

**CHAPTER 17.110  
GENERAL PROVISIONS**

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**Article I. Title, Authority and Purpose**

**17.110.001 SHORT TITLE.** This title shall be known as the Marion County Rural Zoning Code, and may be so cited and pleaded.

**17.110.002 AUTHORITY.** This title is enacted pursuant to the authority granted to Marion County in ORS Chapters 92, 197, 203, and 215.

**17.110.003 PURPOSE.** It is the intent and purpose of this title to:

- A. Provide and coordinate regulations governing the development and use of lands in the portions of Marion County outside acknowledged urban growth boundaries that implement and conform to the County Comprehensive Plan;
- B. Promote and protect the public health, safety, and general welfare;
- C. Conserve farm and forest lands for the production of crops, livestock, and timber products; and
- D. Provide for development and arrangement of efficient public services and facilities within the county.

**Article II. DEFINITIONS**

**17.110.005 DEFINITIONS, GENERALLY.**

- A. The meanings given terms in this chapter may, in certain contexts in which they are used, be clearly inapplicable. In such cases the context in which a term is used will indicate its intended meaning, and that intent shall control.
- B. Where a term used in this title is already defined in MCC Title 16, Urban Zoning, or the International Building Code, the term is not redefined herein unless it has a different meaning in this title, or is so frequently used herein that the same definition is reproduced in this chapter for the reader's convenience.
- C. Terms not defined in this title, shall have their ordinary accepted meanings within the context in which they are used. Webster's Third New International Dictionary of the English Language, Unabridged (ed. 2002) shall be considered a standard reference to ordinary accepted meanings.
- D. For the purpose of this title, words used in the present tense include the future, the singular number includes the plural, the word "shall" is mandatory and not directory, and the word "building" includes structure.

Terms defined in other chapters of this title apply only within the chapter where the term is defined.

**17.110.010 ACCESSORY BUILDING.** “Accessory building” means a detached, subordinate building or portion of a main building, the use of which is incidental to that of the main building or to the use of the land.

**17.110.015 ACCESSORY.** “Accessory” means a building, structure, vehicle, or use which is incidental and subordinate to and dependent upon the primary use on the lot.

**17.110.025 AIR CONTAMINANT.** “Air contaminant” means any dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid, or particulate matter of any combination thereof.

**17.110.030 AIR CONTAMINATION.** “Air contamination” means any source at, from, or by reason of which there is emitted into the atmosphere any air contaminant, regardless of who the person may be who owns or operates the building, premises or other property in, at, or on which such source is located, or the facility, equipment or other property by which the emission is caused or from which the emission comes.

**17.110.040 AIRPORT.** “Airport” means a landing area, runway or other facility designed, used, or intended to be used for the landing and taking off of aircraft, aircraft storage, hangars, and other necessary buildings and open spaces.

**17.110.045 ALLEY.** “Alley” means a public space or thoroughfare not more than 20 feet, but not less than 10 feet in width which has been dedicated or deeded to the public for public use providing a secondary means of access.

**17.110.050 ALTERATION, STRUCTURAL.** “Alteration, structural” means any change or repair which would affect or materially change a supporting member of a building, such as a bearing wall, column, beam, or girder.

**17.110.052 ANTENNA.** “Antenna” means a device the surface of which is used to capture an incoming and/or to transmit an outgoing electromagnetic radiation signal from wireless communication facilities. Antennae include the following types:

- A. “Omni-directional ("whip") antenna” receives and transmits signals in a 360-degree pattern.
- B. “Directional or parabolic ("panel" or "disk") antenna” receives and transmits signals in a directional pattern typically encompassing an arc of 120 degrees.
- C. Other - All other transmitting or receiving equipment not specifically described herein shall be regulated in conformity with the type of antenna described herein which most closely resembles such equipment. For the purpose of this chapter, the term "antenna" shall not include accessory antenna which are antennae less than 12 inches in its largest dimension and are not directly used to provide personal wireless communications services. An example would be a global positioning satellite (GPS) antenna.

**17.110.055 APARTMENT.** “Apartment” means an apartment shall mean a dwelling unit as defined in this title.

**17.110.060 APARTMENT HOTEL.** “Apartment hotel” means a building or portion thereof designed for or containing both individual guest rooms or suites or rooms and dwelling units.

**17.110.065 APARTMENT HOUSE.** “Apartment house” means a building or portion thereof designed, built, rented, leased, let or hired out to be occupied, or which is occupied or is the home or residence of three or more families living independently of each other and doing their own cooking in said building, and shall include flats and apartments.

**17.110.068 APPEAL PERIOD.** “Appeal period” means the number of days specified for the particular type of land use action for filing an appeal. The appeal period begins the day the notice of decision is mailed and ends at the close of business on the last day of the period. Business days, holidays and weekends are included. If the appeal period would otherwise end on a Saturday, Sunday or a holiday when county offices are closed, the appeal period ends at the close of business on the first following business day.

**17.110.075 AUTOMOBILE SERVICE STATION.** “Automobile service station” means a premises used for retail sales directly to the consumer for the supplying of gasoline, oil, minor accessories, and services for automobiles.

**17.110.080 AUTOMOBILE OR TRAILER SALES LOT.** “Automobile or trailer sales lot” means a lot used for display, sale, or rental of new or used automobiles or trailers, where no repair work is done except minor, incidental repairs of automobiles or trailers to be displayed, sold or rented on the premises.

**17.110.090 AUTOMOBILE WRECKING YARD - JUNK YARD.** “Automobile wrecking yard” or “junk yard” means a premises used for the storage or sale of used automobile parts or for the storage, crushing, recycling, dismantling, or abandonment of junk, obsolete automobiles, trailers, trucks, machinery, or parts thereof.

**17.110.095 AWNING.** “Awning” means a movable shelter supported entirely from the exterior wall of a building and of a type which can be retracted, folded or collapsed against the face of a supporting building.

**17.110.100 AWNING, MOBILE HOME, TRAILER.** “Awning, mobile home, trailer” means a stationary structure, permanent or demountable, used in conjunction with a mobile home or trailer, other than a window awning, for the purpose of providing shelter from the sun and rain, and having a roof with supports and not more than one wall or storage cabinet substituting for a wall.

**17.110.105 BASEMENT.** “Basement” means 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 equal to or greater than the vertical distance from grade to ceiling. If such portion of a building is not a basement, then it shall be considered a story.

**17.110.108 BED AND BREAKFAST INN.** “Bed and breakfast inn” means a single-family dwelling where lodging and a morning meal for guests only are offered for compensation, having no more than five sleeping rooms for this purpose. An establishment where more than one meal per day is offered shall not be deemed a bed and breakfast inn. An establishment with more than five sleeping rooms shall be deemed a hotel. Unless specifically listed as a permitted or conditional use, a bed and breakfast inn is considered a home occupation. Weddings, receptions, group meetings, conferences and similar activities are not allowed as secondary uses, accessory uses or temporary uses in association with a bed and breakfast.

**17.110.110 BLOCK.** “Block” means the properties abutting on one side of a street between either:

- A. Two cross streets; or
- B. Between the city limits and the nearest cross streets; or
- C. When there is only one cross street:
  - 1. Between a cross street and the dead-end of a street;
  - 2. Between a cross street and the line projected from the centerline of an intersecting street, such as a "T" intersection;
  - 3. Between a cross street under consideration when there is no other cross street or intersecting street within 600 feet;
- D. Or when there are no cross streets, then the block shall be between the points 600 feet from each side of the property under consideration and along the street.

**17.110.012 BOARD.** “Board” means the Marion County board of commissioners.

**17.110.115 BOARDING HOUSE.** “Boarding house” means a building or portion thereof used for the purpose of providing meals or meals and lodging for pay or compensation of any kind to persons other than members of the family occupying such dwelling.

**17.110.120 BUILDING.** “Building” means a structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

**17.110.123 BUILDING OFFICIAL.** “Building official” means the building official for Marion County duly appointed by the board pursuant to the International Building Code.

**17.110.125 CABANA.** “Cabana” means a stationary, light-weight structure which may be prefabricated or demountable, with two or more walls, used adjacent to and in conjunction with a mobile home or trailer to provide additional living space and designed to be moved with the trailer or mobile home.

**17.110.130 CAMPGROUNDS.** “Campgrounds” mean a premises under one ownership where persons camp or live in any manner other than in a permanent building constructed entirely of wood or more lasting materials, excepting mobile home parks, and trailer parks.

**17.110.135 CARPORT.** “Carport” means a permanent structure that is not enclosed on two or more sides, and which is used or intended for the parking of motor vehicles.

**17.110.140 CELLAR.** See “Basement,” MCC 17.110.105.

**17.110.145 CEMETERY.** “Cemetery” means land used or intended to be used for the burial of the dead, including pets, and dedicated for cemetery purposes, including a columbarium, crematory, mausoleum, or mortuary, when operated in conjunction with and within the boundary of such cemetery.

**17.110.147 CHILD CARE FACILITY.** “Child care facility” means any facility that provides child care to children, including a child care center, certified family child care home, and registered family child care home. It includes those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before and after school care, or child development center, except those excluded under ORS 657A.250. This term applies to the total child care operation. It includes the physical setting, equipment, staff, provider, program, and care of children.

**17.110.148 CHILD CARE HOME.** “Child care home” means:

- A. A child care facility located in a building constructed as a single family dwelling that has certification to care for a maximum of 12 children at any one time; or
- B. A group childcare home as used in OAR Chapter 657A.

**17.110.149 CHILD FOSTER HOME.** “Child foster home” refers to a home certified by State Department of Human Services which is maintained and lived in by the person named on the foster home certification.

**17.110.150 CHURCH.** See “Religious organization,” MCC 17.100.472.

**17.110.151 CLUB.** “Club” means an organization, group, or association supported by the members thereof, the purpose of which is to render a service primarily for members and their guests, but shall not include any organization, group, or association the chief activity of which is to render a service customarily carried on as a business.

**17.110.152 CO-LOCATION.** “Co-location” means the use of a single support structure and/or site by more than one wireless communications provider.

**17.110.154 COMPREHENSIVE PLAN.** “Comprehensive plan” means the officially adopted generalized, coordinated land use map and policy statement of the Board that interrelates all functional and natural systems and activities relating to the use of land.

**17.110.156 CONDITIONAL USE.** “Conditional use” means any use that is permitted in a particular zone only after review and approval as a conditional use and includes, where not excepted, conditional uses established under previous zoning code provisions.

**17.110.158 CONFERENCE GROUNDS.** “Conference grounds” means a retreat or meeting place used for organized discussion and consultation, including overnight accommodations for conferees.

**17.110.160 CONVALESCENT HOME.** See “Nursing home,” MCC 17.110.415.

**17.110.162 CORNER LOT.** “Corner lot” means a lot having two or more intersecting lot lines, which are also street or roadway right-of-way lines, in which the interior angle formed by the extensions of the street or roadway lot lines in the direction which they take at their intersection with the side or rear lot lines forms an angle of 135 degrees or less. In the event the street or roadway lot line is a curve at the point of intersection with a side or rear lot line, the tangent to the curve at that point shall be considered the direction of the lot line.

**17.110.163 CONTIGUOUS.** “Contiguous” means touching along a boundary at more than a point.

**17.110.165 COURT.** “Court” means a space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.

**17.110.168 CRITERIA.** “Criteria” means mandatory requirements used to evaluate land use actions that shall not be varied or adjusted.

**17.110.169 DAY NURSERY.** See “Child care home,” MCC 17.110.148.

**17.110.170 DECISION.** “Decision” means the written recommendation, order or ordinance by which the zoning administrator, hearings officer, planning commission or board makes its disposition of a land use action.

**17.110.173 DEVELOPMENT STANDARDS.** “Development standards” means any standard or condition imposed in the applicable zone and in this title and any conditions imposed as a condition of application approval.

**17.110.175 DIRECTOR.** “Director” means the planning director or the planning director’s designee.

**17.110.180 DORMITORY.** “Dormitory” means a building other than a hotel, boarding or rooming house, used primarily for sleeping purposes.

**17.110.185 DWELLING.** “Dwelling” means any building or any portion thereof which is not an "apartment house" or a "hotel" as defined in this code, which contains one or more "apartment" or "guest rooms" used, intended or designed to be built, used, rented, leased, let or hired out to be occupied or which is occupied for living purposes but excluding hotels, motels, boarding or rooming houses, mobile homes, travel trailers, and campers.

**17.110.190 DWELLING UNIT.** “Dwelling unit” means an independent area in a building including permanent provision for living, sleeping, eating, cooking, and sanitation occupied by and serving:

- A. A single family; or
- B. A single family and rooming or boarding of up to two domestic employees or other persons; or
- C. A single family and residents of a residential home as defined in MCC 17.110.477.

**17.110.195 DWELLING, SINGLE FAMILY.** “Dwelling, single family” means a detached building on a lot, or portion of a building on a separate lot, containing only one dwelling unit, exclusive of a mobile home.

**17.110.200 DWELLING, TWO FAMILY (DUPLEX).** “Dwelling, two family (duplex)” means a building designed exclusively for occupancy by two families living independently of each other in independent dwelling units.

**17.110.205 DWELLING, MULTIPLE-FAMILY.** “Dwelling, multiple-family” means a building or portion thereof designed for occupancy by three or more families living independently of each other in independent dwelling units.

**17.110.210 EDUCATIONAL INSTITUTION.** “Educational institution” means a college, community college, or university supported by public funds or by contributions or endowments and giving general instruction, excluding those defined in MCC 17.110.505 and 17.110.510.

**17.110.215 EQUIPMENT ENCLOSURE.** “Equipment enclosure” means a small structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communications signals. Associated equipment may include air conditioning and emergency generators.

**17.110.220 FAMILY.** “Family” means one or two adults and children related by blood or legal guardianship to one or both of the adults living together in a dwelling unit; or, one to five persons any of whom are not related by blood, marriage, or legal guardianships, living together in a dwelling unit; one or more persons any of which are not related by blood, marriage, legal guardianship and who qualify as handicapped under the Federal Fair Housing Act (42 USC SS3602 H) or residents of a residential home as defined in MCC 17.110.477.

**17.110.223 FARM USE.** “Farm Use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the 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 or animal husbandry or any combination thereof. “Farm use” includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. “Farm use” also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. “Farm use” also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. “Farm use” includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. “Farm use” does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203 (3) of this section or land described in ORS 321.267 (3) or 321.824(3).

Preparation of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products. 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.

**17.110.225 FENCE.** “Fence” means an unroofed barrier or an unroofed enclosing structure such as masonry, ornamental iron, woven wire, wood pickets or solid wood or any other material used as an unroofed barrier to light, sight, air or passage.

**17.110.228 FOREST USE.** “Forest use” means, in those zones allowing forest uses the use of land for any of the following: the production of trees; the processing of forest products; open space; watersheds; wildlife and fisheries habitat; vegetative soil stabilization; air and water quality maintenance; outdoor recreational activities and related support services and wilderness; livestock grazing.

**17.110.230 FRATERNITY, SORORITY, STUDENT HOME.** “Fraternity, sorority, student home” means a residential building in which living accommodations are furnished to students.

**17.110.232 FRONTAGE.** “Frontage” means that portion of a lot which abuts a street, whether or not access to the property is accorded thereby, and whether or not a building or structure faces the street frontage. In context, coupled with the term "alley" or "roadway" "frontage" has the same meaning with respect to an abutting alley or roadway.

**17.110.235 GARAGE.** “Garage” means a building or portion thereof, other than a carport, designed and constructed for or used for the storage, parking or keeping of a motor vehicle.

**17.110.240 GARAGE, PRIVATE.** “Garage, private” means a detached accessory building or portion of a main building for the parking or temporary storage of automobiles in which no business, occupation or service is provided for or is in any way conducted.

**17.110.245 GARAGE, PUBLIC.** “Garage, public” means a building other than a private garage used for the care, repair or equipping of motor vehicles or where such vehicles are parked or stored for compensation, hire or sale.

**17.110.247 GOVERNING BODY.** “Governing body” means the Marion County board of commissioners.

**17.110.250 GRADE (GROUND LEVEL).** “Grade (ground level)” means the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point five feet distant from said wall or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line if it is less than five feet distant from said wall. In case walls are parallel to and within five feet of a public sidewalk, alley or other public way, the grade shall be the elevation of the sidewalk, alley or public way.

**17.110.252 GRADE, NATURAL.** “Grade, natural” means grade with the land in an undisturbed state.

**17.110.255 GROUP CARE HOME.** “Group care home” means a dwelling where residential care alone or in conjunction with treatment or training or a combination thereof is provided by a family or non-resident staff for resident individuals who need not be related. The provider family or non-resident staff need not be related to each other or to any resident of the dwelling. It includes a facility meeting this definition licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825. It includes homes for the aged and retirement homes. It also means a child care facility with no limits on where employees reside.

**17.110.257 GUEST.** “Guest” means any person occupying a room or lodging room for living or sleeping purposes on a temporary and gratuitous basis.

**17.110.258 GUEST FACILITY.** “Guest facility” means an accessory building maintained for the purpose of providing temporary and gratuitous living accommodations, but dependent upon the main dwelling for cooking or bathroom facilities or both and subject to MCC 17.126.020(A)(9).

**17.110.259 HEARINGS OFFICER.** “Hearings officer” means the person(s) so designated by the board.

**17.110.260 HEIGHT OF BUILDING.** “Height of building means the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The height of a stepped or terraced building is the maximum height of any segment of the building. The reference datum shall be whichever of the following yields a greater height of building:

- A. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above grade.
- B. An elevation 10 feet higher than the grade when the sidewalk or ground surface described in subsection (A) of this section is more than 10 feet above grade.

**17.110.262 HELIPORT.** “Heliprot” is an area used or to be used for landing or take-off of helicopters or other VTOL aircraft capable of hovering and may include any or all of the area or buildings which are appropriate to accomplish these functions.

**17.110.265 HOMES FOR THE AGED AND INFIRM.** “Homes for the aged and infirm” means “group care home.

**17.110.270 HOME OCCUPATION.** “Home occupation” means any business or professional activity engaged in for the production of income by a resident of a dwelling or dwelling unit as a subordinate use of the building and its premises, and in conformance with the provisions of this title. A home occupation may include a limited home occupation, conditional home occupation or a home occupation in a resource zone. Such term does not include the lease or rental of a dwelling unit or the rooming or boarding of persons on the same premises.

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

**17.110.280 HOSPITAL, VETERINARY.** “Hospital, veterinary” means a building or premises for the medical or surgical treatment of domestic animals or pets.

**17.110.285 HOTEL.** “Hotel” means any building containing guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes by guests.

**110.287 INTERNATIONAL BUILDING CODE (IBC).** “International building code (IBC)” means the code of building design and construction standards adopted by Marion County.

**17.110.290 JUNK YARD.** See “Automobile wrecking yard,” MCC 17.110.090.

**17.110.295 KINDERGARTEN.** See “Child care facility,” MCC 17.110.147.

**17.110.300 KENNEL.** “Kennel” means any lot or premises on which four or more dogs and/or cats or pets over the age of four months are kept for sale, lease, breeding, boarding, shows, training, or racing.

**17.110.302 LAND USE ACTION.** “Land use action” means an amendment to the applicable county comprehensive plan or this title, or a decision on a zone change, variance, adjustment, administrative review, or conditional use permit, including appeals from any of the foregoing.

**17.110.303 LANDSCAPED.** “Landscaped” means primarily devoted to the planting and preservation of trees, shrubs, lawn and other organic ground cover, together with other natural or artificial supplements such as watercourses, ponds, fountains, decorative lighting, benches, arbors, gazebos, bridges, rock or stone arrangements, pathways, sculpture, trellises, and screens.

**17.110.304 LEGISLATIVE ACTION.** “Legislative action” means a land use action involving amendments to the applicable comprehensive plan, the text of this title, or an amendment to the zoning map involving six or more lots in separate ownership.

**17.110.305 LIQUID WASTE.** “Liquid waste” means any waste oils, septic tank pumpings, industrial wastes and other similar materials.

**17.110.310 LOADING SPACE.** “Loading space” means an off-street space or bay on the same lot or parcel with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise, passengers or materials, and which abuts upon a street, alley, or other appropriate means of access.

**17.110.312 LODGE.** “Lodge” means a facility providing temporary lodging in conjunction with outdoor recreational activities.

**17.110.315 LOT.** “Lot” means a unit of land created by a subdivision as defined in ORS 92.010 in compliance with all applicable zoning and subdivision ordinances; or created by deed or land sales contract if there were no

applicable zoning, subdivision ordinances, exclusive of units of land created solely to establish a separate tax account.

**17.110.320 LOT AREA.** “Lot area” means the total area measured on a horizontal plane within the lines of a lot.

**17.110.325 LOT DEPTH.** “Lot depth” means the horizontal distance between the front lot line and the rear lot line measured at a point half-way between the side lot lines.

**17.110.330 LOT, INTERIOR.** “Lot, interior” means a lot other than a corner lot.

**17.110.335 LOT LINE.** “Lot line” means the lines bounding a lot as defined herein.

**17.110.340 LOT LINE, FRONT.** “Lot line, front” means:

- A. In the case of an interior lot having only one street or roadway easement frontage, the lot line separating the lot from the street right-of-way or the nearest right-of-way line of a roadway easement. In the case of an interior lot, a line separating the lot from the street, and in the case of a corner lot, a line separating the lot from the street on which the improvement or contemplated improvement will face.
- B. In the case of any lot not covered by subsection (A) of this section, the lot line which the architecturally designed front of the building faces or the lot line designated by the zoning administrator on an approved site plan.

**17.110.345 LOT LINE, REAR.** “Lot line, rear” means:

- A. In the case of any lot having a rear lot line designated on a subdivision approval the lot line so designated.
- B. In the case of any other lot, the lot line opposite, and most distant from the front lot line. In the case of a triangular shaped lot, the rear lot line for setback purposes, shall be a line connecting points 20 feet from the intersecting side lot lines.

**17.110.350 LOT LINE, SIDE.** “Lot line, side” means any lot line which is not a front or rear lot line.

**17.110.355 LOT, CORNER.** “Lot, corner” means a lot or portion thereof situated at the intersection of two or more streets.

**17.110.360 LOT OF RECORD.** “Lot of record” means a lot which is part of a subdivision or a lot or parcel described by metes and bounds that has been recorded in the office of the county recorder and which complied with all applicable laws at the time of its recording.

**17.110.365 LOT WIDTH.** “Lot width” means the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

**17.110.370 MARQUEE.** “Marquee” means a permanent roofed structure attached to and supported by the building and projecting over public property.

**17.110.375 MATERNITY HOME.** See “Hospital,” MCC 17.110.275.

**17.110.380 MOBILE HOME.** “Mobile home” means a structure constructed for movement on public highways that has sleeping, cooking, and plumbing facilities, is intended for use as a dwelling unit and is at least eight feet wide and at least 35 feet long. This definition includes manufactured dwelling, manufactured home, mobile home, and residential trailer as those terms are defined in ORS 446.003 provided they meet the width and length requirements. The definition does not include recreational vehicles as defined in MCC 17.110.466, or structures or vehicles that have a State of Oregon or U.S Government label designating them as recreational vehicles. It also

does not include buildings or structures subject to the structural specialty code adopted pursuant to ORS 455.100 to 455.450.

**17.110.385 MOBILE HOME PARK.** “Mobile home park” means any lot where four or more occupied mobile homes not in conjunction with farm use, are located, exclusive of mobile homes allowed under this title as temporary dwellings, and mobile homes without a functioning bathroom or kitchen.

**17.110.390 MOTEL.** “Motel:” means a series of attached, semi-attached, or detached apartments, each composed of bedroom and bathroom, with each apartment having entrance leading directly from the outside of the building.

**17.110.392 NOISE IMPACT AREA.** “Noise impact area” means the area within 500 feet of the boundaries of Highways 99 and 22, Interstate 5, the Woodburn Dragstrip, and within the NEF 30 or Ldn 65 contour line based on the projected use at the end of the airport master planning period around public airports, and any area identified as a noise impact area in applicable county comprehensive plans.

**17.110.395 NONCONFORMING LOT.** “Nonconforming lot” means a lot which does not meet the area or width requirements of the zone in which it is located.

**17.110.400 NONCONFORMING STRUCTURE.** “Nonconforming structure” means a building or structure or portion thereof lawfully existing at the time the ordinance codified in this title became effective, which was designed, erected or structurally altered, for a use that does not conform to the use regulations of the zone in which it is located, or which does not conform to the setbacks for maximum lot coverage or other provisions herein established for the zone.

**17.110.405 NONCONFORMING USE.** “Nonconforming use” means a use to which a building, structure, vehicle, or land was lawfully put at the time this title became effective and which does not conform with the use regulations of the district in which it is located.

**17.110.408 NOTIFICATION AREA.** The “notification area” shall be as required in MCC 17.111.030(C) (unless a greater distance is required by Oregon Administrative Rules or Oregon Revised Statutes) from and parallel to the boundaries of the subject property.

**17.110.409 NOTIFICATION LIST.** “Notification list” means a written list of the names and addresses of all property owners within the notification area. The names and addresses shall be obtained from the most recent property tax assessment roll at the time an application is received.

**17.110.410 NURSERY.** See “Child care home” MCC 17.110.148.

**17.110.415 NURSING HOME.** “Nursing home” means any home, place or institution which operates and maintains facilities providing convalescent or nursing care, or both, for a period exceeding 24 hours for two or more ill or infirm patients not related to the nursing home administrator, or owner, by blood or marriage. Convalescent care may include, but need not be limited to, the procedures commonly employed in nursing and caring for the sick. A nursing home includes rest homes, sanitariums, convalescent homes, but does not include group care homes, hotel, hospital, or a chiropractic facility.

**17.100.425 OWNER.** “Owner” means the owner of record of real property as shown on the latest tax rolls or deed records of the county, or a person who is purchasing a parcel of property under written contract, including any person having legal or equitable interest in a lot or parcel other than a leasehold or an interest less than a leasehold.

**17.110.427 PARCEL.** “Parcel” means a unit of land created by a partitioning as defined in ORS 92.010 in compliance with all applicable zoning and partitioning code provisions contained in 17.172 MCC, or created by deed or land sales contract if there were no applicable zoning or partitioning code provisions contained in 17.172 MCC, excluding units of land created solely to establish a separate tax account.

**17.110.430 PARKING AREA, PRIVATE.** “Parking area, private” means an open area, building or structure, other than a street or alley, used for the parking of the automobiles of residents and guests of a building.

**17.110.435 PARKING AREA, PUBLIC.** “Parking area, public” means an open area, building or structure other than a private parking area, street, or alley used for the parking of automobiles and other motor vehicles, but not to include trucks, and available for use by the public or by persons patronizing a particular building or establishment.

**17.110.440 PARKING SPACE, AUTOMOBILE.** “Parking space, automobile” means a space within a private or public parking area, building or structure, for the parking of one automobile.

**17.110.452 PARTITION LAND.** “Partition land” means to divide land into two or three parcels of land within a calendar year, but does not include:

- A. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
- B. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing land reduced in size by the adjustment complies with an applicable zoning code provisions;
- C. The division of land resulting from the recording of a subdivision or condominium plat;
- D. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan and ORS 215.213(2)(p) to (r) and 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; or
- E. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the deed records of the county where the property is located.

**17.110.453 PERMIT.** “Permit” means any determination, conditional use, variance or adjustment granting permission to do an act or to engage in activity where such permission is required by this zoning code.

**17.110.454 PERMITTED USE.** “Permitted use” means those uses permitted in a zone that are allowed without obtaining a conditional use permit.

**17.110.455 PERSON.** “Person” means a natural person, his heirs, executors, administrators, or assigns and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid and any political subdivision, agency, board or bureau of the state.

**17.110.457 PET.** “Pet” means a domestic animal customarily kept, and cared for, by the occupants of a dwelling for personal pleasure, and which are not raised for food, fur, or monetary gain. Typically, dogs, cats, birds and other small mammals and reptiles, but not including fowl, herd animals, goats or horses.

**17.110.460 PLANNING COMMISSION.** “Planning Commission” means the Marion County Planning Commission.

**17.110.461 PRIMARY BUILDING, STRUCTURE, OR USE.** “Primary building, structure, or use” means a permanent or temporary building, structure, vehicle, or use that is not an accessory or secondary building, structure or use.

**17.110.462 PUBLIC UTILITY FACILITY.** “Public utility facility” means all on-site and off-site improvements and related accessories to be accepted for ownership, maintenance and operation by a public agency, including but not limited to, sanitary sewers and pump stations, water lines including related reservoirs, pump stations, pressure reading stations and hydrants, storm drain systems, bike paths and pedestrian paths, and streets including alleys, street lights, street name signs, traffic control systems and devices.

**17.110.464 QUASI-JUDICIAL.** “Quasi-judicial” means any land use action not meeting the definition of a legislative action.

**17.110.465 RAMADA.** “Ramada” means a stationary structure having a roof extending over a mobile home or trailer, which may also extend over a patio or parking space for motor vehicles, and is used principally for protection from sun and rain.

**17.110.466 RECREATIONAL VEHICLE.** “Recreational vehicle” means a vehicle with or without motive power that is designed for human occupancy, to be used temporarily for recreational or emergency purposes, that has a gross floor space of less than 400 square feet. Recreational vehicle includes camping trailers, camping vehicles, motor homes, park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers and any vehicle converted for use or partial use as a recreational vehicle.

**17.110.467 RECREATIONAL VEHICLE PARK.** “Recreational vehicle park” means a lot upon which two or more recreational vehicle spaces are located, established, or maintained. Where two or more recreational vehicle spaces are provided within a campground, the portion of the campground with the recreational vehicle spaces shall be considered a recreational vehicle park.

**17.110.468 RECREATIONAL VEHICLE SPACE.** “Recreational vehicle space” means the portion of a lot where a recreational vehicle is parked and occupied or intended to be parked and occupied. A camping site within a campground that is equipped with electrical, water or sewer hookups designed for use by recreational vehicles shall be considered a recreational vehicle space.

**17.110.469 RECYCLING DEPOT.** “Recycling depot” means a lot or portion of a lot used for the collection, sorting, and temporary storage of non-putrescible waste and discarded materials which are reprocessed elsewhere into usable raw materials or taken elsewhere to be re-used or recycled. The term does not include drop stations.

**17.110.470 REFUSE.** “Refuse” means any putrescible and non-putrescible solid wastes including garbage, rubbish, ashes, dead animals, abandoned automobiles, junk, solid market wastes, street cleaning, and industrial wastes (including waste disposal in industrial salvage).

**17.110.472 RELIGIOUS ORGANIZATION (CHURCH).** “Religious organization (church)” means establishments operated by religious organizations for worship and religious training or study of its members and the administration of such establishments. If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under the local zoning code provisions, the county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including worship services, religion classes, weddings, funerals, child care and meal programs, but not including private school education for pre-kindergarten through grade 12 or higher education.

**17.110.475 REPAIR.** “Repair” means the reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The word "repair" or "repairs" shall not include structural changes.

**17.110.476 RESIDENTIAL FACILITY.** “Residential facility” means a dwelling where residential care alone or in conjunction with treatment or training or a combination thereof is provided by a family or non-resident staff for

resident individuals who need not be related. The provider family or non-resident staff need not be related to each other or to any resident of the dwelling. It includes a facility meeting this definition licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825. It also means a child care facility with no limits on where employees reside.

**17.110.477 RESIDENTIAL HOME.** “Residential home” means a dwelling unit where the resident family provides residential care alone or in conjunction with treatment or training or a combination thereof for the resident individuals who need not be related. Any home employees must reside in the dwelling unit. The provider family need not be related to those receiving residential care. It includes a home meeting this definition licensed by or under the authority of the Department of Human Resources under 443.400 to 443.825. It also means a child care facility in a dwelling unit where any facility employees reside in the dwelling unit.

**17.110.480 REST HOME.** See “Nursing home,” MCC 17.110.415.

**17.110.485 RESTAURANT, CAFE.** “Restaurant, café” means an establishment where prepared food is served to the public for consumption within the building, or to "take out" to some other location.

**17.110.490 RESTAURANT, DRIVE-IN.** “Restaurant, drive-in” means an establishment where prepared food is served to the public for consumption on the premises or to "take out" to some other location.

**17.110.495 ROADWAY.** “Roadway” means a right-of-way across private property granted by the property owner to owners of one or more lots and allowing vehicles access from a street or roadway to those lots.

**17.110.500 ROOMING HOUSE.** “Rooming house” means a residential building or portion thereof providing sleeping rooms where lodging for three or more persons is provided for compensation.

**17.110.505 SCHOOL, TRADE OR COMMERCIAL.** “School, trade or commercial” means a building where instruction, training or lessons are given to pupils for a fee in money or otherwise which fee is the principal reason for the existence of the school.

**17.110.510 SCHOOL, ELEMENTARY, MIDDLE, JUNIOR HIGH OR HIGH.** “School, elementary, middle, junior high, or high”, means an institution offering instruction in the several branches of learning and study, in accordance with the rules, and regulations of the State Department of Education.

**17.110.515 SCRAP AND WASTE MATERIALS ESTABLISHMENT.** “Scrap and waste materials establishment” means any establishment or place of business that is maintained, operated or used for storing, keeping, buying or selling old or scrap copper, brass, rope, rags, batteries, paper, rubber, or debris, junked, dismantled, wrecked, scrapped, or ruined motor vehicles or motor vehicle parts (except wrecking yards), iron, steel, or other old scrap metal or non-metal materials. Scrap and waste materials establishment does not include drop stations, solid waste transfer stations, or recycling depots.

**17.110.522 SECONDARY USE.** “Secondary use” means a use located on a lot with one or more primary uses that occupies less than 40 percent of the lot and it is, or can be, maintained independent of the primary use (see MCC 17.126.020 for regulations).

**17.110.523 SEMI-PUBLIC.** “Semi-public” means any use that is partly but not completely public and is open to at least some persons outside the regular constituency of an entity or institution having some features of a public institution, such a non-profit organization, as a public service.

**17.110.524 SOLID WASTE TRANSFER STATION.** “Solid waste transfer station” means a fixed or mobile facility, used as an adjunct to collection vehicle(s), resource recovery facility, or disposal site between the collection of the waste/solid waste and disposal site, including but not limited to, another vehicle, a concrete slab, pit, building, hopper, railroad gondola or barge. The term does not include a self-propelled compactor type solid

waste collection vehicle into which scooters, pick-ups, small packers or other satellite collection vehicles dump collected solid waste for transport to a transfer, disposal, landfill or resource recovery site or facility.

**17.110.525 STABLE, PRIVATE.** “Stable, private” means an accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire, or sale.

**17.110.530 STABLE, PUBLIC.** “Stable public” means a building in which horses are kept for remuneration, hire, or sale, including saddle and riding clubs.

**17.110.532 STANDARD INDUSTRIAL CLASSIFICATION MANUAL (SIC).** The document so entitled, referenced MCC 17.110.730, published in 1987, and used in this title to identify land use classifications

**17.110.533 STANDARDS.** See “Development standards,” MCC 17.110.173.

**17.110.540 STORY.** “Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused underfloor space is more than six feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such basement, cellar or unused under floor space shall be considered as a story.

**17.110.545 STORY, HALF.** “Story, half” means a story under a gable, hip or gambrel roof, the wall plates of which, on at least two opposite exterior walls, are not more than two feet above the floor of such story.

**17.110.550 STREET.** “Street” means a way of travel more than 20 feet wide which has been dedicated or deeded to the public for public use.

**17.110.555 STRUCTURE.** “Structure” means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, regardless of whether it is wholly or partly above or below grade including mobile homes.

**17.110.556 SUBDIVIDE LAND.** “Subdivide land” means to divide land into four or more lots within a calendar year.

**17.110.557 SUBDIVISION.** “Subdivision” means either an act of subdividing land or an area or a tract of land subdivided.

**17.110.558 SUPPORT STRUCTURE.** “Support structure” means a structure to which antennae and other necessary associated hardware are mounted. Support structures include, but are not limited to the following:

- A. “Lattice tower” means a support structure which consists of a network of crossed metal braces, forming a tower which is usually triangular or square in cross-section.
- B. “Monopole” means a support structure which consists of a single pole sunk into the ground and/or attached to a foundation.
- C. “Guyed tower” means a support structure which consists of metal crossed strips or bars and is steadied by wire guys in a radial pattern around the tower.
- D. “Existing structure” means an existing or approved nonresidential structure or building, water tower or tank, utility pole, wireless communication support structure, etc.

**17.110.560 TEMPORARY USE.** “Temporary use” means a primary, secondary, or accessory use that occurs on a lot for less than six months in any calendar year, or a lesser period as prescribed in MCC 17.126.30 or elsewhere in this title.

**17.110.565 TRAILER (TRAVEL OR VACATION).** “Trailer (travel or vacation)” means a vehicle or structure equipped with wheels for highway use that is intended for human occupancy, which is not being used for residential purposes and is being used for vacation and recreational purposes.

**17.110.567 TRANSMISSION FACILITY.** “Transmission facility” means high voltage (57 KV or more) power lines and related support structures used to convey electricity from a power generator facility to electric substations along a line or corridor.

**17.110.568 TRANSMISSION TOWER.** “Transmission tower” means a single structure and related unoccupied buildings transmitting or relaying electronic signals to the surrounding area or along a communication corridor including radio, television and telephone transmitters and microwave relay stations.

**17.110.580 TRUCK.** “Truck” means a motor vehicle designed or used for carrying, conveying, or moving over highways of this state any property, article, or thing and having a combined weight of vehicle and maximum load to be carried thereon of more than 6,000 lbs.

**17.110.581 TURNAROUND AREA.** “Turnaround area” means a paved area of a sufficient size and configuration that a motor vehicle having a turning radius of 30 feet or less may maneuver around to head in the opposite direction without having to move in reverse more than once.

**17.110.583 URBAN GROWTH BOUNDARY (UGB).** “Urban growth boundary (UGB)” means the 20 years growth limit identified in a city comprehensive plan and the Marion County Comprehensive Plan acknowledged under ORS Chapter 197.

**17.110.584 UTILITY FACILITY.** “Utility facility” means any water, gas, sanitary sewer, storm sewer, electricity, telephone and wire communication service, and CATV (cable television) service lines, mains, pumping stations, reservoirs, poles, underground transmission facilities, substations, and related physical facilities which do not include buildings regularly occupied by employees, parking areas, or vehicle, equipment and material storage areas, wireless communications facility or wireless communications facility attached.

Under the provisions of the EFU, SA, and FT zones, "wireless communications facility" and "wireless communications facility attached" shall be included in the definition of utility facility. Under the provisions of the TC zone these facilities shall be considered microwave and radio communication facilities and transmission towers.

**17.110.585 USE (noun).** “Use” (noun) mean the purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied.

**17.110.586 VEHICLE.** For the purposes of this title, “vehicle” shall have the same meaning as the definition in the rules and regulations of the State Department of Motor Vehicles.

**17.110.590 VISION CLEARANCE.** “Vision clearance” means a triangular area at the street or highway corner of a corner lot, or the corner at an alley-street intersection of a lot, the space being defined by a diagonal line across the corner between the points on the street right-of-way line or street-alley right-of-way line measured from the corner.

**17.110.592 WIRELESS COMMUNICATION FACILITIES (WCF).** “Wireless communications facilities (WCF) “ means an un-staffed facility for the transmission and reception of electromagnetic signals used for commercial communications. WCFs are composed of two or more of the following components:

- A. Antenna;
- B. Support Structure;
- C. Equipment Enclosures; and
- D. Security Barrier.

**17.110.594 WIRELESS COMMUNICATION FACILITIES ATTACHED (WCFA).** “Wireless communication facilities attached (WCFA)” means a wireless communication facility that is attached to an existing or approved structure, e.g., an existing building wall or roof, mechanical equipment, tower or pole, water tank, utility pole, or light pole, that does not include an additional wireless communications support structure.

**17.110.595 YARD.** “Yard” means a space other than a court on the same lot with a building open from the ground upward except as otherwise provided herein.

**17.110.600 YARD, FRONT.** “Yard, front” means a yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto at the nearest point of the foundation of the main building.

**17.110.603 YARD, INTERIOR.** “Yard, interior” means a front, side or rear yard that is not adjacent to a street or roadway.

**17.110.605 YARD, LANDSCAPED.** “Yard, landscaped” means an open area or areas devoted primarily to the planting and maintaining of trees, grass, shrubs, and plants together with sufficient permanent irrigation installation to properly maintain all vegetation. As complimentary features, such as fountains, pools, screens, decorative lighting, sculpture and outdoor furnishings may be placed within said area.

**17.110.610 YARD, REAR.** “Yard, rear” means a yard extending across the full width of the lot between the most rear main building and the rear lot line, but for determining the depth of the required rear yard, it shall be measured horizontally from the nearest point of the rear lot line; or, if the rear lot line adjoins an alley, then from the center line of the alley, toward the nearest part of the foundation of the main building.

**17.110.615 YARD, SIDE.** “Yard, side” means a yard, between the main building and the side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard; the width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the foundation of the main building.

**17.110.618 YURT.** “Yurt” means, a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliances.

**ARTICLE III. GENERAL PROVISIONS**

**17.110.620 ZONES: OFFICIAL MAP.** The county (Marion) is hereby dividing into use zones, as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted and declared to be a part of this title. The zone names and designations are as follows:

<b><u>FULL NAME</u></b>	<b><u>DESIGNATION</u></b>
Acreage Residential Zone	AR Zone
Single Family Residential Zone	RS Zone
Multi-Family Residential Zone	RM Zone
Exclusive Farm Use Zone	EFU Zone
Special Agriculture Zone	SA Zone
Timber Conservation Zone	TC Zone
Farm/Timber Zone	FT Zone
Public Zone	P Zone

Commercial Zone  
Community Commercial  
Interchange District Zone  
Unincorporated Community Industrial  
Industrial Zone

C Zone  
CC Zone  
ID Zone  
IUC Zone  
I Zone

Whenever the terms "S" zone, "A" zone, "R" zone, "F" zone, "C" zone, "P" zone, or "I" zone are used herein, they shall be deemed to refer to all zones containing the same zone letter in their names. For example, the term "R" zone shall include the RS and RM zones.

The RS zone is the most restricted zone and the I zone is the least restricted zone. The CC and C zones shall be considered less restricted than the RM zone, but more restricted than the IUC zone.

**17.110.630 CERTIFICATION.** The board and the county clerk shall certify that "this is the official zoning map referred to in MCC 17.110.620." The official zoning map may consist of a hard copy printed on mylar or paper or a digital copy.

**17.110.650 LOCATION.** Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, there shall be only one official zoning map which shall be located in the county planning division office, and which official zoning map shall be the final authority as to the zoning status of land and water areas, buildings and other structures.

**17.110.660 AMENDING OFFICIAL ZONING MAP.** When an ordinance has been enacted amending the official zoning map, the director shall so change the official map.

**17.110.670 REPLACEMENT OF OFFICIAL ZONING MAP.** In the event the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature and number of changes and additions, or when it is necessary or desirable for some other reason, the board may adopt all or part of a new zoning map by resolution and such map shall supersede the prior official zoning map. The superseded map shall be filed for reference purposes for at least one year. The new official map may correct drafting or other errors and omissions in the prior official zoning map, but no such corrections shall have the effect of amending this title or any subsequent amendment thereof. The replacement map shall be certified by the board and county clerk that "this official zoning map supersedes and replaces the official zoning map (date of map being replaced) as part of the Marion County Rural Zone Code."

**17.110.680 ADMINISTRATION OF THE TITLE.** This title shall be jointly administered by the county building official and by the director or designee. The building official and the director or other designated officer, prior to issuing any permit pertaining to the use of land or structures, or the erection or alteration of any structure, shall ascertain that the proposed use or construction shall in all ways conform to the requirements set forth in this zoning code.

No permit for the use of land or structures or for the alteration or construction of any structure shall be issued and no land use approval shall be granted if the land for which the permit or approval is sought is being used in violation of any condition of approval of any land use action, is in violation of local, state or federal law, or is being used or has been divided in violation of the provisions of this title unless issuance of the permit would correct the violation.

The director shall handle all matters pertaining to zone changes, variances, land divisions, and conditional uses, and other administrative matters as prescribed by this title; and such other matters as directed by the planning commission, hearings officer, or board.

Any provision in any plat requiring that the board or the planning commission approve any future land uses or divisions shall be satisfied if the proposed land use or division is reviewed and approved by the hearings officer, planning director or designee in accordance with the other provisions of this title.

The director or the hearings office may deny any land use application if it is determined that the application includes any false or misleading information. Before a decision granting an application becomes final, any land use permit granted pursuant to this title may be reconsidered by the director or hearings officer and may be denied if it is determined that the application included any false or misleading information.

Any land use permit granted pursuant to this title shall be subject to revocation by the director if the director determines that the application for the permit included any false or misleading information, if the conditions of approval have not been complied with or are not being maintained, or if the land use is not being conducted in full compliance with the requirements of local, state and federal laws.

The director's decision revoking a land use permit may be appealed to the hearings officer, who shall hold a public hearing in order for the permit holder to show cause why the permit should not be revoked. No hearing may be held without a minimum 12 days notice to the permit holder.

If the hearings officer finds that the conditions of permit approval have not been complied with or are not being maintained, or that the land use is not being conducted in compliance with applicable laws, the hearings officer may grant a reasonable time for compliance. If corrections are not made within that time, the permit shall be revoked effective immediately upon expiration of the time specified. The hearings officer's decision may be appealed to the board as provided in MCC 17.122.120.

All land uses shall be conducted in full compliance with any other county ordinance, code or requirement of state law. Failure to conform to other applicable laws shall be grounds for revocation of the permit.

The director or designee shall determine whether dwellings, structures or uses are a permitted use subject to standards and the limited use provisions in the applicable zone. The administrative review procedures, as provided in MCC 17.115, shall be followed in making these decisions. The same process shall be used for other administrative reviews under this title.

**17.110.690 MINIMUM REQUIREMENTS.** In interpreting and applying this title, the provisions herein shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare and shall apply uniformly to each class or kind of structure or land.

**17.110.700 EFFECT ON OTHER ORDINANCES, AGREEMENTS BETWEEN PARTIES.** It is not intended by this title to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or ordinance, previously adopted, relating to the use of buildings or premises, or relating to the erection, construction, establishment, alteration, or enlargement of any buildings or improvements. Nor is it intended by this title to interfere with or abrogate or annul any easement, covenant, or other agreement between parties.

Provided, however, that where this title imposes a greater restriction upon the erection, construction, establishment, alteration, or enlargement of buildings, structures, or improvements, or the use of any such structures or premises than was imposed or required by previous provisions of this title, the existing provisions of this title shall apply, except that existing provisions shall not apply to valid and unexpired permits previously granted under the terms and provisions of any ordinance.

**17.110.705 PERMIT EXPIRATION DATES.**

- A. Except in the EFU, TC, SA and FT zones, and notwithstanding other provisions of this title, a discretionary decision approving a proposed development expires two years from the date of the final decision if the development action is not initiated during that period.
- B. The effective period of an approved application may be extended by the final decision maker or the Planning Director for additional one year periods if:

1. There have been no changes in land use law or plan policy that would apply to the application if reapplication was required; and
  2. A written request for an extension is filed by the applicant or applicant's successor prior to the expiration of the approval; and
  3. The decision, if rendered after the adoption of this title, included reference to the possibility of an extension, and the extension is consistent with any limits on extensions imposed in the original decision.
- C. There shall be no limit on the number of extensions that may be requested and approved.
- D. Approval of an extension granted under this section is not a land-use decision described in ORS 197.015 and is not subject to appeal as a land use decision.

**17.110.710 RULES FOR INTERPRETATION OF ZONE BOUNDARIES.** Where uncertainty exists as to the boundaries of zones as shown on the official zoning map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- C. Boundaries indicated as approximately following county boundaries shall be construed as following county boundaries;
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- E. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
- F. Boundaries indicated as parallel to or extensions of features indicated in subsections (A) through (E) of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;
- G. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (A) through (F) of this section, the director shall interpret the zone boundaries, and if need be, may refer the matter to the planning commission or hearings officer for their interpretation.

**17.110.720 INTERPRETATION OF TITLE.**

- A. The director may, in the administration of this title, issue an interpretation of its provisions consistent with (B)(1) and (2) of this section. This interpretation is not a land use decision and is not appealable.
- B. When, in the administration of this title, there is doubt by the director regarding the intent of the title, the director may request an interpretation of the provision by the planning commission or hearings officer, who may issue an interpretation of the question if they have determined that such interpretation is within their power and is not a legislative act. Any interpretation of the title shall be based on the following:
  1. The purpose and intent of the title as applied to the particular section and question; and
  2. The opinion of the Marion County legal counsel when requested by the director, planning commission or hearings officer.

- C. The director, planning commission or hearings officer may decide that the interpretation of the question is not within their power or that there is insufficient basis upon which to make an interpretation and may request the director to study the problem and, where necessary, propose an amendment to the zoning code.
- D. The interpretation by the planning commission or hearings officer shall be forwarded to the board for its information. Copies of the interpretation shall also be furnished each commissioner, the hearings officer and the director. When such interpretation is of general public interest, copies of such interpretation shall be made available for public distribution.

**17.110.725 INTERPRETATION OF USES.** The following rules shall apply in interpreting use classification and descriptions:

- A. Within each zone, uses are classified as "permitted," and "conditional." Further, uses are functionally classified by description of the particular activity (such as "single family residence"), or by reference to a category in the "Standard Industrial Classification Manual, 1987 (SIC)." The SIC is an aid to interpretations. Where the term used to describe a permitted or conditional use is defined in this code the definition takes precedence over any SIC classification.
- B. When uses have a functional SIC classification the applicable SIC index number assigned to the manual is referenced as an aid to interpretation.
- C. Where a use is not described with reference to the SIC manual or defined in this code, the words describing such use are to be given their ordinarily accepted meaning. The descriptions and lists of included activities in the SIC classifications may be used to interpret which use classification is appropriate for a particular use not specifically identified in this title.
- D. A use defined in this code is also included within an SIC category, and it is the intent that the use defined in this code be allowed in a zone where the SIC category including the defined use is referenced even though the use is not specifically referenced in the zone.
- E. A use defined in ORS 215 or OAR 660 takes precedent over any definition or SIC classification.

**17.110.730 SIMILAR USES.** The director may permit in any zone any use not described or listed in this title for any other zone if, in the opinion of the director, the requested use is of the same general type and is similar to the uses permitted in the zone. Such review and permission shall be made in the same manner as other interpretations of this title. The director shall use the Standard Industrial Classification Manual 1987 as a guide in making this interpretation.

**17.110.740 FEES.** Filing fees shall be set by order of the board of commissioners.

**17.110.755 TRANSFERABILITY.** Any land use decision or permit that has not expired runs with the land and is transferable unless the decision or permit specifically limits transferability.

**17.110.760 COMPLAINTS REGARDING VIOLATIONS.** Whenever a violation of this title occurs or is alleged to have occurred, any person may file a signed written complaint with the director or county building official. It shall be the duty of said official to investigate any such complaint and any violation regardless of whether or not a complaint has been made thereof and to take such action as may be necessary. The director has the discretion to choose not to enforce a violation.

**17.110.765 BOARD AUTHORITY.** The board may, on its own motion, summon any application for a land use decision at any time and make the initial determination on said application. In those cases where the board exercises its authority to make the initial determination on an application, the board substitutes itself for the planning commission, hearings officer or director and shall follow all procedures for reaching a decision just as if

the board was the planning commission, hearings officer or director, except that the decision issued is final and appealable only to the Oregon Land Use Board of Appeals.

The board may call up any land use decision of the director, planning commission or hearings officer. This action of the board shall be taken at the meeting where notice of the decision is presented. When the board takes this action, the director's, planning commission's or hearings officer's records pertaining to the land use action in question shall be forwarded the board. The call up shall stay all proceedings in the same manner as the filing of a notice of appeal.

**17.110.770 VISION CLEARANCE AREA.** The following regulations shall apply in all zones at all intersections of streets, alleys, roadways, and driveways in order to provide safe visibility for vehicular and pedestrian traffic:

- A. Local street intersections shall have vision clearance areas defined by a minimum of 30-foot legs along each street. Where there is stop control at the intersection of local streets, the vision clearance area shall have a minimum of a 10-foot leg on the minor street and a 50-foot leg on the major street.
- B. Local streets intersecting streets designated as collectors or arterials in the Comprehensive Plan shall have vision clearance areas defined by minimum of a 10-foot leg along the local street and a 100-foot leg along the collector or arterial street.
- C. Private roadways, driveways and public alleys intersecting local streets shall have vision clearance areas defined by a minimum of a 10-foot leg along the driveway and a 50-foot leg along the street.
- D. Private roadways, driveways and public alleys intersecting streets designated as collectors or arterials in the Comprehensive Plan shall have vision clearance areas defined by a minimum of a 10-foot leg along the driveway and a 100-foot leg along the collector or arterial street.
- E. The department of public works may prescribe special dimensions and conditions for the vision clearance area at or in the vicinity of intersections of driveways, roadways and streets with a public street according to recognized traffic engineering standards, where, due to grade, road alignment and geometry, irregular lot shape, substandard right-of-way width, or vehicle speeds, the vision clearance areas provided in subsections (A), (B), (C) and (D) of this section do not provide for adequate intersection visibility. This may include adjacent parcels or parcels across the road in unusual geometric situations.
- F. The vision clearance area shall be defined as the area contained by a diagonal line across the corner between points on: a public right-of-way or public easement line; a boundary of a private roadway easement or 10 feet from the centerline thereof, whichever is greater; a line parallel to and 10 feet from the centerline of a driveway. The points are measured from the intersection of the right-of-way lines or the boundary of a roadway or driveway. If no point exists it shall be measured from the point of intersection of the projection of these lines.
- G. Except as provided in subsections (G)(1) and (2) of this section, the vision clearance area required by this section shall not contain any planting, fences, walls, structures, or temporary or permanent obstructions to vision, including parked vehicles, exceeding 30 inches in height above the curb level or the end of the travel lane when there is no curb:
  1. Only one supporting post or pillar, no greater than 12 inches in diameter or 12 inches on the diagonal if rectangular, is permitted within a vision clearance area unless otherwise approved by the department of public works. Exceptions are posts or supporting members of street signs, street lights and traffic control signs installed as directed by the department of public works, or any other sign, post or pole erected for public safety.
  2. Vision clearance shall be required to a minimum height of seven feet above the curb level or edge of travel lane where there is no curb. Where public buses, trucks and other service vehicles travel

on the minor leg of the intersection, vision clearance shall be required up to a height of 10-feet above the curb level or edge of travel lane where there is no curb.

- H. The street classification (local, collector or arterial) shall be as established in the Marion County Transportation System Plan.
- I. The vision clearance provisions of this section shall not be construed as waiving or altering any yard, landscaping or setback requirements that may be required by this or any other zoning code provisions.

**17.110.780 MINIMUM STREET WIDTH.** All street rights-of-way shall be not less than as set forth below:

- A. All street rights-of-way, pavement widths, shoulder widths and other design features shall meet Marion County engineering standards.
- B. Special street setbacks as set forth in MCC 17.112.020 also apply.

**17.110.790 LOTS ABUTTING A PARTIAL STREET.** No building permit shall be issued for a building or structure on a lot which abuts a street dedicated to a portion only of its required width and is located on that side which has not yet been dedicated or condemned, unless the yards provided on such lot include both that portion of the lot lying within the required street and the required yards. This portion shall not be construed as being in lieu of or waiving any subdivision or partitioning requirement of this title or any other ordinance.

**17.110.800 DWELLINGS AND ALL OTHER BUILDINGS TO BE ACCESSIBLE TO PUBLIC STREET.** Every dwelling shall be situated on a lot having direct access by abutting upon a public street or a pre-existing private driveway of a width not less than 20 feet. A private drive shall not serve more than four dwelling units unless the parcels, on which those units are proposed to be placed, were established with the approval of Marion County in accordance with State law and Marion County ordinances; prior to May 1, 1977, or were approved under Chapter 17.121 MCC, Planned Development.

NOTE: Driveway widths, grade and surfacing pertaining to parking lots access will be referred to in Chapter 17.118 MCC, Parking and Loading.

**17.110.810 APPLICATION OF ZONING REGULATIONS.** The regulations set by this title within each zone shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

**17.110.820 CONFORMANCE AND PERMITS REQUIRED.** No building structure, or premises shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved, structurally altered, or enlarged unless in conformity with all the regulations herein specified for the zone in which it is located, and then only after applying for and securing all permits and licenses required by all laws and ordinances, except as provided in subsection (A) and (B) of this section.

- A. Federally owned lands are exempt from the permit provisions of this title. However, land use activities on federal lands shall be managed in a manner consistent with the intent of the Marion County Comprehensive Plan, this title, and the Land Policy and Management Act of 1976;
- B. On public park lands, park maintenance including rehabilitation, replacements minor improvements, repair and similar maintenance activities are not subject to conditional use permit requirements. In addition, development of new facilities identified in county-approved state park master plans and in county-approved county park plans are not subject to the conditional use procedures.

**17.110.830 WATER RESOURCE PROTECTION.** The impact of proposed land uses on water resources shall be evaluated and potential adverse impacts on the water resource shall be minimized. Where evidence indicates groundwater limitations and the development will use groundwater as a water supply, the developer shall demonstrate that adequate water can be provided without adversely affecting the ground water resource.

**17.110.831 SIGNIFICANT AND POTENTIAL MINERAL AND AGGREGATE SITES.** Proposed land uses within 1,500 feet of a county-designated or approved significant or potential mineral or aggregate extraction site shall be evaluated and if it will be adversely affected, the proposed use shall be relocated, buffered or the potential impact otherwise mitigated without imposing special requirements of the extraction operation.

**17.110.832 PROTECTION OF SCENIC AND NATURAL AREAS AND TRAILS.** Proposed land uses regulated by Marion County within, or adjacent to, scenic and natural areas and recreational trails designated for protection in the Comprehensive Plan shall be evaluated to determine if the proposed use will adversely impact on the designated resource. If there are potential adverse impacts, the proposed use shall be modified or conditioned to mitigate the impacts.

**17.110.833 STORMWATER MANAGEMENT.** The impact of proposed land uses on stormwater runoff shall be evaluated and potential adverse impacts shall be mitigated. Where evidence indicates stormwater runoff will have an adverse impact on a drainage system or natural drainage network, the developer shall demonstrate that proposed stormwater management on the subject property will compensate for the proposed change per county standards. Compliance with this requirement shall be demonstrated by compliance with department of public works engineering standards.

**17.110.834 NOISE IMPACTS.** A proposed residence or place of public assembly proposed in a noise impact area identified in the Comprehensive Plan, shall be referred to the DEQ (Department of Environmental Quality) for comment on how serious the impact will be and how the proposal can be modified to maintain acceptable noise levels. Adequate mitigation of noise impacts shall be provided.

**17.110.835 FISH AND WILDLIFE HABITATS.** The impact of land use actions regulated by this title on fish and wildlife habitat identified in the Marion County Comprehensive Plan shall be evaluated and the proposal modified or conditioned as necessary to minimize potential adverse impacts and to preserve the existing resource.

**17.110.836 HISTORIC STRUCTURES OR SITES.** The historic structures and sites identified in the Marion County Comprehensive Plan are a unique resource deserving of special consideration. When the comprehensive land use plan identifies an historic use of structure, the subject property shall be identified by a graphic symbol on the official zoning map. Designation on the official zone map shall be amended automatically to correspond to any additions or deletions in the comprehensive land use plan designation.

**17.110.838 AGRICULTURAL SOILS DETERMINATION.** Agricultural soils determinations shall be based on the classifications shown in "Soil Survey of Marion County Area: September, 1972", unless the applicant provides a detailed soils evaluation from a consulting soils scientist whose credentials have been certified as acceptable to the State Department of Agriculture that the soil class, soil rating, or other soil designation should be changed, and the report satisfies the most recent requirements in the Oregon Administrative Rules for acceptable soils reports. Any changes in the soil class, soil rating, or other soil designations are limited to those authorized in the Oregon Administrative Rules and Oregon Revised Statutes for dwellings in farm or forest zones (see ORS 215.705).

**17.110.840 AMENDMENT OF TEXT ONLY.** Any amendment of this title which amends, supplements or changes only the text hereof, shall be initiated by the board, hearings officer or by the planning commission by resolution. Whenever an amendment is initiated by the board, the resolution may be referred to the director, planning commission or hearings officer for its recommendation.

In every case of a proposed amendment, the director shall fix a date for a public hearing before the board, planning commission or hearings officer and shall cause notice to be given as provided in Chapter 17.111 MCC. After the public hearing, the director, planning commission or hearings officer may refer its recommendations to the board.

**17.110.850 PENDING ZONE CHANGE PROCEEDINGS.** Any petition or proceeding pending before the planning commission, hearings officer or the board for a zone change or reclassification of any premises from one zone to another, or for any variance, shall abate by the passage of this title, but the petitioner, if he so requests, shall

be permitted to amend his petition or application so as to conform to the designation of zones and other provisions of this title.

**17.110.860 VIOLATIONS OF REGULATIONS UNLAWFUL; PROOF OF VIOLATION PRIMA FACIE EVIDENCE OF OWNER'S RESPONSIBILITY.** It shall be unlawful for any person to violate any provision of this title, to permit or maintain any such violation, to refuse to obey any provision hereof, or to fail or refuse to comply with any such provision except as variation may be allowed under this title. Proof of such unlawful act or failure to act shall be deemed prima facie evidence that such act is that of the owner. Prosecution or lack thereof of either the owner or the occupant shall not be deemed to relieve the other.

**17.110.870 ENFORCEMENT AND PENALTIES FOR VIOLATIONS.** It shall be the duty of the director and county building official to enforce this title. Violations of this title may be prosecuted and penalties assessed pursuant to Chapter 1.25 MCC, Enforcement.

**17.110.880 SAVINGS CLAUSE.** If any section, paragraph, subdivision, clause, sentence, or provision of this title shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this title, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the board to enact the remainder of this title notwithstanding the parts so declared unconstitutional and invalid; and should any section, paragraph, subdivision, clause, sentence or provision of this title be declared unreasonable or inapplicable to a particular premises or to a particular use at any particular location, such declaration of judgment shall not affect, impair, invalidate, or nullify such section, paragraph, subdivision, clause, sentence, or provision as to any other premises or use.