dog training classes or testing trials that cannot be established under subsection (1)(x) of this section.

(o) Residential homes as defined in ORS 197.660, in existing dwellings.

(p) The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

(q) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

(r) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.

(s) Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.

(t) A destination resort that is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort.

(u) Room and board arrangements for a maximum of five unrelated persons in existing residences.

(v) Operations for the extraction and bottling of water.

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

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

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

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

(y) An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks.

(z) A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

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

(bb) Equine and equine-affiliated therapeutic and counseling activities, provided:

(A) The activities are conducted in existing buildings that were lawfully constructed on the property before January 1, 2019, or in new buildings that are accessory, incidental and subordinate to the farm use on the tract; and

(B) All individuals conducting therapeutic or counseling activities are acting within the proper scope of any licenses required by the state.

(cc) Guest ranches in eastern Oregon, as described in ORS 215.461.

(dd) Child care facilities, preschool recorded programs or school-age recorded programs that are:

(A) Authorized under ORS 329A.250 to 329A.450;

(B) Primarily for the children of residents and workers of the rural area in which the facility or program is located; and

(C) Colocated with a community center or a public or private school allowed under this subsection.

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

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

(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.

(4) The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established in any area zoned for exclusive farm use:

(a) A county may authorize a single agri-tourism or other commercial event or activity on a tract in a calendar year by an authorization that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:

(A) The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;

(B) The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;

(C) The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;

(D) The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;

(E) The agri-tourism or other commercial event or activity complies with ORS 215.296;

(F) The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and

(G) The agri-tourism or other commercial event or activity complies with conditions established for:

(i) Planned hours of operation;

(ii) Access, egress and parking;

(iii) A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads; and

(iv) Sanitation and solid waste.

(b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

(A) Must be incidental and subordinate to existing farm use on the tract;

(B) May not begin before 6 a.m. or end after 10 p.m.;

(C) May not involve more than 100 attendees or 50 vehicles;

(D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;

(E) May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;

(F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and

(G) Must comply with applicable health and fire and life safety requirements.

(c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:

(A) Must be incidental and subordinate to existing farm use on the tract;

(B) May not, individually, exceed a duration of 72 consecutive hours;

(C) May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;

(D) Must comply with ORS 215.296;

(E) May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and

(F) Must comply with conditions established for:

(i) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;

(ii) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;

(iii) The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;

(iv) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and

(v) Sanitation and solid waste.

(d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:

(A) Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;

(B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;

(C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and

(D) Do not exceed 18 events or activities in a calendar year.

(5) A holder of a permit authorized by a county under subsection (4)(d) of this section must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:

(a) Provide public notice and an opportunity for public comment as part of the review process; and

(b) Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by subsection (4)(d) of this section.

(6) For the purposes of subsection (4) of this section:

(a) A county may authorize the use of temporary structures established in connection with the agri-tourism or other commercial events or activities authorized under subsection (4) of this section. However, the temporary structures must be removed at the end of the agri-tourism or other event or activity. The county may not approve an alteration to the land in connection with an agri-tourism or other commercial event or activity authorized under subsection (4) of this section, including, but not limited to, grading, filling or paving.

(b) The county may issue the limited use permits authorized by subsection (4)(c) of this section for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of subsection (4)(c) of this section, any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.

(c) The authorizations provided by subsection (4) of this section are in addition to other authorizations that may be provided by law, except that "outdoor mass gathering" and "other gathering," as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial events and activities.

Passed by House April 15, 2021

Repassed by House June 8, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 7, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State

Enrolled
House Bill 2583

Sponsored by Representative FAHEY; Representatives CAMPOS, DEXTER, MARSH, MORGAN (Presession filed.)

CHAPTER .....

AN ACT

Relating to maximum occupancy of residential dwelling units.

Be It Enacted by the People of the State of Oregon:

SECTION 1. A maximum occupancy limit may not be established or enforced by any local government, as defined in ORS 197.015, for any residential dwelling unit, as defined in ORS 90.100, if the restriction is based on the familial or nonfamilial relationships among any occupants.

Passed by House April 10, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 3, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State