



**10.060 – REPEALER**

Klamath County Ordinances Numbers 45.2 through 45.16 are repealed in their entirety. All actions taken under any previously enacted Klamath County zoning ordinance or subdivision ordinance shall remain in effect subject to the original conditions of approval.

**10.070 - SEVERABILITY**

If any provisions or portions of this code, or the application thereof to any property or person is held invalid, the remainder of the code and the application of such provisions to other persons or lands shall not be affected.

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ORD. 45.2		Adopt February 16, 1984	
ORD. 45.6	Art. 10.006		Repealed April 3, 1986
	Art. 10		Repealed August 15, 1990
<b>ORD. 45.17 Updated Full KCLDC</b>		<b>Adopt August 15, 1990</b>	
ORD. 45.18	Art. 1 to Art. 10	Adopt April 3 1991	

# ARTICLE 11 DEFINITIONS

## **11.010 - PURPOSE**

The purpose of this article is to define the terms and phrases of this code that are technical, specialized, or may not reflect common usage.

## **11.020 - DEFINITIONS INCLUDED BY REFERENCE**

In addition to the definitions in this article, the following are incorporated by reference. If any definition in this code conflicts with a definition included by reference, the definition of state statute shall prevail except where this code is more restrictive. Where inconsistencies are found between definitions in this section and definitions in other sections, definitions in this section shall prevail.

- A. Oregon Revised Statutes Chapter 197  
- Comprehensive Plan Coordination; Planning Districts
- B. Oregon Revised Statutes Chapter 215  
- County Planning; Zoning; Housing Codes
- C. Oregon Revised Statutes Chapter 92  
- Subdivisions and Partitions

## **11.030 - TERMS DEFINED ACCEPTED FARM PRACTICE:**

A mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

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ORD. 45.2		Adopted February 16, 1984	Repealed April 3, 1986
ORD. 45.6	Art. 11.002	Amend April 3, 1986	Repealed March 26, 1987
ORD. 45.9	Art. 11.002	Amend March 26, 1987	Repealed August 15, 1990
<b>ORD. 45.17 Updated Full KCLDC</b>		<b>Adopted August 15, 1990</b>	
ORD. 45.20	Art. 446.003(20)(a) to Art. 11		
		Amend June 5, 1991	
ORD. 45.23		Amend June 5, 1991	
ORD. 45.24		Amend October 9, 1991	
ORD. 45.27		Amend April 8, 1992	Repealed February 15, 1995
ORD. 45.31		Adopted February 15, 1995	
ORD. 45.34		Amend May 24, 1996	
ORD. 45.35		Amend September 22, 1997	
ORD. 45.36		Amend November 10, 1998	
ORD. 45.36(B)		Amend December 8, 1998	
ORD. 45.36(C)		Amend February 11, 1999	
ORD. 45.38		Amend January 31, 2002	
ORD. 45.41		Amend January 31, 2002	
ORD. 45.44		Amend January 31, 2002	
ORD. 45.68 Art. 11		Amend April 18, 2008	Acknowledged May 12, 2008
ORD. 45.92		Adopted January 30, 2012	
ORD. 44.99		Adopt May 27, 2014	
ORD. 45.84		Adopted March 31, 2015	
ORD. 45.88		Adopted April 25, 2017	
ORD. 45.92		Adopted August 6, 2018	

**ACCEPTED FARMING PRACTICE:**

A mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use. As applied to composting operations on high-value farmland, "accepted farming practice" includes composting operations that either 1) compost only materials produced on the subject tract, or 2) compost materials brought from off-site and processed alone or in conjunction with materials generated on the subject tract, and use all on-site generated compost for on-farm production in conjunction with, and auxiliary to, the farm use on the subject tract.

**ACCESSORY BUILDING OR STRUCTURE:**

Any portable, demountable or permanent structure or building, the use of which is incidental and subordinate to that of the main building, but which is located on the same lot or parcel as the principal use or building. A manufactured dwelling may not be converted to an accessory building or use within the Urban Growth Boundary. When approved, the owner must file a restrictive covenant in the deed records of the County agreeing that the accessory building or structure will not be used as a residence or rental unit.

- (a) "Accessory Building" means an accessory building as defined in ORS 446.003(1) and specifically includes, but is not limited to; cabanas, ramadas, storage sheds and garages.
- (b) "Accessory Structure" means an accessory structure as defined in ORS 446.003(1) and specifically includes, but is not limited to; awnings, carports, decks, steps and ramps.

**ACCESSORY DWELLING UNIT:**

An interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.

**ACCESSWAY:**

The place or way by which pedestrians or vehicles shall have adequate, safe and practical ingress and egress to or from a property, use or parking space. See **PROOF OF LEGAL ACCESS.**

**ACCESS:**

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

**ADMINISTRATIVE SERVICES:**

Consulting, record keeping, clerical or other similar services that deal directly with the public, together with incidental storage and the maintenance of necessary equipment and vehicles. Typical uses include government administrative buildings and post offices and substations.

**AGRICULTURAL BUILDING:**

Any structure that is considered to be an “agricultural building” as defined in ORS 455.315 on a lot or parcel that is enrolled in a farm or forest deferral program with the County Assessor and for which the owner 1) submits a signed floor plan showing that only farm- or forest-related uses will occupy the building space and 2) files a restrictive covenant in the deed records of the county agreeing that the agricultural building will not be used as a residence or rental unit.

**AGRICULTURE LAND:**

Lands classified by the U.S. Soil Conservation Service as predominantly (51% or more) Class I-IV soils, lands in other soil classifications that are suitable for farm use as defined in ORS 215.203(2)(a), taking into account soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, and accepted farming practices; and land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands. Agricultural land does not include land within acknowledged exception areas for goals 3 and 4.

**AGRICULTURAL PACKING AND PROCESSING:**

The commercial packaging and processing of agricultural crops, animals, and their byproducts. Packing and procession operations are not limited to agricultural commodities grown on premises or in the immediate area. Typical uses include grain and fruit processing facilities, potato processing plants, canneries, slaughter and packinghouses.

**AGRICULTURAL SUPPLIES AND SERVICES:**

Establishments where more than fifty percent of business is directed to wholesale and retail trade and incidental storage of agricultural products and services such as feed, fertilizers, seed, irrigation and small equipment. Typical uses include feed and grain stores.

**AGRICULTURAL WASTE PROCESSING:**

Facilities and operations primarily engaged in the collection, processing, reuse, and/or disposal of agricultural animal waste or similar by-products of agricultural operations such as animal parts, tallow, manure, or crop residue.

**AGRI-TOURISM:**

A common, fee based and farm-dependent activity that is incidental and subordinate to a working farm and that promotes successful agriculture and generates supplemental income for the owner. Such uses may include hay rides, corn mazes and other similar uses that are directly related to on-site agriculture. Any assembly of persons shall be for the purpose of taking part in agriculturally-based activities such as animal or crop care, tasting farm products or learning about farm or ranch operations. Agri-tourism may include farm-to-plate meals. Except for small, farm-themed parties, regularly occurring celebratory gatherings, weddings, parties or similar uses are not Agri-tourism.

**AIRPORT ELEVATION:**

The highest point of an airport's usable landing area measured in feet above mean sea level.

**AIRPORT HAZARD:**

Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.

**AISLE:**

An access way to required vehicular parking spaces within a parking lot.

**ANIMAL COMPANION:**

Animals that are typically kept for non-consumptive and non-commercial purposes. Examples include dogs, cats, pygmy goats, potbelly pigs and small birds such as parrots. For such animals only a total of four may be kept at one time per property except for cats and birds where a total of eight are allowed.

**ANIMAL, LARGE:**

Cattle, horses, sheep, goats, pigs, emus, ostrich, llamas and bison of any age, raised and kept for primarily personal purposes.

**ANIMAL, SMALL:**

Rabbits, chickens, ducks, geese or other fowl and similar animals raised and kept for personal consumptive purposes. "Small animal" does not include dogs or cats kept for personal companion purposes.

**ANIMAL, SPECIALTY:**

Any game mammal, fur-bearing mammal or game bird as defined by ORS 496.004, or any exotic, non-native, or potentially dangerous animal raised and kept for primarily personal purposes.

**ARCHAEOLOGICAL RESOURCES:**

Those districts, sites, buildings, structures and artifacts which possess material evidence of human life and culture of the prehistoric and historic past.

**ARCHITECTURAL FEATURE:**

Openwork fences, open-air grills, decorative façade, which may or may not be attached to the main building, and may project therefrom. This does not include patios.

**AREA:**

That area of a lot, parcel, unit of land or tract, exclusive of:

- (a) Public alleys, highways or roads, or
- (b) Proposed public facilities such as alleys, highways, roads or other necessary public sites when included within a proposed development project.

**AREA OF SHALLOW FLOODING:**

A designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD:**

The land in the Flood Plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on FIRM maps always include the letters A or V.

**ARTERIAL STREET:**

Streets, which bring traffic to and from freeways, serve major movements of traffic within or through urban areas, and which serve important rural routes.

**ASSOCIATED TRANSMISSION LINES:**

Transmission lines constructed to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.

**AUTO AND LIGHT EQUIPMENT SALES/RENTALS/SERVICE:**

Establishments for the wholesale and retail sale, lease, rental, service, and incidental storage of automobiles, light-duty noncommercial trucks, motorcycle, boats, recreational vehicles, and noncommercial trailers. Typical uses include car dealerships, car rental agencies, and recreation vehicle sales and service.

**AUTO REPAIRS:**

Repair of automobiles, light-duty noncommercial trucks, motorcycles, recreational vehicles, and the sale, installation and servicing of automobile equipment and parts. Typical uses include auto body repairs and painting, service garages, muffler shops, auto glass shops, and tire, battery and accessory stores.

**AUTO SERVICE STATION:**

Establishments or places of business primarily engaged in the retail sale of petroleum products along with the incidental sale of tires, batteries, replacement items, grocery/convenience items, and the provision of minor repair services. Typical uses include automobile filling or service stations.

**AUTO WRECKING YARD:**

Property where motor vehicles or parts thereof, are maintained outdoors in an unlicensed, uninsured, wrecked, dismantled, and/or disassembled condition. Auto wrecking yard shall not include the incidental storage of inoperable or disabled vehicles in conjunction with the operation of an auto or equipment repair service or fleet storage yard. Auto wrecking yards must be licensed by the State Department of Motor Vehicles.

**AUXILIARY:**

A use or alteration of a structure or land which provides help or is directly associated with the conduct of the primary use of the property. An auxiliary use or structure is located on-site, is temporary in nature, and is to be removed when a particular practice or function has been completed.

**BASE FLOOD:**

The flood having a one percent chance of being equaled or exceeded in any given year. Designation on FIRM maps always includes the letters A or V.

**BASEMENT:**

That portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling. For floodplain management purposes, means an area of the building having its floor sub-grade (below ground level) on all sides.

**BED AND BREAKFAST:**

Uses and facilities accessory and subordinate to residential dwellings that provide traveler room and board for a fee on a daily or weekly room rental basis. Each such facility shall not accommodate more than ten travelers at any one time, nor shall a party's length of stay exceed fourteen consecutive days.

**BUILDING AND GARDEN SALES:**

Retail sales directed to contractors and home owners offering materials and supplies for construction and home improvement such as lumber and hardware supplies, fixtures, garden supplies and nursery stock. Typical uses include lumberyards, plumbing and electrical stores, paint and hardware stores, and plant nurseries.

**BUILDING HEIGHT:**

The vertical distance from the grade plane to the average height of the highest roof surface. For the purpose of determining the height limits of all airport hazard zones set forth in the Land Development Code and shown on the Airport Hazard Zoning Map, the datum shall be mean sea level elevation unless otherwise specified.

**BUILDING SETBACK LINE:**

The minimum distance required between the property line of a lot or parcel of land and any point of the vertical wall of a building or structure, exclusive of those architectural features permitted to extend into yards or open spaces.

**CAMPGROUND:**

Generally, an area of land or water maintained, intended, or used for the purpose of supplying temporary or overnight living accommodations for public or private use, by providing designated areas for the placement of trailers, tents, yurts, buses, automobiles or sleeping bags, recreational vehicles, or other types of shelter and may include buildings to provide services to the patrons, such as,

restrooms, bathing, laundry, and commissary facilities. Campgrounds may be either public or private.

**CAMPGROUND ACCESSORIES:**

Any portable, demountable or permanent structure or building, located within a public or private campground, intended for use by visitors and employees. Campground accessories include, but are not limited to, restrooms, laundry, bathing and sanitation facilities, picnic shelters, play areas and structures, and other amenities or support facilities.

**CAMPING:**

The occupancy of private property within a tent, tent-trailer, shelter, vehicle, or recreation vehicle not within an authorized/designated camping facility.

**CARPORT:**

A stationary structure consisting of a roof with its supports and not more than one wall or storage cabinet substituting for a wall, used for sheltering a motor vehicle.

**CEMETERY:**

Land used or intended to be used for the burial or internment of the dead and dedicated for cemetery purposes. Cemetery includes columbarium, crematories and mausoleums and may include mortuaries and chapels when operated in conjunction with and within the boundary of such cemetery.

**CHURCH:**

Facilities for public religious assembly such as customarily occurs in churches, synagogues and temples, but does not include parochial schools.

**CLASS I STREAMS:**

Waters which, are significant for domestic use, angling, water dependent recreation or the spawning, rearing or migration of game fish, and includes the water itself, any vegetation, aquatic life, habitats, and the beds and banks below the normal high water level which may contain water, whether or not water is actually present.

**COLLECTOR STREET:**

Streets which serve internal traffic movement within an area such as a subdivision, and connect to arterial streets.

**COMMERCIAL ACTIVITY IN CONJUNCTION WITH FARM USE:**

The processing, packaging, treatment and wholesale distribution, and storage of a product primarily derived from farm activities in the local agricultural community. Also, retail sales of products, supplies and services to the agricultural community that support the production and harvesting of agricultural products.

**COMMERCIAL AGRICULTURAL ENTERPRISE:**

Consists of farm operations which will contribute in a substantial way to the area's existing agricultural economy, help maintain agricultural processors and

established farm markets, not only what is produced, but how much and how it is marketed shall be considered.

**COMMERCIAL DAIRY FARM:**

A commercial dairy farm is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by this Article/Chapter from the sale of fluid milk.

**COMMERCIAL POWER GENERATING FACILITY:**

A facility for the production of energy and its related or supporting facilities that:

- (a) Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, thermal power, geothermal power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones that allow "Farm Use" and 215.283(1)(r) and 215.283(2)(a) in the EFU zone;
- (b) Is intended to provide energy for sale; and
- (c) Does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

**COMMERCIAL STABLE:**

Commercial operations for the boarding, breeding, raising and training of horses or llamas, but does not include an animal defined or classified as a specialty animal.

**COMMERCIAL TREE SPECIES:**

Trees recognized for commercial production under rules adopted by the State Board of Forestry pursuant to ORS 527.715.

**COMMON AREA:**

An area (which may or may not meet the minimum lot/parcel size) that is created on a subdivision, partition or condominium plat for the sole purpose as stated in the declaration.

**COMMUNITY ASSEMBLY:**

Recreational, social, fraternal multipurpose facilities or buildings owned and operated by a governmental agency or nonprofit community organization.

**COMMUNITY PARK:**

Uses and facilities for public recreation within a neighborhood or community setting.

**COMPATIBLE:**

Capable of existing harmoniously, in agreement, or that which can be mixed without seriously interfering with another activity or use.

**CONDOMINIUM:**

An estate in real estate property consisting of an individual interest in common in a portion of real property together with a separate interest in space for residential, commercial, industrial or other purposes. A condominium may include, in addition, a separate interest in other portions of such real property.

**CONTIGUOUS:**

Connected in such a manner as to form a single block of land.

**CREATION DATE:**

The recordation date of a document that creates a lot(s) or parcel(s), or the date of execution of an unrecorded land sale contract, deed, or other instrument intended to create new lots or parcels. In resource zones, when a lot, parcel, unit of land or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect being to qualify a lot, parcel or tract for the dwelling site, the date of reconfiguration is the date of creation.

**CUBIC FOOT PER ACRE:**

The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

**CUBIC FOOT PER TRACT PER YEAR:**

The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.

**CUL-DE-SAC:**

A short street with one end open to traffic and terminated at the other end by a vehicle turnaround.

**CULTURAL SERVICES:**

Governmental or nonprofit facilities for the preservation and exhibition of objects of permanent interest in one or more of the arts, sciences or humanities. Typical uses include exhibition halls, galleries, museums, and libraries.

**CULTURED CHRISTMAS TREE:**

Means trees: (a) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil; (b) Of a species for which the Department of Revenue requires a "Report of Christmas Trees Harvested" for purposes of ad valorem taxation; (c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and (d) Evidencing of periodic maintenance of practices of sheering

for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation.

**CURRENT EMPLOYMENT FOR FARM USE:**

(A) Farmland, the operation or use of which is subject to any farm-related government program; (B) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry; (C) Land planted in orchards or other perennial, other than land specified in subparagraph (D) of this paragraph, prior to maturity; (D) Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years; (E) Wasteland in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use; (F) Land under buildings supporting accepted farm practices; (G) Water impoundment's lying in or adjacent to and in common ownership with farm use land; (H) Any land constituting a wood-lot, not to exceed 20 acres, contiguous to and owned by the owner of land specifically valued at true cash value for farm use even if the land constituting the wood-lot is not utilized in conjunction with farm use; (I) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmers immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such injury results in death; and (J) Any land described under ORS 32.267(l)(3).

**CUSTOM MANUFACTURING:**

Establishments and uses primarily engaged in on-site production of goods involving hand tools and minor mechanical means, with incidental direct sales of products produced on-site to members of the general public.

**DATE OF CREATION AND EXISTENCE:**

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

**DESTINATION RESORT:**

A self-contained development that provides for visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities. Destination Resorts must meet the minimum statutory standards of development, as provided in ORS 197.435-467.

**DEVELOP:**

To bring about growth or availability, to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels, or to create or terminate rights to access.

**DEVELOPMENT:**

Any man-made change to improved or unimproved real estate, including wetlands, riparian areas and open waters, including but not limited to buildings or other structures mining, dredging, filling, grading, paving excavation or drilling operations or storage of equipment or materials.

**DEVELOPMENT PERMIT:**

Any approval required under this code for the purpose of developing property, including but not limited to site plan approval, temporary use permit, conditional use permit, partition or subdivision approval, planned unit development, final development permit for a destination resort, or mobile home park approval.

**DISCRETE LOT OR PARCEL:**

A unit of land lawfully created by a subdivision or partition plat which established the lot or parcel as a separate or individual unit of land from other contiguous units of land in the same ownership.

**DISPOSAL SITE:**

Land and facilities used for the disposal, handling, or transfer of, or resource recovery from solid waste, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, resource recovery facilities, incinerators for solid waste delivered by public or by a solid waste collection service and composting plants; the term does not include a facility subject to the permit requirements of ORS 468.740; a landfill site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete, or other similar non-decomposable material unless the site is used by the public either directly or through a solid waste collection service; or a site licensed pursuant to ORS 481.345.

**DUST SENSITIVE USE:**

Real property normally used as a residence, school, church, hospital or similar use. Property used in industrial or agricultural activities is not "dust sensitive" unless it meets the above criteria in more than an incidental manner.

**DUPLEX:**

Residential uses involving two attached, common wall dwelling units for ownership, lease or rental on the same lot or parcel. This does not include a single-family dwelling and an accessory dwelling unit that meets the standards of Article 89.

**DWELLING:**

A building, combination of buildings, or portions thereof, designed or used for human occupancy for residential purposes.

**DWELLING UNIT:**

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation purposes.

**EASEMENT:**

A grant of the right to use a portion of land for specific purposes.

**EASTERN OREGON:**

That portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, thence south along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

**EMERGENCY SERVICES:**

Facilities and services, which are devoted to public health and safety, including but not limited to fire houses and police stations.

**ENHANCEMENT:**

An action which, results in a long-term improvement of existing functional characteristics and processes that are not the result of a creation or restoration action.

**ENTERTAINMENT FACILITIES:**

Establishments or places primarily engaged in the indoor provision of cultural, entertainment or other events to spectators such as theaters or concert halls, and excluding those types of entertainment related facilities classified as extensive impact use types.

**EQUINE FACILITY:**

A building located on a farm which is used by the farm owner or the public for stabling or training equines, for riding lessons, or for training clinics. "Equine facility" does not mean a dwelling, or a structure in which more than 10 persons are present at any one time.

**ESEE:**

This acronym means the "economic, social, environmental and energy consequences" as defined in OAR 660-16-005, that might result from prohibiting, restricting, or fully allowing a "conflicting" use. A conflicting use is one which, negatively impact or be negatively impacted by the Goal 5 resource.

**ESSENTIAL SERVICES:**

Facilities and services which are necessary and accessory to the principle land use or development, and involve infrastructure such as pipelines, power lines and poles, distribution feeders, meter boxes and pump-houses. Essential services may include, but are not limited to water, sewer, natural gas, cable and electric power service, and certain transportation improvements, as specified in Section 50.040.A.

**EXPLORATION:**

For mining purposes, includes all activities conducted on or beneath the surface of the earth for the purpose of determining the presence, location, extent, grade or

economic viability of a deposit. "Exploration" does not include prospecting or chemical processing of minerals.

**EXPLOSIVE AND HAZARDOUS MATERIAL STORAGE:**

Storage of any quantity of materials possessing an explosive, corrosive, noxious, toxic nature that represents potential danger to the public unless dealt with in a qualified, professional manner.

**EXTENSIVE IMPACT SERVICES AND UTILITIES:**

Any public or private facilities, services and utilities which may have a substantial impact on surrounding land uses. Typical uses include, but are not limited to: airports, detention and correction institutions, fairgrounds, disposal sites, incinerators, commercial power generating facilities, sports arenas and stadiums, outdoor theaters and amphitheaters, vehicular raceways, electrical transmission towers over 200 feet in height, commercial communication towers, recycle centers, natural gas or petroleum transmission pipelines, and certain transportation improvements, as specified in Section 50.040.B.

**FAMILY:**

An individual or two or more persons related by blood, marriage or law; or a group of not more than five persons (excluding servants) who need not be related by blood or marriage living together in a dwelling unit.

**FARM:**

As used in this code, "farm" is defined as land used for the primary purpose of raising, harvesting and selling of crops or by the feeding, breeding, management and sale of, or produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use of animal husbandry or any combination thereof.

**FARMWORKER HOUSING:**

Housing limited to occupancy by farmworkers and their immediate families, no dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing.

**FARM EQUIPMENT SALES/RENTAL/SERVICES:**

Establishments for the wholesale and retail sale, lease, rental, service, and incidental storage of farm and agricultural equipment. Typical uses include farm implement and equipment dealers.

**FARM OPERATOR:**

A person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

**FARM OR RANCH OPERATION:**

All lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203.

**FARM STAND STRUCTURE:**

A structure that is designed and used for the sale of farm crops and livestock as provided in Article 54. A food stand is considered to be a farm stand structure.

**FARM UNIT:**

A single farm unit may consist of any number of contiguous parcels or tax lots, including parcels or tax lots separated only by a road or highway, which are managed jointly as a single farm unit in a given area.

**FARM USE:**

As defined in ORS 215.203. As used in the definition of "farm use" in ORS 215.203 and in this ordinance:

- (a) "Preparation" of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products; and
- (b) "Products or by-products raised on such land" means that those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.

**FINAL DECISION:**

The date when the final written order for a decision reached under procedures prescribed by this code is mailed to affected or interested persons.

**FLEET STORAGE:**

The temporary storage of operable motor vehicles for the purpose of regular business operations such as bus or delivery truck parking, heavy equipment storage yards, or for operations such as private tow-away and impound lots.

**FLOOD OR FLOODING:**

A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters; (2) The unusual and rapid accumulation of runoff of surface waters from any source; (3) Mud- slides (i.e. mudflows) which are proximately caused by flooding as defined above and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

**FLOOD FRINGE:**

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

**FLOOD INSURANCE RATE MAP (FIRM):**

The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY:**

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

**FLOOD PLAIN OR FLOOD-PRONE AREA:**

Means any land area susceptible to being inundated by water from any source.

**FLOOD PLAIN MANAGEMENT:**

Means the operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and land development codes.

**FLOOD PROOFING:**

Means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY:**

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

**FLOOR AREA:**

The total horizontal area of all floors of a building measured from the exterior surface of the outside walls including all floors below ground level.

**FOOD AND BEVERAGE SALES:**

Retail sales of groceries, beverages and household items. Typical uses include grocery stores, convenience stores, and bakeries.

**FOOD AND BEVERAGE SERVICE:**

Establishments or places of business primarily engaged in the sale of prepared food and beverages for on-premise consumption. Typical uses include restaurants, cafes, fast food outlets including drive-through or drive-in establishments, and taverns.

**FOREST LANDS:**

As defined in Goal 4, are those lands acknowledged as forest lands, or, in the case of a plan amendment. Forest lands shall include:

- (a) Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and
- (b) Other forested land that maintain soil, air, water, and fish and wildlife resources.

**FOREST OPERATION:**

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

**FOREST PRACTICE:**

Any operation conducted on or pertaining to forest land, including but not limited to reforestation of forest land, road construction and maintenance, harvesting of forest tree species, application of chemicals, and the disposal of slash.

**FOREST USE:**

The employment of land for the production of trees and the processing of forest products; for open space, buffers from noise, and visual separation of conflicting uses; watershed protection and wildlife and fisheries habitat; soil protection from wind and water; maintenance of clean air and water; outdoor recreational activities and related support services and wilderness values compatible with these uses; and grazing land for livestock.

**FREEWAY:**

A highway devoted to traffic movement with little or no land service function. Freeways are characterized by some degree of access control with few, if any, intersections at grade.

**GARAGE:**

Any building, with not less than 3 enclosed sides, which is used or intended to be used for automobile shelter or storage. When fronting on a dedicated street or alley, such building shall have a door or doors.

**GENERAL MANUFACTURING:**

Establishments, operations and uses engaged in the manufacturing, compounding, processing, assembling, packaging, treatment or fabrication of materials.

**GENERAL MERCHANDISE SALES:**

Large-scale establishments engaged in retail sales of a variety of home and personal items. Typical uses include department stores, variety stores, discount department stores, and showroom/catalog stores.

**GEOHERMAL RESOURCE:**

The natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from, the natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gasses, and steam, in whatever form, found below the surface of the earth, exclusive of helium or of oil, hydrocarbon gas or other hydrocarbon substances.

**GROUND LEVEL:**

The average level of the finished ground surface surrounding a building, measured at the center of all walls of the building.

**GOLF COURSE:**

An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of this ordinance means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:

- (a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;
- (b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;
- (c) Non-regulation golf courses are not allowed. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this Subsection, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges.

**GUEST RANCH:**

A facility for overnight lodging incidental and accessory to an existing livestock operation that qualifies as a farm use under ORS 215.203. Guest ranch facilities may include a lodge, bunkhouse or cottage accommodations as well as passive recreational activities and food services.

**HEAVY EQUIPMENT REPAIRS:**

Repair of motor vehicles such as aircraft, heavy-duty and commercial trucks, and construction equipment, as well as the sale, installation, and servicing of equipment and parts together with body repairs. Typical uses include truck repair shops or motor freight maintenance operations.

**HEAVY EQUIPMENT SALES/RENTALS/SERVICE:**

Establishments for the wholesale and retail sale, lease, rental, service, and incidental storage of heavy and commercial trucks, heavy construction equipment and aircraft. Typical uses include truck sales dealers or heavy construction equipment dealers.

**HEAVY INDUSTRIAL:**

Establishments, operations and uses engaged in the primary manufacturing and processing of raw materials and which may produce and omit objectionable odors or noises. Typical uses include sawmills, pulp and paper mills, concrete or asphalt batch plants, or steel and metal fabrication.

**HIGH-VALUE FARMLAND:**

- (a) High Value Farmland: Land in a tract composed predominantly of soils that are:
  - (1) Irrigated and classified prime, unique, Class I or II; or

- (2) Not irrigated and classified prime, unique, Class I or II.
- (b) In addition to that land described in Subsection X.02 U(1), high-value farmland includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa;

**HISTORICAL RESOURCES:**

Those districts, sites, buildings, structures and artifacts, which have a relationship to events or conditions of the human past.

**HISTORIC SITE:**

A location, structure or object having local, regional, statewide or national historic significance as indicated in the Klamath County Comprehensive Plan.

**HOME DAY CARE:**

A State-licensed facility that provides care to more than twelve children in the home of the day care provider, including a day nursery, nursery school, or similar operation, but not including facilities primarily for education or training in a specific subject such as athletics, dance, drama, music or religion; or a facility that is operated by a school district or governmental agency.

**HOME FURNISHINGS AND APPLIANCES:**

Retail establishments engaged in the sale of home furnishings such as furniture and appliances, floor coverings, fireplaces, and spas.

**HOME OCCUPATION:**

Home occupation refers to an occupation or enterprise carried on within a dwelling or accessory building for the financial gain by a member of the immediate family residing within the dwelling. The occupation must be ACCESSORY to the primary use of the home as a residence. Typical home occupations are professional services or crafts such as dressmaking, tutoring, music lessons, etc. Accessory uses shall not require internal or external modifications to the dwelling or accessory building or require the use of machinery, tools or equipment not associated with residential use.

**HOSPITAL:**

An institution providing physical or mental health services, inpatient or overnight accommodations, and medical or surgical care of the sick or injured.

**HOTEL/MOTEL:**

Lodging services involving the provision of room and/or board on the premises.

**IMPERVIOUS SURFACE:**

A surface composed of any material that impedes or prevents natural infiltration of water into the soil. Impervious surfaces shall include but are not limited to roofs, solid decks, driveways, patios, sidewalks, parking areas and tennis courts. Swimming pools are exempt since they do not increase runoff.

**IMPROVEMENTS:**

Physical facilities and infrastructure, including but not limited to curbs, gutters, sidewalks, street lights, street signs, roadbed, road surface, storm drains and appurtenances, fire hydrants, sanitary sewers and appurtenances, and underground utilities.

**INDOOR SPORTS AND RECREATION:**

Establishments or places primarily engaged in the provision of sports or recreation by and for participants; spectators are typically incidental and on a nonrecurring basis. Typical uses include bowling alleys, skating rinks, firearm and archery ranges, sports and racket clubs.

**IRRIGATED:**

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

**KENNEL:**

A lot or building in which four or more dogs, cats, pot-bellied pigs or other small animals (excluding livestock) at least four months of age are kept commercially for board, breeding, training or sale.

**LANDSCAPING:**

The planning and maintenance of some combination of trees, shrubs, vines, ground covers, flowers or lawns. In addition, the combination or design may include natural features such as rock and stone and structural features, including but not limited to fountains, reflecting-pools, artworks, screens, walls, fences and benches.

**LAND USE DECISION:**

A decision or determination that concerns the adoption, amendment or application of the Statewide Planning Goals, a Comprehensive Plan provision or a Land Development Code provision. "Land Use Decision" does not include a decision or determination made under land use standards that do not require judgment, or a decision or determination on a subdivision or land partition located within an urban growth boundary where the decision is consistent with clear and object standards, or a decision on a building permit which does not require interpretation or the exercise of factual, policy or legal judgment.

**LARGE ANIMAL VETERINARY SERVICES:**

Professional services primarily engaged in treating large animals such as cattle, horses, sheep, goats, pigs and llamas in connection with farm operations.

**LAWFUL CREATION:**

Any building, structure, use, lot, parcel, tract, or unit of land that complied with land use laws or regulations in effect at the time of its creation or establishment.

**LAWFULLY ESTABLISHED UNIT OF LAND:**

A lot or parcel created pursuant to ORS 92.010; or another unit of land created in compliance with all applicable planning, zoning and subdivision or partition ordinances or regulations in effect at the time of creation; or by deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances in effect at the time of creation. "Lawfully established unit of land" does not include a unit of land created solely to establish a separate tax account for assessment purposes.

**LIVING HISTORY MUSEUM:**

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.

**LOCAL STREET:**

Streets which, provide access to individual adjacent lots, and connect to a collector street.

**LOT:**

A single unit of land that is created by a subdivision of land as provided in ORS 92.010.

**LOT AREA:**

The total area included within the lot lines of a lot or parcel of land.

**LOT, CORNER:**

A lot or parcel of land situated at the intersection of 2 or more streets and/or highways, which streets or highways have an angle of intersection, measured within said lot or parcel of land, of not more than 135 degrees.

**LOT DEPTH:**

The distance between the midpoints of the front and rear lot lines.

**LOT, FLAG:**

A unit of land whose main body is connected to a street, road, or easement with access to a street or road by a narrow strip of land.

**LOT LINE, FRONT:**

The lot line separating the lot from the street or in the case of a corner lot, a line separating the lot from the street on which the development or contemplated development will face.

**LOT LINE, REAR:**

A lot line which is opposite and most distant from the front lot line. For a triangular shaped lot, the rear lot line shall mean a line having a length of not less than 10 feet within the lot which is parallel to the front lot line, or parallel to the chord of a curved front lot line, and at the maximum distance from the front lot line.

**LOT LINE, SIDE:**

Any lot boundary line which, is not a front lot line or a rear lot line.

**LOT, SUBSTANDARD:**

A lot whose area, width or depth is less than that required by the zone in which it is located.

**LOT, DOUBLE FRONTAGE:**

An interior lot having a frontage on 2 streets, roads or highways.

**LOT WIDTH:**

The distance between the side lot lines measured at right angles to the side lot lines measured at the front lot line.

**LOWEST FLOOR:**

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this code.

**MAJOR HIGHWAY:**

A principal travel route around or between cities or communities with controlled at-grade intersections.

**MANUFACTURED DWELLING:**

Defined under ORS 446.003(25)(a):

- (a) Residential Trailer, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.
- (b) Mobile Home, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in affect at the time of construction.

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

**MANUFACTURED/MOBILE HOME PARK:**

Any place where four or more manufactured dwellings as defined in ORS 446.003 and Article 11 of the Klamath County Land Development Code are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of the facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured Home Park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction by ordinance.

**MEDICAL HARDSHIP:**

A temporary circumstance caused by serious illness or infirmity, and confirmed by a licensed medical practitioner (Medical Doctor, Physicians Assistant or Nurse Practitioner).

**MEDICAL SERVICES:**

Private or public facilities for the provision of health care, treatment or rehabilitation of patients, either on and outpatient or residential basis. Uses may include necessary and accessory administrative, professional, maintenance, and transportation services. Typical uses include hospitals, clinics, and residential care facilities for more than 15 individuals.

**MINERALS:**

Soil, coal, clay, stone, sand, gravel, metallic ore and any other solid material or substance excavated for commercial, industrial or construction use from natural deposits.

**MINI-STORAGE FACILITY - OUTDOORS:**

A business consisting of one or more structures which are divided into separate, enclosed units with individual accesses which are then rented, leased or sold to other entities for the primary purpose of storing goods or materials.

**MINING, AGGREGATE:**

This use includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. "Mining" does not include excavations of

sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or nonsurface impacts of underground mines.

**MITIGATION:**

The minimizing or offsetting of impacts by the provision of on or off-site improvement or compensation which benefits impacted property owners, resources, and the public interest. Mitigation measures include, but are not limited to, the provision of additional fish and wildlife habitat, conservation easements, on- or off-site screening and buffering, compensation for the maintenance of existing off-site screening, fees in lieu of improvements, and similar arrangements which are agreed to in writing by the affected parties, and which relate to and are necessitated by a surface mining development or operation.

**MULTIPLE FAMILY DWELLING:**

Residential uses involving three or more attached, common wall dwelling units for individual ownership, lease or rental on the same lot or parcel. Typical uses include apartments, townhouses and condominiums.

**NECESSARY:**

A use or structure that will contribute substantially to the effective and efficient primary use of the property.

**NEW CONSTRUCTION:**

Means structures for which the start of construction commenced on or after the effective date of a flood plain management (land development code) adopted by a community and includes any subsequent improvements to such structures.

**NET METERING POWER FACILITY:**

A facility for the production of energy that:

- (a) Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow "Farm Use" and 215.283(1)(r) in the Exclusive Farm Use zone;
- (b) Is intended to offset part of the customer-generator's requirements for energy;
- (c) Will operate in parallel with a utility's existing transmission and distribution facilities;
- (d) Is consistent with generating capacity as specified in ORS 757.300 and/or OAR 860-039-0010 as well as any other applicable regulations;

- (e) Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

**NON-COMMERCIAL/STAND-ALONE POWER GENERATING FACILITY:**

A facility for the production of energy that:

- (a) Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow "Farm Use" and 215.283(1)(r) in the Exclusive Farm Use zone;
- (b) Is intended to provide all of the generator's requirements for energy for the tract or the specific lawful accessory use that it is connected to;
- (c) Operates as a standalone power generator not connected to a utility grid; and
- (d) Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

**NONPRECISION INSTRUMENT RUNWAY:**

A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance. It also means a runway for which a non-precision approach is planned and is so indicated on an FAA approved airport layout plan; a military service's approved military airport layout plan; any other FAA planning document, or military service's military airport planning document.

**NUISANCE:**

Anything that interferes with the use or enjoyment of property, endangers personal or public health or safety, or is offensive to the senses.

**OIL AND GAS:**

Crude petroleum oil and all other hydrocarbons which are produced in liquid or by ordinary production methods, and all other natural gas and hydrocarbons that were originally in a gaseous phase in the reservoir.

**OPEN PLAY FIELD:**

A large, grassy area with no structural improvements intended for outdoor games and activities by park visitors. The term does not include developed ballfields, golf courses or courts for racquet sports.

**OREGON FOREST PRACTICES ACT:**

Oregon Revised Statutes 527.610 to 527.730 and 527.990

**ORGANIZER:**

Includes any individual who holds, stages or sponsors an Outdoor Mass Gathering, and the owner, lessee or possessor of the real property upon which the Outdoor Mass Gathering is to take place.

**OUTDOOR ADVERTISING SIGN:**

A sign which advertises goods, products or services which are not sold, manufactured or distributed on or from the premises on which the sign is located, or facilities not located on the premises on which the sign is located.

**OUTDOOR MASS GATHERING:**

A gathering, as defined by ORS 433.735, that is an actual or reasonably anticipated assembly of more than 1,000 persons which continues or can reasonably be expected to continue for more than 24 consecutive hours but less than 120 hours within any three-month period and which is held primarily in open spaces and not in any permanent structure. Any decision for a permit to hold an outdoor mass gathering as defined by statute is not a land use decision and is appealable to circuit court. Outdoor mass gatherings do not include agri-tourism events and activities as provided for by ORS 215.283(4).

**OVERBURDEN:**

Earth or rock that lies above a natural deposit of a mineral as defined in Article 11 of the Klamath County Land Development Code.

**OWNER:**

The individual, firm, association, syndicate, partnership or corporation having proprietary interest in real property.

**PARCEL:**

A single unit of land created by: (1) a partition of land as defined in ORS 92.010 in compliance with all land use standards then applicable; or (2) deed or land sales contract, if there were no applicable land use or partitioning regulations then in effect. The term "parcel" does not include a unit of land created solely to establish a separate tax account for assessment purposes.

**PARKING SERVICES:**

Private or public facilities for temporary parking of automobiles in parking garages or lots and may involve a fee.

**PARKING SPACE:**

A readily accessible area, not including driveways, ramps, loading or work areas, maintained exclusively for the parking of 1 motor vehicle.

**PARTITION:**

To divide land into 2 or 3 parcels of land within a calendar year, but does not include: a division of land resulting from a lien foreclosure, foreclosure of a recorded contract for sale of real property or the creation of cemetery lots; or an adjustment of a property line by the relocation of a common boundary where an

additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable land development ordinance; or a sale or grant by a person to a public agency or public body for state highway, county road or other right-of-way purposes provide that such road or right-of-way complies with the Comprehensive Plan and ORS 215.283(2)(q) to (s). However, any property divided by the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned.

**PARTITION PLAT:**

A final map, prepared pursuant to ORS 92, containing all the descriptions, locations, specifications, provisions and necessary information concerning a land partition, that is consistent with an approved tentative plat.

**PATIO:**

A roofed area permanently open on not less than 3 sides and used solely for outdoor living.

**PERMIT:**

Discretionary approval of a proposed development of land.

**PERSON:**

Any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, syndicate, district, political subdivision, foreign country, or any other group or combination acting as a unit.

**PERSONAL SERVICES:**

Commercial establishments primarily engaged in the provision of support services to other business, or services of a personal or nonprofessional nature. Business activity may be conducted on the premises or off-premise. Typical uses include barber and beauty shops, shoe repair, office maintenance services, health fitness studios, photographers, film processing shops, funeral and mortuary services, travel agencies, laundry and dry cleaning establishments, secretarial services.

**PERSONAL USE AIRPORT:**

An airstrip or helicopter pad including associated hangar, maintenance and service facilities 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.

**PLANNED UNIT DEVELOPMENT:**

A development based on a comprehensive and complete design or plan identifying all uses of the land for the development.

**POLLUTION:**

A violation of applicable county, state, or federal environmental quality statutes, rules or standards.

**PRACTICABLE:**

That which may be done, practiced or accomplished, or that which is performable, feasible or possible.

**PRECISION INSTRUMENT RUNWAY:**

A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an FAA-approved airport layout plan; any other FAA planning document, or military service's military airport planning document.

**PREEXISTING:**

Something that was lawfully established prior to the adoption of current zoning regulations. A building, structure, lot, parcel, unit of land preexisting.

**PREPARATION:**

As it applies to the definition of "Farm use" in ORS 215.203, preparation includes but is not limited to the cleaning, treatment, sorting or packaging of farm products or by-products.

**PRIMARY OR PRINCIPLE USE:**

The first use to which property is or may be devoted, and to which all other uses on the premises are accessory or secondary uses. As used relative to dwelling units, the primary dwelling would be the first dwelling unit to be located on a specific parcel or lot.

**PRIMARY PROCESSING OF FOREST PRODUCTS:**

The initial treatments of logs or other forest plant or fungi materials to prepare them for shipment for further processing or to market, including, but not limited to, debarking, peeling, drying, cleaning, sorting, chipping, grinding, sawing, shaping, notching, biofuels conversion, or other similar methods of initial treatments.

**PRIMARY SURFACE:**

A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevations of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**PRINCIPALLY ENGAGED IN FARM USE:**

As it refers to primary farm dwellings and accessory farm dwellings, a person is principally engaged in the farm use of the land when the amount of time that an occupant of the dwelling is engaged in farm use of the property is similar to the average number of hours that is typically required for a full-time employee of the relevant type of farm use, whether that person is employed off the farm or not. Only one resident of a household need meet the “principally engaged” test, or the test may be met collectively by more than one household member.

**PRIVATE PARK:**

Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, and hiking or nature-oriented recreational uses such as viewing and studying nature and wildlife habitat, and may include play areas and accessory facilities that support the activities listed above, but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms.

**PROCESSED:**

As it applies to farm stands, processed crops and livestock means farm products that have been converted into other products through canning, drying, baking, freezing, pressing, butchering or other similar means of adding value to the farm product, including the addition of incidental ingredients, but not including the conversion of farm products into food items that are prepared on-site or intended for on-site consumption.

**PROCESSING:**

For mining purposes includes, but is not limited to crushing, washing, milling and screening as well as the batching and blending of mineral aggregate into asphalt and Portland cement concrete.

**PROFESSIONAL OFFICES:**

Commercial office related activities primarily related to professional, executive, management, or administrative services typically directed to the public and conducted on the premises. Typical uses include doctor and dentist offices, small animal veterinary services, legal offices, real estate and related services, financial services, banks, research laboratories and development firms.

**PROOF OF LEGAL ACCESS:**

Legally recorded documentation or public permit establishing the right of ingress and egress to a lot, parcel, unit of land, or tract.

**PROPERTY LINE:**

A property line shall be a division line between two abutting properties which are in separate ownership.

**PROPERTY LINE ADJUSTMENT:**

A relocation of the division line between two abutting properties which are in separate ownership.

**PUBLIC IMPROVEMENTS:**

Physical facilities and infrastructure, including but not limited to curbs, gutters, sidewalks, street lights, street signs, roadbeds, road surfaces, storm drains and appurtenances, fire hydrants, sanitary sewers and appurtenances, and utilities.

**PUBLIC PARK:**

A public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, state or federal agency, or park district and that may be designated as a public park in the applicable comprehensive plan and zoning ordinance.

**PUBLIC ROAD:**

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

**PUBLIC UTILITY:**

Any corporation, including municipal or quasi-municipal corporation, service district, company, individual, or association that owns or operates any plant or equipment.

- (a) For the conveyance of telegraph or telephone messages, with or without wires;
- (b) For the transportation of water, gas, or petroleum products by pipeline;
- (c) For the production, transmission, delivery of furnishing of heat, light, water, or electricity;
- (d) For the transmission and delivery of television pictures and sound by cables;
- (e) For the transportation of persons or property by street railroads or other street transportation or common carriers;
- (f) For the treatment and disposal of sewage waste; or
- (g) For the disposal of storm water runoff.

**QUARRY:**

Any place on a lot or parcel of land where dirt, soil, sand, gravel, rock, clay, decomposed granite, or other similar material is removed by excavation or otherwise. Quarry shall include mining operations, including washing, crushing, screening, and temporary storage, for the removal of ores, precious stones, or other solid minerals.

**QUASI-JUDICIAL:**

A decision made by a review body by applying existing law and policy to specific situations and evidence (although not necessarily just facts that can be objectively measured) in order to reach decisions that involve discretionary judgment.

**RAMADA:**

A stationary structure having a roof extending over a manufactured structure, which may also extend over a patio or parking space for motor vehicles, and is used principally for protection from snow, sun or rain.

**RECLAMATION:**

The employment in a surface mining operation of procedures designed to minimize, as much as practical, the disruption of the surface mining operation and to provide for the rehabilitation of any such surface resources adversely affected by such mining operations through the rehabilitation of plant cover, soil stability, water resource and other measures appropriate to the subsequent beneficial use of mined and reclaimed land.

**RECONFIGURATION, BOUNDARY:**

Any change made to the boundary of a lot, parcel, tract, or unit of land.

**RECREATIONAL VEHICLE (RV):**

A vacation trailer or other unit with or without motive power which was designed for human occupancy, has sleeping, cooking and plumbing facilities, and has a gross floor space of less than 400 square feet. Typical uses include camping-trailers, motor homes, bus conversions, travel trailers, or any vehicle converted for use or partial use as a recreational vehicle. The unit is identified as a recreational vehicle by the manufacturer or converter.

**RECREATIONAL VEHICLE PARK.**

A lot, parcel, tract, or unit of land upon which two (2) or more recreational vehicle (RV) sites are located, established or maintained for the general public as temporary living quarters for recreational or vacation purposes.

**RELATIVE:**

A spouse, child, parent, stepparent, grandchild, grandparent, step-grandparent, sibling, stepsibling, niece, nephew or first cousin.

**REPAIR SERVICE:**

Establishments primarily engaged in the provision of repair services for durable and non-durable goods, exclusive of automotive and related equipment repairs. Typical uses include appliance repair shops, alteration and tailor shops, and instrument repair shops.

**REPLAT:**

The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing plat or to increase or decrease the number of lots in the subdivision.

**RESIDENTIAL CARE FACILITY:**

A facility licensed by or under the authority of the Oregon Department of Human Resources which provides residential care alone or in conjunction with treatment or training or combination thereof for 6 to 15 individuals who need not be related.

Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the facility.

**RESIDENTIAL CARE HOME:**

A home licensed by or under the authority of the Oregon Department of Human Resources which provides residential care along or in conjunction with treatment or training for 5 or fewer residents who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the facility.

**RESORT:**

Lodging and food services provided for the traveling public, with particular emphasis on outdoor amenities and recreation opportunities.

**RESORT COMMUNITY:**

A “Resort Community” is an unincorporated community that was established primarily for the continues to be used primarily for recreation or resort purposes; and (a) includes residential and commercial uses, and (b) provides for both temporary and permanent residential occupancy, including overnight lodging and accommodations.

**RESTORATION:**

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

**RETAIL SALES:**

Commercial businesses primarily engaged in the sale of commonly used goods and general merchandise directly to the public. Typical uses include bicycle shops, bookstores, camera shops, clothing and shoes stores, florists, stereo and record stores, toy stores, video rentals.

**REVIEW BODY:**

The Klamath County Planning Director or designee, the Klamath County Hearings Officer, the Klamath County Planning Commission or the Klamath County Board of Commissioners.

**RIGHT-OF-WAY:**

The area between boundary lines of a street, road or other easement.

**RIPARIAN AREA:**

The area adjacent to a river, lake, or stream consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

**ROAD:**

A public or private way which is created to provide ingress and egress for persons to one or more lots parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress in conjunction with the use of such land for a forestry, mining, or agricultural purpose means the primary, but not the casual or incidental use of land for this purpose.

**RUNWAY 7-25:**

A Visual Utility Runway located at the City of Klamath Falls Airport/Kingsley Field, aligned in an east-west direction and designated as a primary runway.

**RUNWAY 14:**

A Non-precision Instrument Runway located at the City of Klamath Falls Airport/Kingsley Field, aligned in a southeasterly direction and designated as a crosswind runway.

**RUNWAY 32:**

A Precision Instrument Runway located at the City of Klamath Falls Airport/Kingsley Field, aligned in a northwest direction and designated as a primary runway.

**RURAL COMMUNITY:**

An unincorporated community primarily composed of permanent residential dwellings, which includes at least two (2) other uses that provide commercial, industrial, or public services (e.g., schools, churches, grange halls, post offices) to the community, the surrounding rural area, or to persons traveling through the area.

**RURAL SERVICE CENTER:**

An unincorporated community consisting primarily of commercial or industrial uses providing goods and services to the surrounding rural area or to persons traveling through the area, but which also includes some permanent residential dwellings.

**RURAL LAND:**

Rural lands are those which are outside the urban growth boundary and are: (a) Nonurban agricultural, forest or open space lands, or (b) Other lands suitable for sparse settlement, small farms or acreage home-sites with no or hardly any public services, and which are not suitable, necessary or intended for urban use.

**RURAL COMMUNITY:**

Rural communities are nearly identical in function as rural service centers. Rural communities, however, have both community sewer and water systems which allow for greater development densities (one dwelling unit per 5,000 square feet).

**RURAL SERVICE CENTER:**

An unincorporated industrial and/or convenience-commercial and residential center of a nature and size only as required to serve the needs of the surrounding rural lands. Typically, rural service centers are isolated, rather compact and located at junctions of principal rural roads or at other strategic locations. The

absence of key public facilities (community sewer and water systems) limit development densities to a maximum of one dwelling unit per acre.

**SCHOOL:**

Public, private and parochial preschool, elementary, junior and senior high schools, colleges and trade schools together with incidental administrative, maintenance and recreational facilities.

**SCRAP OPERATIONS:**

Operations primarily engaged in dismantling, storage, processing or reprocessing of used or waste materials with the intent of reuse. Typical uses include junk yards or salvage yards.

**SEASONAL OR TRANSIENT BUSINESSES:**

Any trade, profession, occupation or pursuit conducted for gain, including those pursuits by fraternal organizations, clubs, lodges and similar places or establishments other than those that have IRS tax exempt [IRC 501(c)] status which operates an enterprise located in the unincorporated area of Klamath County for a period of more than two days and less than ninety days. The hours of operation of permitted businesses are limited to the hours of 6:00 a.m. to 10:00 p.m.

**SERIES PARTITIONED LAND AND SERIES PARTITION:**

A series of partitions of land located within this state resulting in the creation of four or more parcels over a period of more than one calendar year.

**SIGN:**

Any method of display or part thereof, for visual communication that includes any announcement, declaration, demonstration, display, illustration or insignia which is used to advertise or promote the interest of any person, business, group or enterprise and includes accessory signs and outdoor advertising. "Sign" does not include official notices issued by any court or public body or officer, notices posted by any public officer in performance of a public duty, or by any person giving legal notice, directional warning or information structure required or authorized by law or by federal, state or county authority or permanent memorial or historical signs, plaques or markers.

**SINGLE FAMILY DWELLING:**

Residential uses involving site built dwelling units for individual ownership, lease or rental on an individual lot or parcel. Single-family dwelling placed inside of the Urban Growth Boundary are required to have a garage or carport at least 180 square feet in size and placed in the same lot or parcel as the dwelling.

**SITE PLAN:**

A plan other than a building plan showing the physical arrangement, design or use of a lot or parcel of land, buildings or structures indicating uses, form, dimensions and other pertinent data.

**STOCKYARDS AND ANIMAL SALES:**

Temporary keeping of transient livestock for auction, market, sale, shipping or slaughter.

**STREET:**

Deleted per Ordinance 45.67

**STREET PLUG OR RESERVE STRIP:**

A narrow strip of land controlling access to a street or half street, title to which is dedicated to the County and the disposal of which lands shall be placed within the jurisdiction of the Board of County Commissioners for disposal under conditions approved by the appropriate review body.

**STRUCTURAL ALTERATIONS:**

Any change in the supporting members of a building, such as bearing walls, column, beam or guides, floor or ceiling joists, roof rafters, roof diagrams, roof trusses foundations, piles, retaining walls or similar.

**STRUCTURE:**

Anything constructed, erected or air-inflated, permanent or temporary , which requires location on the ground. Among other things, structure includes buildings, walls, fences, billboards, poster panels, food stands and parking lots. Retaining walls less than four (4) feet in height are not considered structures for the sake of general property line setbacks.

**SUBDIVISION:**

Either an act of subdividing land or an area or a tract of land subdivided.

**SUBDIVISION PLAT:**

A final map and other writing containing all the description, locations, specifications, dedications, provisions and information concerning a subdivision.

**SUBSTANTIAL DAMAGE:**

For floodplain management purposes, means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT:**

For floodplain management purposes, means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage" regardless of the actual repair work being performed. The term does not include: (1) Any project for the improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) Any alteration of an "historic

structure" provided that the alteration will not preclude the structure's continued designation as an "historic structure."

**TEMPORARY STRUCTURE OR USE:**

A non-permanent structure, or one used for a limited time, or a use or activity that is of a limited duration.

**TRACT:**

One or more contiguous lots or parcels in the same ownership. Contiguous means connected in such a manner as to form a single block of land.

**TRUCK STOP:**

Highway related service establishments providing motor fuel, service, towing and food service.

**URBAN AREA:**

All lands located within an acknowledged Urban Growth Boundary for the town and cities of Bonanza, Chiloquin, Klamath Falls, Malin and Merrill.

**URBAN LAND:**

Areas which include an incorporated city and may also include lands adjacent to and outside the incorporated city limits, and may also have concentrations of people who generally reside and work in the area and have supporting public facilities and services.

**USE:**

The primary or principal activity, structure, or facility occurring upon land.

**UTILITY FACILITIES NECESSARY FOR PUBLIC SERVICE:**

Unless otherwise specified [in this Article/Chapter], a Any facility owned or operated by a public, private or cooperative company for the transmission, distribution or processing of its products or for the disposal of cooling water, waste or by-products, and including, major trunk pipelines, water towers , sewage lagoons, cell towers, electrical transmission facilities (except transmission towers over 200' in height) including substations not associated with a commercial power generating facilities and other similar facilities.

**VETERINARY CLINIC:**

A place where large and small animals or pets are given medical attention and cared for during the time of such treatment.

**WETLANDS:**

Naturally occurring land areas where excess water is the dominant factor determining the nature of soil development and the types of plant and animal communities living at the soil surface. Wetland soils retain sufficient moisture to support aquatic or semiaquatic plant life, and include those areas that are inundated or saturated by surface or ground water at least fourteen consecutive days during the growing season.

**WAREHOUSING, STORAGE AND DISTRIBUTION: HEAVY:**

Open-air storage, distribution and handling of materials and equipment. Excludes ministorage facilities. Typical uses include monument or stone yards, open storage yards, petroleum storage facilities.

**WAREHOUSING, STORAGE AND DISTRIBUTION: LIGHT:**

Wholesaling, storage, distribution, and warehouse services of materials and equipment within enclosed structures. Excludes mini-storage facilities. Typical uses include distributors, storage warehouses, moving and storage firms.

**WORKER RESIDENTIAL:**

Residential uses necessary and accessory to, in conjunction with, and subordinate to the primary agricultural, forestry, commercial or industrial use of property.

**YARD:**

An open space on a lot or parcel of land, other than a court, unoccupied and unobstructed by a building from the ground upward.

**YARD, FRONT:**

A yard extending across the full width of the lot or parcel of land on which a building or structure is located and situated between the front lot line and the nearest point of the building or structure.

**YARD, REAR:**

A yard extending across the full width of the lot or parcel of land on which a building or structure is located and situated between the rear lot line and the nearest point of a building or structure.

**YARD, SIDE:**

A yard extending from the front yard, or the front lot line where no front yard is required to the rear yard or to the rear lot line where no rear yard is required. The width of a side yard is the distance between each side lot line and the nearest point of a building or structure.

**YOUTH CAMP:**

A facility either owned or leased, and operated by a state or local government, or a nonprofit corporation as defined under ORS 65.001, to provide an outdoor recreational and educational experience primarily for the benefit of persons 21 years of age and younger. Youth camps do not include any manner of juvenile detention center or juvenile detention facility.

**YURT:**

A round, domed shelter of cloth or canvas on a collapsible frame.

**ZONE, APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL:**

The area under the approach, transitional, horizontal, and conical surfaces defined in Part 77, Objects Affecting Navigable Air Space, Federal Aviation Regulations, published by the Federal Aviation Administration (FAA) of the U.S. Department of Transportation.

## **ARTICLE 12 ADMINISTRATION**

### **12.010 - SCOPE AND COMPLIANCE**

- A. Proposed Uses. The provisions of this code are applicable to all lots, parcels, buildings, structures and uses of land created, established, constructed or altered subsequent to the adoption of this code unless specifically exempted.
  
- B. Existing Uses. The provisions of this code are not retroactive in their effect on a use of land lawfully established on the date of adoption of this code, unless review of an application for the alteration, intensification, expansion or modification of an existing use requires a discretionary decision to determine if the proposal is consistent with this code. All development permits granted pursuant to the provisions of duly enacted ordinances shall remain in effect and shall be subject to all the conditions and provisions of the original approval, unless otherwise revoked pursuant to provisions of this code.

### **12.020 - CONSISTENCY WITH PLANS AND LAWS**

- A. Actions initiated under this code shall be consistent with the Klamath County Comprehensive Plan and with applicable county, state and federal laws and regulations.
  
- B. The rights granted by any development permit or building permit pursuant to any ordinances repealed by this code shall not be affected by such repeal, however, such permit or approval shall be maintained in accordance with the provisions of this code.
  
- C. Any use established or conducted, or any building or structure existing in violation of any duly enacted ordinance upon the effective date of this code, shall not be deemed to have acquired status of rights of a nonconforming classification by reason of the adoption of this code or any provisions thereof. To the extent that such use, building or structure was in violation of such ordinance, statute or law, or in violation of this code, such shall be deemed a continuing violation.

- D. Any use, activity, building or structure found to be non-compliant, incompatible, or inconsistent with the Klamath County Comprehensive Plan or this code shall be considered a nuisance.

### **12.030 - OFFICIAL ZONING MAPS**

Land use zones defined in this code are denoted on the Official Zoning Map (or maps) of Klamath County and are adopted as a part of this code and any other zoning map or maps devoting any type of zoning are declared null and void and are superseded by the Official Zoning Map (or maps) of Klamath County.

### **12.040 - UNCERTAINTIES OF ZONE BOUNDARIES**

Where uncertainties exist as to boundaries of any zone shown upon the Official Zoning Map (or maps) of Klamath County, the following provisions shall apply:

- A. Where boundaries are indicated as approximately following lot lines, rights-of-way of highways, streets, alleys, roads, canals, railroads, or contours and the like, such lines shall be construed to be boundaries.
- B. In the case of unsubdivided property where a zone boundary divides a lot or parcel of land, the location of such boundary which is not indicated by dimension or legal description shall be determined by the Planning Director in accordance with the Type II Administrative Review Procedure.
- C. Where a public highway, street, or alley or any portion thereof is officially vacated or abandoned, the area comprising such vacated highway, street, or alley shall have applied thereto the same zone as that of the property to which it reverts. Existing or functioning highway and road right-of-ways and areas used primarily for automobile and truck transportation shall be deemed to permit the continued use as such, as well as other uses supportive of the primary use.
- D. Railroad rights-or-way and areas used solely for the purpose of accommodating track, signals and other operative devices and the movement or rolling stock shall be deemed to be zoned to permit the continued use as such, as well as other uses supportive of the primary use.
- E. Easements or land areas used solely for electric power line and poles, telephone lines and poles and gas transmission lines shall be deemed to be zoned to permit the continued use of such.

- F. Upon application, all contiguous lands under one ownership and used as of the effective date of the code in conjunction with a higher use shall be zoned with the higher use. The application shall be reviewed as a zone correction pursuant to Article 49.

### **12.050 - FEES REQUIRED**

Any application for a land use or development decision shall be accompanied by a fee when prescribed by this code, the amount of which fee shall be adopted by resolution of the Board of Commissioners.

### **12.060 - RULES OF INTERPRETATION**

#### A. Effect of Provisions

1. Minimum Requirements - The regulations and standards set forth in the code are to be considered minimum requirements, which are binding upon all persons and bodies charged with administering or enforcing this code.
2. Effect Upon Private Agreements - It is not intended that these regulations are to interfere with or abrogate or annul any easements, covenants or other agreement between parties. When those regulations impose a greater restriction upon the use of land that are imposed or required by other ordinances, rules, or regulations, these regulations shall control.

#### B. Language

1. Construction - When used in this code, the words "shall," or "will" are always mandatory and not discretionary. The words "should" or "may" are permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural, and the plural the singular.
2. Time of Day - Whenever a certain hour or time of day is specified in this code, or any permit, condition of approval or notice issued or given as set forth in this code, such hour shall be standard time or daylight savings time, whichever is in current use in the County.
3. Computation of Time - Time deadlines in this code shall be computed by excluding the first day and including the last day. If the last day is Saturday, Sunday or other legal holiday, the act must be performed on the next working day. "Day" shall mean calendar day unless otherwise specified.

4. Rounding of Quantities - Whenever this code requires consideration of distances, numbers of dwelling units, parking spaces or other aspects of development or the physical environment expressed in numerical quantities which are fractions of whole numbers, such numbers are to be rounded to the next highest whole number when the fraction is .5 or more, and to the next lowest whole number when the fraction is less than .5.
5. "Filing" or "submitted" for the purposes of this code shall mean that any required documents have been received by the Planning Department by any deadline required by this code, order or condition of approval.

### **12.070 - CLASSIFICATION OF USES**

- A. Intent - A land use, activity, building or structure that is not enumerated or otherwise defined by this code may be classified, interpreted, or defined without amendment to the language of this code.
- B. Procedure
  1. The Planning Director or any other person may initiate an action to have a use classified consistent with this code.
  2. Persons seeking a classification shall submit a statement to the Planning Director setting forth the need for the determination along with factual information relative to the functional, land use requirements, similarity to other uses. A site plan consistent with Section 41.060 shall be submitted.
  3. A request for a classification shall be accompanied by the fee set by resolution by the Board of County Commissioners.
  4. A request for a classification shall be reviewed according to the Type II Administrative Review procedure. The Planning Director or his/her designee may refer the action to the Hearings Officer for a determination or may require that the determination be addressed as a legislative amendment to this code.
- C. Criteria - A request for a classification shall be reviewed against the following criteria:
  1. The use, activity, building or structure has characteristics most like another use presently enumerated or defined by this code;

2. The use, activity, building or structure has functional characteristics similar to another use presently enumerated or defined by this code;
3. The use, activity, building or structure has land use requirements similar to another use presently enumerated or defined by this code; and
4. The use, activity, building or structure will not be incompatible with other uses, activities, buildings or structures already enumerated or defined by this code.

D. Effect of Classification

1. No classification, interpretation or definition made under this section shall be inconsistent with Oregon law, either by statute, rule or legal interpretation.
2. Any use, activity, building or structure may be allowed on the property in question in the same manner as a use enumerated in this code which was determined to approximate the proposal.
3. No classification, interpretation or definition shall apply to any other property than to that specifically requested.



- C. Any lot or parcel which contains more than one lawfully established single family dwelling may be divided into separate lots or parcels if the criteria enumerated in this subsection are satisfied. Nonconforming lots or parcels created pursuant to this subsection shall meet access requirements of this Code, and shall maintain the maximum feasible setback and area requirements of the zone in which the property is located.
1. The lot or parcel was lawfully created and contained more than one lawfully established singlefamily dwelling prior to February 1, 1999; and
  2. The dwellings do not constitute a manufactured home park as defined in this Code; and
  3. The subject property is not planned/zoned for farm or forestry use.

### **13.030 - NONCONFORMING USES**

Nonconforming uses are those out of compliance with the land use zones set forth in Chapter 50 of the Land Development Code. Nonconforming uses lawfully in existence as of February 1, 1999, may continue (including a change of zone or occupancy) subject to the following provisions:

- A. When a nonconforming use is interrupted or abandoned for a period of one year, the nonconforming use shall not be resumed. After any such interruption or abandonment, the use of the site must conform to all applicable requirements of this Code. "Abandonment", as used in this section, refers to the cessation of occupancy or use;
- B. If the level of activity of a nonconforming use is decreased it shall not be permitted to increase to its original level;
- C. No change of a nonconforming use or a structure associated with a nonconforming use shall be permitted which would result in utilization of greater land area, physical enlargement of a structure, additional traffic or employees, or any other increase or change that would result in increased noncompliance with this Code or greater impact on adjacent and surrounding land uses.

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ORD. 45.2 Adopt February 16, 1984  
**ORD. 45.17 Updated Full KCLDC Adopt August 15, 1990**  
 ORD. 45.29 Art. 13.030(C)&(D) Amend May 5, 1993  
 ORD. 45.31 Art. 13.030, 040, 050 Amend February 15, 1995  
 ORD. 45.36(C) Art. 13 Amend February 11, 1999

Repealed August 15, 1990

- D. Continued use is not defined as a “Nuisance” per the Code.

**13.040 - NONCONFORMING STRUCTURES**

Nonconforming structures are those that are out of compliance with the development standards set forth in the Land Development Code, Health Codes and Building Codes. Nonconforming structures in existence as of February 1, 1999, may continue (including a change of ownership or occupancy) subject to the following provisions:

- A. Repairs and or alterations to a nonconforming structure must not materially change the use or cause the structure to be in greater nonconformance with this Code. Repairs shall be reviewed under a Type II Administrative Review Procedure.
- B. Once structures are brought into conformance with this Code, repairs and alterations may not be undertaken that would cause the structure to once again be nonconforming.
- C. The continued use or occupancy of the structure is not defined as “Camping” or a “Nuisance” per the Code.

**13.050 - DAMAGED OR DESTROYED USES AND STRUCTURES**

- A. Repair or replacement of a nonconforming use or structure damaged by fire or other natural disaster shall be permitted in the same location and manner provided the work commences within 1 year and is completed within two years.
- B. Repair or replacement of a damaged nonconforming use or structure not commenced within 1 year shall comply with this Code.

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ORD. 45.2	Adopt February 16, 1984	Repealed August 15, 1990
<b>ORD. 45.17 Updated Full KCLDC</b>	<b>Adopt August 15, 1990</b>	
ORD. 45.27 Art. 13.060(C)		Repealed April 8, 1992
ORD. 45.31 Art. 13.030, 040, 050	Amend February 15, 1995	
ORD. 45.36(C) Art. 13	Amend February 11, 1999	

# ARTICLE 14 ENFORCEMENT

## **14.010 - PURPOSE**

This article establishes procedures for enforcement of this Code. The enforcement procedures set forth are intended to ensure due process of law.

## **14.020 – PROHIBITIONS**

No person, firm, corporation or other entity shall locate, construct, maintain, repair, alter, or use a building or other structure or use or transfer land in violation of this Code and other applicable ordinances.

## **14.030 - ENFORCEMENT RESPONSIBILITIES**

The responsibility for the enforcement of the provisions of the Land Development Code area assigned as follows:

- A. County Sheriff – It is the duty of the County Sheriff and of all officers of the County otherwise charged by law to enforce this Code and all its provisions.
  
- B. Code Enforcement Officer – The Planning Director or his/her designee shall act as the Code Enforcement Officer. The Code Enforcement Officer has the following responsibilities and powers in the enforcement of this code.
  - 1. To review with affected individuals the provisions of this code in order to obtain voluntary compliance with its provisions.
  - 2. To issue citations to appear before the Klamath County Circuit Court or the Wood River Justice Court for violations of applicable ordinances.
  - 3. To initiate all necessary proceedings to forfeit bond or cash deposits.
  - 4. To initiate enforcement hearings in front of the Hearings Officer to revoke approvals granted under this code.

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ORD. 45.2		Adopt February 16, 1984	Repealed April 3, 1986
ORD. 45.6	Art. 14.012	Adopt April 3, 1986	Repealed August 19, 1987
ORD. 45.10	Art. 14.012(B)	Adopt August 19, 1987	Repealed August 15, 1990
<b>ORD. 45.17 Updated Full KCLDC</b>		<b>Adopt August 15, 1990</b>	
ORD. 45.33	Art. 14.050(A)&(B)	Amend May 13, 1996	
ORD. 45.33	Art. 14.060(A)&(B)	Amend May 13, 1996	
ORD. 45.33	Art. 14.070		Repealed May 13, 1996
ORD. 45.33	Art. 14.120	Amend May 13, 1996	
ORD. 45.36(D)	Art. 14	Amend March 2, 1999	
ORD. 45.67	Art. 11	Adopt April 18, 2008	Acknowledged May 12, 2008
ORD. 45.91	Art. 14.090	Adopted January 25, 2018	

**14.040 – CITATIONS/ENFORCEMENT ORDERS**

The Code Enforcement Officer may issue notice of enforcement to appear before the Hearings Officer, or citation to the Klamath County Circuit Court or the Wood River Justice Court pursuant to Klamath County Code Chapter 800 to any person who is alleged to have violated any of the provisions of this Code or an Order of a Hearings Officer or Board of County Commissioners. Penalties for violations shall be in accordance with Section 14.090 and/or Klamath County Code Chapter 800.

**14.050 - REVOCATION OF APPROVAL OR SECURITY**

- A. The Code Enforcement Officer may initiate proceedings by notice to revoke the approval of any permit or land use approval issued pursuant to this Code in any case where a use of land has been established or conducted in a manner which violates or fails to observe the provisions of this code or a condition of approval.
- B. The Code Enforcement Officer may initiate procedures to forfeit all or a portion of a bond, cash deposit, or other performance security.

**14.060 - PROCEDURES**

- A. The Code Enforcement Officer shall attempt to rectify alleged violations by contacting the property owner and negotiating a stipulated written agreement to resolve the violation. Should negotiation fail, or the agreement not followed, then procedures per Section 14.040 or B. below shall be initiated.
- B. The Code Enforcement Officer shall notify the violator by notice of intention to enforce or revoke at least 10 days prior to an Enforcement Hearing. Such notice shall contain the following:
  - 1. A heading which reads, "Notice of Enforcement Hearing."
  - 2. A list of the provisions of this code and/or conditions violated and the means to correct such violation(s), if any.

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ORD. 45.2		Adopt February 16, 1984	Repealed April 3, 1986
ORD. 45.6	Art. 14.012	Adopt April 3, 1986	Repealed August 19, 1987
ORD. 45.10	Art. 14.012(B)	Adopt August 19, 1987	Repealed August 15, 1990
<b>ORD. 45.17 Updated Full KCLDC</b>		<b>Adopt August 15, 1990</b>	
ORD. 45.33	Art. 14.050(A)&(B)	Amend May 13, 1996	
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ORD. 45.36(D)	Art. 14	Amend March 2, 1999	
ORD. 45.67	Art. 11	Adopt April 18, 2008	Acknowledged May 12, 2008
ORD. 45.91	Art. 14.090	Adopted January 25, 2018	

3. The date, time and place of the enforcement hearing.
  4. The possible penalties for noncompliance.
  5. A requirement that the individual appear and show cause why the provisions of the ordinance should not be enforced.
- C. The Code Enforcement Officer shall notify the person posting the bond or cash deposit of the intention to cause forfeiture of the bond or deposit at least 20 days prior to a forfeiture hearing.

Such notice shall contain the following:

1. A heading which reads, "Notice of Forfeiture Hearing."
2. The reasons for seeking forfeiture and the remedial action required and the remedial action required.
3. The date, time and place of the forfeiture hearing.
4. The possible penalties for noncompliance.

#### **14.070 - JURISDICTION**

Court appearances and hearings before a Hearings Officer conducted for the purpose of Code Enforcement, revocation of approvals granted under this Code or the forfeiture of bonds are to be conducted as follows:

- A. Before the Circuit Court or Wood River Justice Court – Citation to appear can be issued if the alleged violation is a code violation or may pose a threat to the public health, safety and welfare or; if the violation is a repeat of an earlier offense or failure to obey the Order of a Hearings Officer or the Board of County Commissioners. Procedure is that set by law.
- B. Enforcement Hearings before the Hearings Officer - Hearings can be held before the Klamath County Hearings Officer in accordance with the procedures of Article 24 subject to appeal per Article 33.

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ORD. 45.2		Adopt February 16, 1984	Repealed April 3, 1986
ORD. 45.6	Art. 14.012	Adopt April 3, 1986	Repealed August 19, 1987
ORD. 45.10	Art. 14.012(B)	Adopt August 19, 1987	Repealed August 15, 1990
<b>ORD. 45.17 Updated Full KCLDC</b>		<b>Adopt August 15, 1990</b>	
ORD. 45.33	Art. 14.050(A)&(B)	Amend May 13, 1996	
ORD. 45.33	Art. 14.060(A)&(B)	Amend May 13, 1996	
ORD. 45.33	Art. 14.070		Repealed May 13, 1996
ORD. 45.33	Art. 14.120	Amend May 13, 1996	
ORD. 45.36(D)	Art. 14	Amend March 2, 1999	
ORD. 45.67	Art. 11	Adopt April 18, 2008	Acknowledged May 12, 2008
ORD. 45.91	Art. 14.090	Adopted January 25, 2018	

**14.080 - INTERFERENCE PROHIBITED**

No person shall hinder, interfere with, or impede the Code Enforcement Officer in the performance of duties assigned by this code.

**14.090 - PENALTIES**

Any person, firm, corporation or other entity who has been found to have violated any of the provisions of this code shall be punished by a fine not exceeding \$720 per occurrence, to a maximum of \$1,000, if the violation is found to be a continuing or repeat circumstance. Circuit Court and Justice Court shall have concurrent jurisdiction over prosecutions for violations of this Code.

**14.100 – SEVERABILITY**

The provisions of the Code are severable, and any invalid section, subsection, sentence, clause, phrase or portion of this Code if for any reason is held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not effect the validity of the remaining portions of the Code.

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ORD. 45.2		Adopt February 16, 1984	Repealed April 3, 1986
ORD. 45.6	Art. 14.012	Adopt April 3, 1986	Repealed August 19, 1987
ORD. 45.10	Art. 14.012(B)	Adopt August 19, 1987	Repealed August 15, 1990
<b>ORD. 45.17 Updated Full KCLDC</b>		<b>Adopt August 15, 1990</b>	
ORD. 45.33	Art. 14.050(A)&(B)	Amend May 13, 1996	
ORD. 45.33	Art. 14.060(A)&(B)	Amend May 13, 1996	
ORD. 45.33	Art. 14.070		Repealed May 13, 1996
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## **ARTICLE 15 IMPROVEMENT ASSURANCES**

### **15.010 - PURPOSE**

The purpose of performance agreements is to ensure that improvements or actions required by this code are made, and that neither the County nor other affected property owners will incur such costs.

### **15.020 - IMPROVEMENTS**

- A. The Director of Public Works may specify and require road improvements or repairs, infrastructure improvements or repairs, or other site improvements or repairs to be installed prior to final approval of any development, and may require that applicants or developers enter into a performance agreement with the County for completion of required improvements or repairs.
- B. The Planning Director or review body may specify site improvements to be installed or other actions required by this code, order or condition of approval to be completed, and may require that applicants or developers enter into a performance agreement with the County for completion of improvements or performance of a required action.

### **15.030 - PERFORMANCE AGREEMENT**

- A. The Planning Director or Director of Public Works may enter into an agreement, with security, allowing the applicant to install improvements or repairs over a period of time not to exceed 2 years from the time of filing a final plat, and may attach specific performance conditions to such agreement;
- B. The Planning Director or Director of Public Works may enter into an agreement, with security, allowing the applicant to install required improvements or perform an action required by this code within a specified time period, and may attach specific performance conditions to such agreement;
- C. A bond, or other security acceptable to the Planning Director or Director of Public Works, shall accompany any performance agreement. The bond or other security shall be one of the following:

1. A bond, or other security acceptable to the Planning Director or Director of Public Works, shall accompany any performance agreement. The bond or other security shall be one of the following:
  2. Cash or certified check;
  3. Time deposit certificate payable to Klamath County;
  4. Savings account assignment to Klamath County;
  5. An irrevocable letter of credit in favor of Klamath County from a financial institution authorized to do business in the State of Oregon, and in a form acceptable to Klamath County.
  
- D. The Planning Director or Director of Public Works may grant special time extensions to a performance agreement, and attach conditions to any special time extension.

**15.040 - EXECUTION OF PERFORMANCE AGREEMENT**

- A. Assurance of full and faithful performance of an improvement agreement shall be for a sum determined by the Planning Director or Director of Public Works as sufficient to cover the cost of the improvements or repairs, including related engineering, legal, and incidental expenses.
  
- B. In the event the applicant fails to carry out all provisions of the agreement, the County shall:
  1. Call on the surety company for full and faithful performance; or
  2. Use the deposit or letter of credit to complete the work.
  
- C. If the amount of the bond, deposit, or letter of credit exceeds the cost of completing the work, the County shall release the remainder to the rightful claimant.
  
- D. If the amount of the bond, deposit, or letter of credit is less than the cost of completing the work, the applicant shall be liable for the difference and, upon demand, shall pay such liability to the County.
  
- E. If the County completes the work necessary to satisfy any requirement of this code or condition of approval and assesses the cost to other parties, those parties may enforce the performance agreement as third party beneficiaries.