



Marion County OREGON

PUBLIC WORKS

(503) 588-5036

February 4, 2019

**BOARD OF
COMMISSIONERS**

Kevin Cameron
Sam Brentano
Colm Willis

Renata Wakeley
Mid-Willamette Valley Council of Governments
100 High Street SE, Suite 200
Salem, OR 97301

DIRECTOR

Brian Nicholas, P.E.

Dear Renata:

ADMINISTRATION

Thank you for the opportunity to comments on the City of Aurora's proposed comprehensive plan amendments.

**BUILDING
INSPECTION**

It makes sense that the city would want to limit city services to only incorporated land. However, the city might consider including a provision to permit the extension of services in emergency situations. Some cities have found this provision helpful when the need arises.

**EMERGENCY
MANAGEMENT**

ENGINEERING

**ENVIRONMENTAL
SERVICES**

The amendments related to the Aurora Airport seem consistent with the 2010 City of Aurora/Marion County Urban Growth Boundary Coordination Agreement (enclosed).

OPERATIONS

PARKS

PLANNING

SURVEY

Some of the proposed text would appear to limit the kind of future development that would occur within the urban growth boundary before the land is annexed. Changes to the comprehensive plan that affect the area within the urban growth boundary outside of the city must be agreed to by both the city and the county consistent with the process described in the coordination agreement, Section II (1). (See enclosed agreement.)

Statewide Planning Goal 2 requires that zoning implement the comprehensive plan (zone codes are a form of implementing measures, please see enclosed text of Goal 2). If the city's comprehensive plan is amended, the Urban Transition zoning the county applies to the land may have to be changed (see zone code enclosed).

The comprehensive plan changes would apply to all land zoned Urban Transition (see attached map). Some of this land is designated for future residential use. If the county restricts residential use of a property that action might subject the county to a Measure 49 claim (ORS 195.300-195.336). This is something that would have to be looked at closely when considering how county zoning should be developed to implement the city's comprehensive plan changes.

To: Renata Wakeley
From: Brandon Reich
RE: City of Aurora Comprehensive Plan Amendments
January 25, 2019

Page 2

Additionally, depending on how the city intends the comprehensive plan changes to be enacted in zoning, changes to the zone code could permit some farm uses and uses allowed in farm zones that would not be consistent in an area of the urban growth boundary adjacent to city limits that the city is able to annex someday for future urban uses. Similarly, strongly restricting uses on the land might conflict with the land being a transition between rural and urban uses with the future intent of the land being annexed and developed with urban uses.

Finally, significant changes in the uses allowed on property could impact property owners' expectations for the use of their properties and the investments they have made in their properties. This impact may be a consideration when the county considers concurring in the city's proposed amendments.

It may be possible to amend the existing Urban Transition zone to address the city's concerns in such a way that the comprehensive plan amendment is not necessary, or can be proposed in a different manner. If the city chooses to delay consideration of the amendments, planning staff would be happy to meet with the city and a representative from the Department of Land Conservation and Development (DLCD) to see if we can identify options to address the city's concerns that are mutually supported by jurisdictions' staff.

Thank you again for the opportunity to comment. Please do not hesitate to contact me if you have any questions or I can provide additional information.

Sincerely,



Brandon Reich
Senior Planner

BR:jrb

cc: W. Scott Jorgensen, City Recorder, City of Aurora
Angela Carnahan, Willamette Valley Regional Representative, DLCD
Robert Mansolillo, Urban Planner, DLCD

Enclosures

Via email

**CITY OF AURORA/MARION COUNTY
URBAN GROWTH BOUNDARY COORDINATION AGREEMENT**

This Agreement made and entered into this 10 day of September, 2010, by and between the City of Aurora, a municipal corporation, hereinafter called "City" and Marion County, a political subdivision of the State of Oregon, hereinafter called "County."

WITNESSETH:

WHEREAS, IT APPEARING to the City and County that ORS Chapter 197 and the Land Conservation and Development Commission (LCDC) Statewide Planning Goal 14 (Urbanization) requires that an urban growth boundary (UGB) be established around each incorporated city in the State of Oregon, and that the "establishment and change of the boundary shall be a cooperative process between a City and the County or counties that surround it"; and

WHEREAS, pursuant to the above noted statutory duty and Goal 14, and the authority granted by ORS Chapter 190 concerning intergovernmental agreements, City and County have adopted an urban growth boundary, coordination policies and procedures for amending the UGB and for revising the City and County comprehensive plans within the UGB and outside the City limits, and a coordination process for county land division and land use decisions within the urban growth area (UGA) surrounding the City of Aurora; and

WHEREAS, the intent of the urban growth program for the City is as follows:

1. Promote the orderly and efficient conversion of land from Rural/Resource uses to urban uses within the UGA.
2. Reduce potential conflicts with resource lands.
3. Promote the retention of lands in resource production in the urban growth boundary until provided with urban services and developed.
4. Coordinate growth in accordance with the Aurora Comprehensive Plan and the Marion County Comprehensive Plan.

NOW, THEREFORE, the City and County adopt the following coordination and revision procedures and policies that, along with the policies of the Aurora Comprehensive Plan, shall serve as the basis for land use decisions within the UGA (i.e., the area between the city limits of Aurora and the urban growth boundary (UGB)). It is the intent of the parties that the boundary and coordination policies and procedures

expressed in this agreement shall be consistent with Oregon State Laws, the Marion County Comprehensive Plan and the Aurora Comprehensive Plan.

L. COORDINATION POLICIES AND PROCEDURES

1. The County shall retain responsibility for regulating land use on lands within the UGA until such lands are annexed by the City. The City and County identify the UGA as urbanizable and available over time for urban development.
2. The City and County shall maintain a process providing for an exchange of information and recommendations relating to land use proposals in the UGA. The County shall forward land use activities being considered within the UGA by the County to the City for comments and recommendations. The City shall respond within twenty (20) days, unless the City requests and the County grants an extension.
3. Upon receipt of an annexation request or the initiation of annexation proceedings by the City, the City shall forward information regarding the request (including any proposed zone change) to the County for comments and recommendations. The County shall have twenty (20) days to respond unless they request and the City allows additional time to submit comments before the City makes a decision on the annexation proposal.
4. All land use actions within the UGA shall be consistent with the Aurora Comprehensive Plan and the County's land use regulations.
5. In order to promote consistency and coordination between the City and County, both the City and County shall review and approve amendments of the Aurora Comprehensive Plan that apply to the UGA.
6. The area outside the UGB shall be maintained in rural and resource uses consistent with Statewide Planning Goals.
7. The City and County shall promote logical and orderly development within the UGA in a cost effective manner. The County shall not allow uses requiring a public facility provided by the City within the UGA prior to annexation to the City unless agreed to in writing by the City.
8. City sewer and water facilities shall not be extended beyond the UGB, except as may be agreed to in writing by the City and County, consistent with Oregon Administrative Rules, the Aurora Comprehensive Plan and the Marion County Comprehensive Plan.

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9. Conversion of land within the UGA to urban uses shall occur upon annexation and be based on a consideration of applicable annexation policies in the Aurora Comprehensive Plan.
10. The City shall discourage the extension of public facilities into the UGA without annexation. However, if the extension of public facilities into the UGA is necessary because of an emergency, health hazard or the City determines it is otherwise desirable, the facilities may be extended subject to terms and conditions contained in a service contract between the City and the property owner.
11. Pursuant to OAR 660-011-0045, the City is the designated provider of public water, sanitary sewer and stormwater facilities within the UGB and is responsible for preparing the public facilities plan within the UGB. This designation does not obligate the City to provide services to any properties that are not annexed.

II. AMENDMENTS TO THE URBAN GROWTH BOUNDARY (UGB) AND THE URBAN GROWTH AREA (UGA)

The UGB and plan designations applicable to land within the UGA shall be reviewed by the City and County as required by the Land Conservation and Development Commission (LCDC) under their periodic review rules or as the City updates its comprehensive plan where County concurrence is necessary. These, and any other amendments to the Plan, UGB or zoning in the UGA shall be reviewed and approved in the manner provided below.

1. City initiated Comprehensive Plan amendments for lands in the UGA and proposed UGB amendments.
 - A. Upon receipt of notice of periodic review, the City shall review its Comprehensive Plan to determine if it needs updating. The City may also propose comprehensive plan amendments, including UGB amendments, at times other than specified by the Land Conservation and Development Commission (LCDC) Periodic Review Order.

The City shall develop proposed amendments and forward them together with all exhibits, findings of fact, and conclusions of law regarding the amendments to the County for review and comments at least 20 days before the City's initial evidentiary public hearing. The City shall be responsible for providing necessary notice of amendments to the Department of Land Conservation and Development (DLCD).

The City shall hold one or more Planning Commission and one or more City Council hearings. Upon conclusion of its deliberations, if the City Council concludes it will approve the proposed amendment(s), it shall conduct the first reading of an ordinance to adopt the proposed amendments with findings of fact and conclusions of law supporting the Council's decision.

- B. After conducting the first reading of the ordinance, the City shall forward the proposed amendments to the County for a hearing along with any comments from DLCD or other interested parties received by the City. Within 90 days after the date the City provides its ordinance along with all supporting studies, exhibits, comments and findings of fact and conclusions of law to the County, the County shall hold a public hearing on the City's proposal. If the County decides to reject the proposal or wishes to propose modifications, either party may request a joint meeting to resolve differences.
 - C. Upon concurrence by the County, the County shall adopt the amendments by ordinance. After the County adopts its ordinance, the City shall adopt its final ordinance.
2. County initiated Comprehensive Plan Amendments within the UGA or Amendments to the UGB.
- A. Upon receipt of notice of periodic review, the County shall review its Comprehensive Plan to determine if it needs updating. The County may also propose amendments at times other than specified in the Plan or by the Land Conservation and Development Commission (LCDC) Periodic Review Order.

The County shall develop proposed amendments and forward them together with all exhibits, findings of fact and conclusions of law regarding the amendments to the City for review and comments at least 20 days before the County's initial evidentiary public hearing. Within 90 days after the County provides the proposed amendments to the City, the City shall schedule at least one public hearing by the City Planning Commission. The County shall be responsible for providing necessary notice of amendments to the Department of Land Conservation and Development (DLCD).

- B. The City Planning Commission may hold one or more public hearings. After the Planning Commission has concluded its hearing(s), it shall make a recommendation to the City Council. The City Council and the County Board of Commissioners may each hold a public hearing or may jointly conduct one or more

public hearings. The two governing bodies may deliberate together on the proposed amendment(s). At a minimum, the County Board of Commissioners shall hold one or more public hearings. At the conclusion of those deliberations, if the conclusion is to approve the proposed amendment(s), the City Council and the Board of Commissioners shall each adopt an ordinance to amend their respective comprehensive plans accompanied by agreed upon findings of fact and conclusions of law.

3. **County Zoning Amendments in UGA.** Whenever the County proposes an amendment to its zoning map or regulations for lands within the UGA, the County shall provide notice and request for comments on the proposed amendment to the City at least 20 days before the County's initial evidentiary public hearing.
4. In amending the UGB, the city limits or their respective comprehensive plans, the City and County shall follow all procedures as required by Oregon State Law. In the case of an amendment to the UGB, the governing bodies shall base the amendment on consideration of Goal 14 (Urbanization), applicable planning statutes and Administrative Rules.

III. ADMINISTRATION OF ZONING AND SUBDIVISION REGULATIONS

In making land use decisions within the UGA, the City and County agree to the following:

1. The County shall provide notice and request for comments on conditional uses, variances, adjustments, land divisions, property line adjustments and administrative reviews within the UGA to the City at least 20 days before the County's initial evidentiary hearing or land use decision when no hearing is held. The County shall provide the City a notice of decision for all such applications in the UGA when requested by the City.
2. Applications for uses permitted outright in the applicable county zone including ministerial actions will not involve any notice or request for comments to the City.
3. The County shall, to the extent feasible, require City development standards for development within the UGA, including dedication of additional right-of-way or application of special street setbacks when requested by the City. The County shall, to the extent feasible, require compliance with City development standards, in lieu of County standards if the development is other than a single-family dwelling.

4. For development approved under (1) or (2), if public sewer and water facilities or city limits are located within 300 feet of the subject property, the County shall require that the development connect to the facilities unless use of wells or other means are allowed in writing by the City. The City will require any property connecting to City sanitary sewer or water facilities to annex to the City. The City shall provide the County information about the location of public sewer and water. The County may approve development of permitted uses on properties more than 300 feet from the city limits, or from a public sewer or water facility using wells and DEQ approved wastewater disposal systems.
5. If a proposed use is not specifically identified in the Marion County Urban Zoning Ordinance (MCUZO), and the County is proposing an interpretation classifying the use as permitted in the applicable zone under the interpretation provisions of the MCUZO, the County shall give the City an opportunity to comment before the County makes a final land use decision.

IV. MARION COUNTY URBAN GROWTH MANAGEMENT FRAMEWORK

The Coordination Agreement between a city and the County is required to be consistent with the Urban Growth Management Framework of the Marion County Comprehensive Plan. The Framework provides guidelines a city may choose to follow when coordinating urban growth boundary needs with the County. The decision on how to use any applicable coordination guidelines of the Framework is up to a city and there can be several approaches taken by cities to coordinate planning efforts with the County consistent with the Framework.

To facilitate coordination between the City and County, the Aurora Comprehensive Plan has been amended to incorporate applicable policies and guidelines found in the Marion County Urban Growth Management Plan. The City shall consider applicable Aurora Comprehensive Plan policies and guidelines when making land use decisions within the UGA.

V. AREA OF MUTUAL CONCERN (AMC)

The area of land identified in Exhibit "A", attached to this agreement, lies outside the Aurora UGB and shall be known as the Area of Mutual Concern (AMC). Land use decisions within this area may have a significant impact on future growth plans of the City of Aurora. The County recognizes this interest and agrees to coordinate with the City as follows:

1. The County shall retain responsibility for land use decisions and actions concerning and affecting lands within the AMC.

2. The County shall provide notice and request for comments of pending land use actions within the AMC to the City at least 20 days before the initial evidentiary hearing or land use decision when no public hearing is held. Where the first scheduled action on a proposal is a public hearing and the City responds in writing within 10 days requesting additional time in which to review the proposal, the City's time for submitting comments may be extended until the next regularly scheduled hearing before that body. If no additional hearing is involved, the City shall be allowed an additional 10 days to submit comments.
3. The County shall discourage development and zone changes that would preclude future redevelopment and urbanization of the area. The County shall encourage applicants for land divisions to submit plans for the efficient future re-division of the land to urban densities.
4. The County shall send notice of land use decisions within the AMC to the City when requested by the City, when such decisions are issued. Applicable appeal periods set by County ordinance or State statute shall apply to such decisions.
5. The County shall send notice of public hearings to the City within the times prescribed by County ordinance or State law prior to hearings on appeals of such decisions, when requested by the City.
6. The City may at its discretion develop studies as to the suitability, feasibility, and effectiveness of extending urban facilities such as water and sewer service to land within the AMC. Such studies shall not be construed by Marion County or others as being a violation of the City's or County's Comprehensive Plans. The City will not, however, extend such facilities into this area without first obtaining appropriate amendments to the City and County's Comprehensive Plans. This provision is intended to recognize that certain facility planning requires consideration of timetables that extend beyond the 20-year planning period recognized in the City Plan and it is therefore appropriate for specialized facility planning to be undertaken for the area.

VI. APPEALS

If no mutual agreement can be achieved in the course of reviewing amendments or land use applications as noted in Sections II, III and V, each party retains its right to appeal as provided in State law.

IT IS HEREBY UNDERSTOOD AND AGREED that this agreement shall remain in effect unless terminated by one of the parties through the formal action of its governing body by giving the other party a thirty day (30) termination notice, in writing.

It is further understood that this agreement may be reviewed by the City and County every year.

The City shall pass a resolution authorizing the Mayor and City Recorder to enter into this agreement on behalf of the City. The resolution shall be made a part of this agreement and attached hereto.

IN WITNESS THEREOF, the respective parties hereto have caused this Agreement to be signed in their behalf the day and year first above written.

MARION COUNTY BOARD OF COMMISSIONERS

Sam A. Beal
Chair
Patricia Milne
Commissioner
Yancy Carlson
Commissioner

APPROVED AS TO FORM:

Marion County Legal Counsel

CITY OF Aurora
[Signature]
Mayor
Kelley A. Richardson
City Recorder

RESOLUTION NO. 611

AUTHORIZATION FOR THE MAYOR AND PRESIDENT OF THE COUNCIL TO SIGN AN URBAN GROWTH BOUNDARY AND POLICY AGREEMENT WITH MARION COUNTY. Amending Resolution Number 592.

WHEREAS, Marion County and the City of Aurora mutually agreed upon and adopted an Urban Growth Boundary as described in Resolution 75.

WHEREAS, the Urban Growth Boundary and Policy Agreement with Marion County was not agreed upon with Marion County as to form in October 2009.

WHEREAS, the City of Aurora drafted a new Resolution authorizing the Mayor and President of the Council to sign the updated Urban Growth Boundary and Policy Agreement with Marion County.

NOW THEREFORE BE IT RESOLVED:

The Mayor and the President of the Council are authorized to sign the new updated Urban Growth Boundary and Policy Agreement with Marion County, on behalf of the City of Aurora.

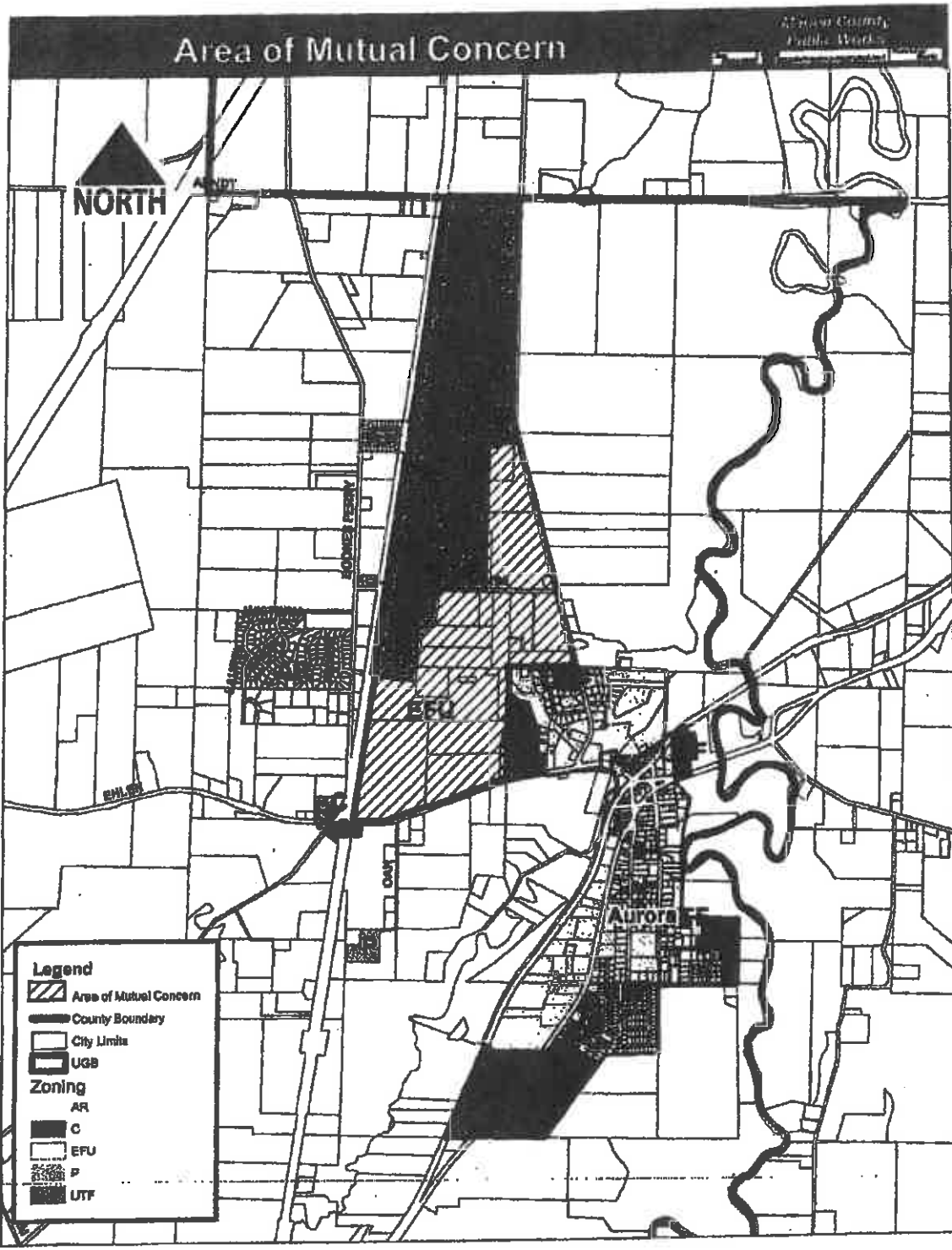
ADOPTED BY THE AURORA CITY COUNCIL, City of Aurora, Marion County, State of Oregon, on August 10, 2010.



Jim Meirov, Mayor

ATTEST:


Kelly Richardson, City Recorder



Oregon's Statewide Planning Goals & Guidelines

GOAL 2: LAND USE PLANNING

OAR 660-015-0000(2)

PART I -- PLANNING

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

City, county, state and federal agency and special district plans and actions related to land use shall be consistent with the comprehensive plans of cities and counties and regional plans adopted under ORS Chapter 268.

All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs. The required information shall be contained in the plan document or in supporting documents. The plans, supporting documents and implementation ordinances shall be filed in a public office or other place easily accessible to the public. The plans shall be the basis for specific implementation measures. These measures shall be consistent with and adequate to carry out the plans. Each plan and related implementation measure shall be coordinated with the plans of affected governmental units.

All land-use plans and implementation ordinances shall be adopted by the governing body after

public hearing and shall be reviewed and, as needed, revised on a periodic cycle to take into account changing public policies and circumstances, in accord with a schedule set forth in the plan. Opportunities shall be provided for review and comment by citizens and affected governmental units during preparation, review and revision of plans and implementation ordinances.

Affected Governmental Units -- are those local governments, state and federal agencies and special districts which have programs, land ownerships, or responsibilities within the area included in the plan.

Comprehensive Plan -- as defined in ORS 197.015(5).

Coordinated -- as defined in ORS 197.015(5). Note: It is included in the definition of comprehensive plan.

Implementation Measures -- are the means used to carry out the plan. These are of two general types: (1) management implementation measures such as ordinances, regulations or project plans, and (2) site or area specific implementation measures such as permits and grants for construction, construction of public facilities or provision of services.

Plans -- as used here encompass all plans which guide land-use decisions, including both comprehensive and single-purpose plans of cities, counties, state and federal agencies and special districts.

PART II -- EXCEPTIONS

A local government may adopt an exception to a goal when:

(a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

(b) The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

(c) The following standards are met:

(1) Reasons justify why the state policy embodied in the applicable goals should not apply;

(2) Areas which do not require a new exception cannot reasonably accommodate the use;

(3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Compatible, as used in subparagraph (4) is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons which demonstrate that the

standards for an exception have or have not been met.

Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

Upon review of a decision approving or denying an exception:

(a) The commission shall be bound by any finding of fact for which there is substantial evidence in the record of the local government proceedings resulting in approval or denial of the exception;

(b) The commission shall determine whether the local government's findings and reasons demonstrate that the standards for an exception have or have not been met; and

(c) The commission shall adopt a clear statement of reasons which sets forth the basis for the determination that the standards for an exception have or have not been met.

Exception means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that;

(a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;

(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and

(c) Complies with standards for an exception.

PART III -- USE OF GUIDELINES

Governmental units shall review the guidelines set forth for the goals and either utilize the guidelines or develop alternative means that will achieve the

goals. All land-use plans shall state how the guidelines or alternative means utilized achieve the goals.

Guidelines -- are suggested directions that would aid local governments in activating the mandated goals. They are intended to be instructive, directional and positive, not limiting local government to a single course of action when some other course would achieve the same result. Above all, guidelines are not intended to be a grant of power to the state to carry out zoning from the state level under the guise of guidelines. (Guidelines or the alternative means selected by governmental bodies will be part of the Land Conservation and Development Commission's process of evaluating plans for compliance with goals.)

GUIDELINES

A. PREPARATION OF PLANS AND IMPLEMENTATION MEASURES

Preparation of plans and implementation measures should be based on a series of broad phases, proceeding from the very general identification of problems and issues to the specific provisions for dealing with these issues and for interrelating the various elements of the plan. During each phase opportunities should be provided for review and comment by citizens and affected governmental units.

The various implementation measures which will be used to carry out the plan should be considered during each of the planning phases.

The number of phases needed will vary with the complexity and size of the area, number of people involved, other governmental units to be

consulted, and availability of the necessary information.

Sufficient time should be allotted for:

- (1) collection of the necessary factual information
- (2) gradual refinement of the problems and issues and the alternative solutions and strategies for development
- (3) incorporation of citizen needs and desires and development of broad citizen support
- (4) identification and resolution of possible conflicts with plans of affected governmental units.

B. REGIONAL, STATE AND FEDERAL PLAN CONFORMANCE

It is expected that regional, state and federal agency plans will conform to the comprehensive plans of cities and counties. Cities and counties are expected to take into account the regional, state and national needs. Regional, state and federal agencies are expected to make their needs known during the preparation and revision of city and county comprehensive plans. During the preparation of their plans, federal, state and regional agencies are expected to create opportunities for review and comment by cities and counties. In the event existing plans are in conflict or an agreement cannot be reached during the plan preparation process, then the Land Conservation and Development Commission expects the affected government units to take steps to resolve the issues. If an agreement cannot be reached, the appeals procedures in ORS Chapter 197 may be used.

C. PLAN CONTENT

1. Factual Basis for the Plan

Inventories and other forms of data are needed as the basis for the policies and other decisions set forth in the plan. This factual base should include data on the following as they relate to the goals and other provisions of the plan:

- (a) Natural resources, their capabilities and limitations
- (b) Man-made structures and utilities, their location and condition
- (c) Population and economic characteristics of the area
- (d) Roles and responsibilities of governmental units.

2. Elements of the Plan

The following elements should be included in the plan:

- (a) Applicable statewide planning goals
- (b) Any critical geographic area designated by the Legislature
- (c) Elements that address any special needs or desires of the people in the area
- (d) Time periods of the plan, reflecting the anticipated situation at appropriate future intervals.

All of the elements should fit together and relate to one another to form a consistent whole at all times.

D. FILING OF PLANS

City and county plans should be filed, but not recorded, in the Office of the County Recorder. Copies of all plans should be available to the public and to affected governmental units.

E. MAJOR REVISIONS AND MINOR CHANGES IN THE PLAN AND IMPLEMENTATION MEASURES

The citizens in the area and any affected governmental unit should be given an opportunity to review and

comment prior to any changes in the plan and implementation ordinances. There should be at least 30 days notice of the public hearing on the proposed change.

1. Major Revisions

Major revisions include land use changes that have widespread and significant impact beyond the immediate area, such as quantitative changes producing large volumes of traffic; a qualitative change in the character of the land use itself, such as conversion of residential to industrial use; or a spatial change that affects large areas or many different ownerships.

The plan and implementation measures should be revised when public needs and desires change and when development occurs at a different rate than contemplated by the plan. Areas experiencing rapid growth and development should provide for a frequent review so needed revisions can be made to keep the plan up to date; however, major revisions should not be made more frequently than every two years, if at all possible.

2. Minor Changes

Minor changes, i.e., those which do not have significant effect beyond the immediate area of the change, should be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change should be established. Minor changes should not be made more frequently than once a year, if at all possible.

F. IMPLEMENTATION MEASURES

The following types of measure should be considered for carrying out plans:

1. Management Implementation Measures

(a) Ordinances controlling the use and construction on the land, such as building codes, sign ordinances, subdivision and zoning ordinances. ORS Chapter 197 requires that the provisions of the zoning and subdivision ordinances conform to the comprehensive plan.

(b) Plans for public facilities that are more specific than those included in the comprehensive plan. They show the size, location, and capacity serving each property but are not as detailed as construction drawings.

(c) Capital improvement budgets which set out the projects to be constructed during the budget period.

(d) State and federal regulations affecting land use.

(e) Annexations, consolidations, mergers and other reorganization measures.

2. Site and Area Specific Implementation Measures

(a) Building permits, septic tank permits, driveway permits, etc; the review of subdivisions and land partitioning applications; the changing of zones and granting of conditional uses, etc.

(b) The construction of public facilities (schools, roads, water lines, etc.).

(c) The provision of land-related public services such as fire and police.

(d) The awarding of state and federal grants to local governments to provide these facilities and services.

(e) Leasing of public lands.

G. USE OF GUIDELINES FOR THE STATEWIDE PLANNING GOALS

Guidelines for most statewide planning goals are found in two sections—planning and implementation. Planning guidelines relate primarily to the process of developing plans that incorporate the provisions of the goals. Implementation guidelines should relate primarily to the process of carrying out the goals once they have been incorporated into the plans. Techniques to carry out the goals and plans should be considered during the preparation of the plan.

Chapter 16.13

URBAN TRANSITION – UT ZONE

Sections:

16.13.000	Purpose.
16.13.010	Uses.
16.13.020	Conditional uses.
16.13.030	Conditional use criteria.
16.13.040	Prohibited uses.
16.13.100	Development standards.
16.13.110	Height.
16.13.120	Front yards and yards abutting streets.
16.13.130	Interior side yards.
16.13.140	Interior rear yards.
16.13.200	Landscaping.
16.13.300	Growth management.
16.13.310	Divisions of land.
16.13.320	Development limitations and requirements.
16.13.400	Informational reference to additional standards.

* Terms defined in Chapter 16.49 MCC.

16.13.000 Purpose.

The UT (urban transition) zone is intended to retain and protect for future urban use properties which are undeveloped or underdeveloped and do not have available urban facilities such as sanitary sewer, water, drainage and streets. The zone allows the continuation of legally established uses and establishment of uses compatible with the plan designation. In areas planned for development relying on urban services, transitional uses may be allowed which will not interfere with the efficient, later use of the land for planned urban uses.

The zone is appropriate in areas designated in the applicable urban area comprehensive plan for future urban residential development, but may also be used to protect lands designated for future commercial, industrial or public uses. In areas designated for urban residential development, the residential density included in the zone is intended to be consistent with the average lot size of the immediate area. In areas planned for other uses, the zone is intended to retain lot sizes conducive to efficient development of planned uses and prevent conflicts associated with development of additional dwellings.

The zone is also intended to encourage the continued practice of commercial agriculture in areas planned for future urban development. The UT zone is intended to be a farm zone consistent with ORS 215.203. [Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 863 § 5, 1990. UZ Ord. § 13.00.]

16.13.010 Uses.

The following uses, when developed under the applicable development standards in this title, are permitted in the UT zone:

A. Lawful uses existing on a property at the time of the effective date of this zone. Expansion or replacement of nonresidential uses is regulated by MCC 16.13.020(A).

B. Farm use*.

C. The propagation, management or harvesting of forest products; provided, that harvesting of forest products which would otherwise be regulated under the Forest Practices Act if located in a forest zone shall comply with the requirements of the Forest Practices Act. Exceptions to Forest Practices Act requirements may be approved as a major adjustment under Chapter 16.41 MCC.

D. Child care home* for 12 or fewer children.

E. The following uses subject to the special standards in Chapter 16.26 MCC:

1. Home occupations, limited* (see MCC 16.26.200).
2. Wind energy conversion system (see MCC 16.26.730).

F. Uses permitted in Chapter 16.25 MCC.

G. A single-family dwelling or mobile home* subject to MCC 16.13.300.

H. Public utilities* providing services to the local area, such as utility substations, pump stations, reservoirs and low voltage (57 KV or less) electrical transmission lines.

I. Signs subject to Chapter 16.31 MCC.

J. Bed and breakfast establishments that do not include more than four lodging rooms and employ no more than one person in the conduct of the home occupation on the subject property ("person" includes volunteer, nonresident employee, partner or any other person). [Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 882 § 4, 1990; Ord. 863 § 5, 1990. UZ Ord. § 13.01.]

16.13.020 Conditional uses.

The following uses may be permitted subject to obtaining a conditional use permit and compliance with MCC 16.13.300:

A. Expansion or replacement of a use permitted under MCC 16.13.010(A).

B. Commercial activities in conjunction with farm use* or forest use subject to MCC 16.13.030(E).

C. Exploration, mining, and processing of geothermal, or other subsurface resources not used exclusively in conjunction with farm or forest management (see MCC 16.26.750 and 16.26.760). Surface mining is included subject to Chapter 16.32 MCC. Includes processing of aggregate into asphalt or portland cement, provided the facility is located more than two miles from a planted vineyard.

D. Public or private power generation facilities (see MCC 16.26.730, 16.26.740, 16.26.750, and 16.26.760).

E. Kennels*.

F. Temporary homes for the infirm subject to Chapter 16.32 MCC.

G. Solid waste disposal sites subject to Chapter 16.32 MCC.

H. Transmission towers* and transmission facilities*.

I. Private or public parks and playgrounds serving the general public.

J. Religious organizations* (see MCC 16.26.600).

K. Public golf courses (SIC 7992) and golf-related recreation identified in SIC 7997 and 7999 (see MCC 16.26.320).

L. Elementary and secondary schools, SIC 8211 (see MCC 16.26.620).

M. Public buildings and structures such as libraries, fire stations and public utilities*.

N. Civic, social and fraternal organizations, SIC 864.

O. Child care facilities* (see MCC 16.26.220).

P. Farm stand subject to the standards in MCC 16.13.030(F).

Q. Uses allowed outright or conditionally in the most restrictive zone, other than a medical marijuana processor* or medical marijuana producer*, consistent with the land use designation.

R. Home occupations, conditional* subject to MCC 16.32.400.

S. Temporary facility for the primary processing of forest products as defined in ORS 215. [Ord. 1372 § 4 (Exh. A), 2016; Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 1032 § 4, 1996; Ord. 863 § 5, 1990. UZ Ord. § 13.02.]

16.13.030 Conditional use criteria.

In order to grant approval for a conditional use listed in MCC 16.13.020 the criteria in this section must be found to be satisfied in addition to the criteria in MCC 16.40.020:

A. The use will not increase traffic beyond the capacity of existing roads.

B. If the use will remain after the area is urbanized it will be located in such a manner that any significant unused portion of the property has adequate development options.

C. The use and related structures and improvements meet the development standards of the most restrictive zone consistent with the applicable Comprehensive Plan designation; or the city concurs and, if the city requests, conditions are imposed that require the structures and improvements to be brought into conformance with city zoning regulations upon annexation.

D. The most restrictive zone used in the applicable Comprehensive Plan designation lists the proposed use as a permitted or conditional use; or the city concurs and, if the city requests, conditions are imposed which require that the use be brought into conformance with city zoning regulations upon annexation.

E. In order to qualify as a commercial activity in conjunction with farm or forest use, the use or activity must meet one of the following criteria in addition to the criteria in subsections (A) through (D) of this section:

1. The commercial activity must be primarily a customer or supplier of farm uses.
2. The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.
3. The agricultural and commercial activities must occur together in the local community.
4. The products and services provided must be essential to the practice of agriculture.

F. Farm stand subject to the following standards:

1. Structures shall be designed and used for the sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.
 - a. As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another produce but not prepared food items.
 - b. As used in this section, "local agricultural area" is limited to the state of Oregon.
2. The sale of incidental retail items and fee-based activities to promote the sale of farm crops or livestock sold at the farm stand are permitted provided the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand.

3. Farm stand shall not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment. [Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 863 § 5, 1990. UZ Ord. § 13.03.]

16.13.040 Prohibited uses.

Within a UT zone no building, structure, vehicle or land shall be used, erected, structurally altered, or enlarged for any use not permitted under MCC 16.13.010 through 16.13.030. [Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 863 § 5, 1990. UZ Ord. § 13.04.]

16.13.100 Development standards.

The standards and regulations in this chapter and the additional standards and regulations referenced in Chapter 16.24 MCC and Chapters 16.26 through 16.34 MCC apply to all lots, structures and uses unless indicated otherwise. If city standards are adopted by the board, the city standards shall apply. No structure or use shall be approved until all requirements in this chapter have been satisfied.

The provisions of this chapter are complementary and supplementary to other provisions of this title. In the event of a conflict between a provision of this chapter and a more restrictive provision of this title applicable to a particular lot, structure or use, the more restrictive provision shall apply. [Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 863 § 5, 1990. UZ Ord. § 13.10.]

16.13.110 Height.

Within a UT zone the maximum height limit is 35 feet for dwellings. Other buildings and structures shall not exceed 45 feet in height. Greater height may be allowed in conjunction with a conditional use. [Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 863 § 5, 1990. UZ Ord. § 13.11.]

16.13.120 Front yards and yards abutting streets.

Within a UT zone the following front yards and yards abutting streets shall be provided:

A. Along the full extent of each front lot line and lot line abutting a street, there shall be a required yard 20 feet in depth.

B. Yards for accessory structures shall be subject to the requirements of Chapter 16.28 MCC. [Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 863 § 5, 1990. UZ Ord. § 13.12.]

16.13.130 Interior side yards.

Within a UT zone the following side yards shall be provided:

A. Side yards shall be at least five feet or comply with the side yard requirement for the most restrictive zone used in the applicable Comprehensive Plan designation, whichever is greater.

B. Yards for accessory structures shall meet the requirements of Chapter 16.28 MCC except farm animals and related structures shall not be located closer than 100 feet from a side lot line abutting a residential zone. [Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 863 § 5, 1990. UZ Ord. § 13.13.]

16.13.140 Interior rear yards.

Within a UT zone the following rear yards shall be provided:

A. Fourteen feet for any single-family dwelling and for any portion of any other building not more than 15 feet in height; and 30 feet for any portion of a building greater than 15 feet in height other than a single-family dwelling.

B. Yards for accessory structures shall meet the requirements of Chapter 16.28 MCC except farm animals and related structures or animal waste storage shall not be located closer than 100 feet from a rear or side lot line abutting a residential zone. [Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 863 § 5, 1990. UZ Ord. § 13.14.]

16.13.200 Landscaping.

Within a UT zone:

A. All portions of required yards lying between a street and the primary building or between the street and any sight-obscuring fence, wall or hedge located within the required yard shall be landscaped.

B. All required landscape areas shall be landscaped as provided in Chapter 16.29 MCC. [Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 863 § 5, 1990. UZ Ord. § 13.20.]

16.13.300 Growth management.

The Comprehensive Plan policies applicable to lands in the UT zone anticipate future city annexation and extension of public facilities and services to lands intended for residential, commercial or industrial use. To facilitate an orderly transition to efficient urban development, regulation of land divisions and development proposed prior to urban development is necessary. The development regulations and standards in MCC 16.13.310 and 16.13.320 shall apply to land in the UT zone.

Except as provided below, when land is added to an urban growth boundary, the county shall zone it as follows:

A. Residential exception areas shall be placed in a UT-5 zone.

B. Resource land shall be placed in a UT-20 zone.

The county may consider applying a different zone for specific properties upon request of the property owner or city. The purpose and intent of the proposed zone must be consistent with the applicable comprehensive plan designation. [Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 863 § 5, 1990. UZ Ord. § 13.30.]

16.13.310 Divisions of land.

A. A series partition, subdivision, residential planned development or other residential development of a lot, as the lot existed upon application of the UT zone, that results in the division of land into four or more lots intended to be occupied by dwellings or mobile homes is not permitted in the UT zone.

B. The following regulations shall apply when property line adjustments and partitioning of land regulated by Chapter 16.33 MCC, Subdivision and Partition Requirements, are proposed:

1. Additional street right-of-way required by adopted county standards shall be dedicated along the street frontage of any lot 10 acres or less in area that is part of a partition or lot line adjustment. Street and drainage improvements within the dedicated right-of-way shall be deferred until otherwise required by the county, or by the city following annexation. A nonremonstrance agreement for future road or drainage improvements within the right-of-way abutting the lot may be required.

2. The location of lot lines shall not significantly reduce feasible options for the future location of urban streets or utility services, or preclude development options on the property or adjacent properties.

3. When a lot occupied by a residence is reduced, or a lot is created to accommodate a new residence allowed in MCC 16.13.320, the lot should be as small as possible and should not be larger than one acre. If a lot of one acre or less is not feasible, the lot should either contain all of the undeveloped land or be large enough that the urban development potential will be a significant incentive for the owner to develop to planned urban uses when the lot is annexed.

4. When a new or adjusted lot located in a residential plan designation is smaller than five acres and larger than one acre, a redevelopment plan shall be required demonstrating that the lot can accommodate future subdivision development at the median density proposed in the Comprehensive Plan. The zoning administrator shall review and approve the redevelopment plan.

The redevelopment plan is only for the purposes of identifying a feasible means to subdivide the property and to identify an appropriate location for residences, and does not limit consideration of other development options when urban services are available.

5. New lots shall have no dimension less than 80 feet.

6. When a lot located in a residential plan designation and occupied by a nonresidential use is created or altered, the lot should include as little undeveloped land suitable for residential uses as possible, unless evidence is presented that undeveloped land needs to be included in the lot to accommodate allowable expansion of the subject use.

7. The minimum lot size, in acres, for lots in nonresidential plan designations is the numerical suffix added to the UT zone (i.e., one acre, three acres, five acres, 10 acres or 20 acres), or if no suffix is added, five acres. [Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 863 § 5, 1990. UZ Ord. § 13.31.]

16.13.320 Development limitations and requirements.

A. Mobile Home Development. No new mobile homes are permitted unless the property is designated for residential development in the Comprehensive Plan and the most restrictive county zone used in the plan designation would permit a mobile home on a lot as an outright permitted use or a conditional use. Approval of a mobile home shall be subject to the standards in MCC 16.26.030.

B. Dwelling Development. No new dwellings are permitted unless the area is designated for residential development and the most restrictive county zone used in the plan designation would permit the dwelling as an outright permitted use or a conditional use.

C. Residential Density. On lots designated for residential development, no more than one dwelling unit or mobile home shall be allowed per five acres unless a numerical suffix is added to the zone altering the allowable density to no more than one dwelling unit or mobile home per one, three, 10 or 20 acres. The number of dwellings allowed shall be based on the size of the lot at the time the UT zone first applied to the property.

D. Siting of Dwellings. If a new dwelling is allowed on a lot of more than one acre and less than five acres, and the lot is designated for residential development, the dwelling shall be located in conformance with a redevelopment plan. The redevelopment plan shall demonstrate that the lot can accommodate future subdivision development at the median density proposed in the Comprehensive Plan. The zoning administrator shall review and approve the redevelopment plan.

E. On-Site Sewage Disposal. The following conditions shall be met prior to the approval of a use or residence relying on an on-site system for wastewater disposal:

1. The property shall not lie within the boundary of a sewer service district unless allowed in writing by the city.
2. The property must lie more than 300 feet in a straight line from any existing sewer line that can be extended to the property to provide gravity sewer service, unless the city agrees in writing to allow on-site sewage disposal.
3. The property shall not be served by a city or district water system.
4. Applicant shall have obtained from the county sanitarian a favorable site evaluation to install an on-site sewage disposal system or DEQ approval for another type of sewage disposal.
5. If the city requires, the applicant shall sign an agreement with the city agreeing to connect the subject development to the public sewer system when the system comes to within 300 feet of the property and can provide gravity service.
6. If the city requires, the property owner shall provide a signed nonremonstrance agreement with the city for future annexation and sewer or water service by the city.

F. Residences on Pre-Existing Lots. Notwithstanding subsection (C) of this section, a single-family dwelling or mobile home is permitted on a lot legally created prior to the date the city comprehensive plan was originally acknowledged by LCDC, or in the case of the Salem/Keizer urban growth area before August 1, 1981, provided the lot and development complies with all other requirements of this section. [Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 863 § 5, 1990. UZ Ord. § 13.32.]

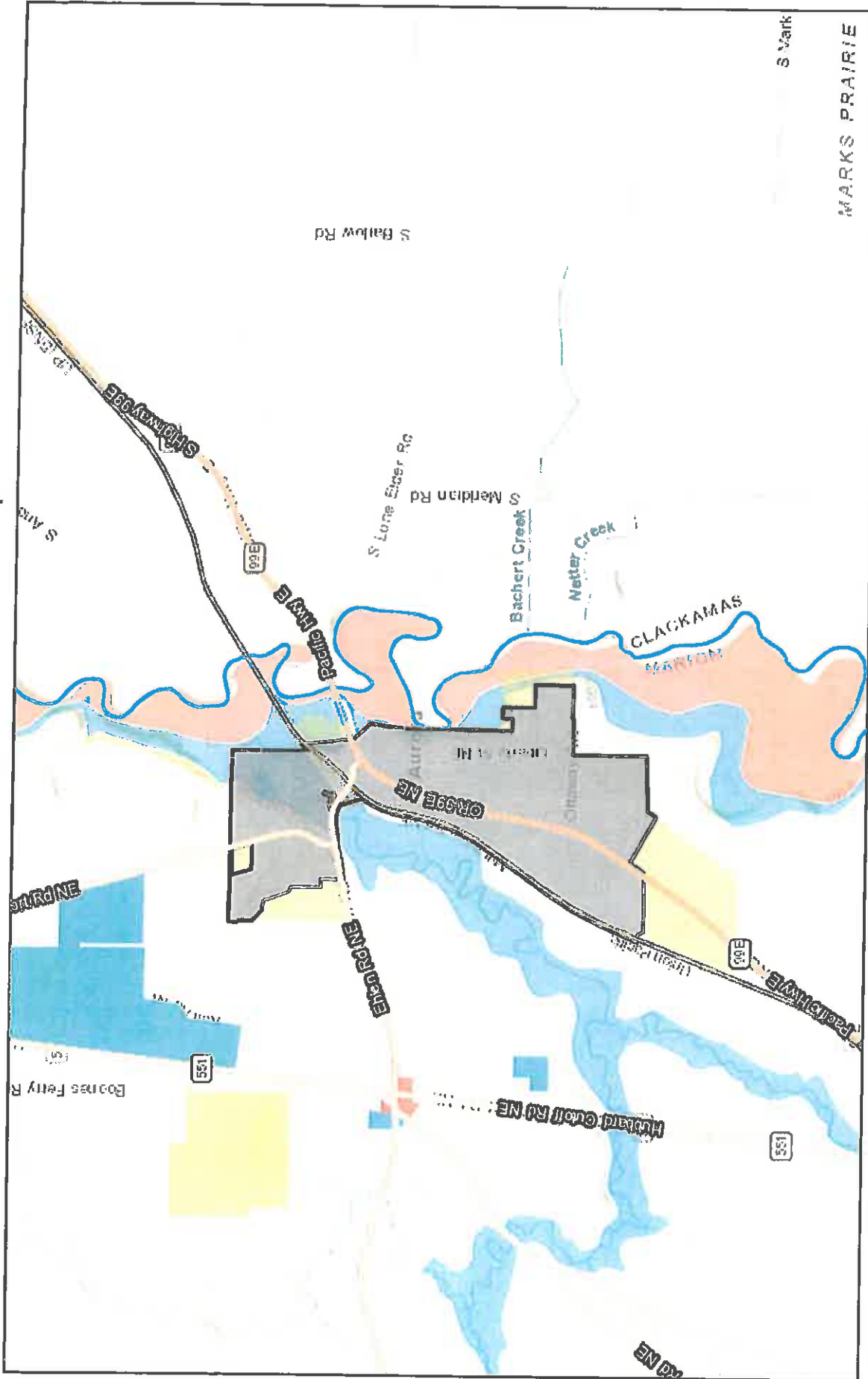
16.13.400 Informational reference to additional standards.

Additional use and development standards may be found in the following chapters:

Floodplain Overlay Zone	Chapter 16.19 MCC
Greenway Management Overlay Zone	Chapter 16.20 MCC
Airport Overlay Zone	Chapter 16.21 MCC
Geologically Hazardous Areas Overlay Zone	Chapter 16.24 MCC
General Development Standards and Regulations	Chapter 16.27 MCC
Development Standards for Secondary, Accessory and Temporary Structures	Chapter 16.28 MCC
Landscaping	Chapter 16.29 MCC
Off-Street Parking and Loading	Chapter 16.30 MCC
Subdivision and Partition Requirements	Chapter 16.33 MCC

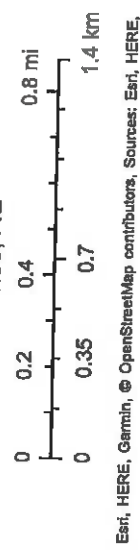
[Ord. 1301 § 4 (Exh. A), 2010; Ord. 1204 § 4, 2004; Ord. 1170 § 4, 2002; Ord. 863 § 5, 1990. UZ Ord. § 13.40.]

Planning Viewer Web Map



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- MC Zoning
- Acresage Residential
- Commercial
- EFU
- Public
- Urban Transition
- Regulatory Floodway
- City Boundaries
- FEMA FloodZones

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Exhibit 025