

920.010 Title; short titles

- (A) LCC 920.010 to 939.999 shall be known as the “Linn County Land Development Code.” LCC 920.010 to 939.999 may also be referred to and cited as the “Land Development Code” or the “Development Code.”
- (B) The Development Code consists of text and map(s), entitled the “Linn County Zoning Map,” or “Zoning Map.” The Zoning Map is found in Appendix 1 following this Development Code. If a conflict arises between the Zoning Map and the text of the Development Code, the text shall govern.
- (C) Wherever the term “Linn County Land Development Code,” “Land Development Code” or “Development Code” is used, the term includes all amendments to the Development Code.

920.030 Development Code organization

- (A) Organization of chapters within the Land Development Code shall be as follows:
 - (1) Chapters may be divided into sections.
 - (2) Sections may be divided into subsections.
 - (3) Subsections may be divided into paragraphs.
 - (4) Paragraphs may be divided into subparagraphs.
 - (5) Subparagraphs may be divided into sub-subparagraphs.
 - (6) Sub-paragraphs may be divided into sub-sub-paragraphs.
- (B) Citations to the organization required in subsection (A) shall be as follows: where those abbreviations have the meanings of:
 - (1) LCC Linn County Code
 - (2) NNN Chapter
 - (3) nnn Section
 - (4) SS Subsection
 - (5) P Paragraph
 - (6) SP Subparagraph
 - (7) SSP Sub-subparagraph
 - (8) SSSP Sub-sub-subparagraph
- (C) A long chapter, or more than one chapter, that treats a variety of subjects may be divided into subchapters. A subchapter usually has an uppercase title preceded by an uppercase roman numeral. A subchapter may be referred to in the text by its title.

920.040 Purpose

- (A) The text and zoning map(s) in this Land Development Code shall prescribe procedures and standards for the use and development of land in the unincorporated areas of Linn County.
- (B) The Development Code shall implement the *Comprehensive Plan* and shall protect and promote the public health, safety, and welfare; provide the economic and social advantages which result from an orderly, planned use of land; and regulate the partitioning and subdividing of land. The provisions of this Development Code are designed:
 - (1) To ensure the protection, conservation and proper use of land in Linn County by providing uniform procedures and standards for land use, division and development in unincorporated areas of the county;
 - (2) To aid in the implementation of the *Comprehensive Plan* for Linn County;

- (3) To provide for desirable, appropriately located residential areas for a variety of dwelling types at suitable population densities with adequate provisions for usable open space;
- (4) To protect agriculture, timber, residential, commercial, industrial and publicly-owned areas from the intrusions of incompatible uses and to provide opportunities for compatible establishments to concentrate for efficient operation in mutually-beneficial relationship to each other and share services;
- (5) To ensure preservation of adequate space for agricultural, forest, commercial, industrial and other activities necessary for a healthy economy;
- (6) To preserve and enhance the use of agricultural and forest resource lands through the adoption of development limitations and to provide for the orderly and efficient transition of such resource lands to other land uses based on a showing of public need;
- (7) To promote safe, fast and efficient movement of people and goods without sacrificing the quality of Linn County's environment or undermining the public investment in roads; and to provide off-road parking;
- (8) To pursue excellence and originality of design in all future developments and to preserve the natural beauty of Linn County;
- (9) To stabilize expectations regarding future development of Linn County, thereby providing a basis for wise decisions with respect to such development;
- (10) To preserve and enhance the quality of Linn County's environment;
- (11) To emphasize the conservation of energy and the use of renewable energy resources;
- (12) To ensure that lots and parcels are created at sufficient size and shape to prevent congestion and overcrowding;
- (13) To establish reasonable standards for lot and parcel design to further the orderly development and use of land and to ensure that proper descriptions and monumentation of land divisions occur;
- (14) To ensure the establishment and protection of adequate provisions for water supply, waste disposal, surface drainage, access, utilities and other public facilities and services needed for public health, safety and convenience;
- (15) To minimize, through property design and layout, the dangers to life and property generated by the hazards of fire, floods, landslides, soil erosion and other natural dangers; and
- (16) To provide for an adequate road system designed to handle anticipated usage and to minimize safety hazards and adverse impacts on the neighboring areas and the environment.

920.050 Interpretation

- (A) For the purpose of this Development Code, words used in the present tense include the future; masculine gender includes the feminine; the word "shall" is mandatory; the word "may" is permissive; the words "may not" are prohibitory.
- (B) For purposes of the Land Development Code, use of the term "a dwelling" is a limitation meaning only one dwelling of the kind being proposed or authorized.
- (C) The word "to" means "to and including"
 - (1) when used in a reference to a
 - (a) series of

- (i) Code chapters, sections, subsections, paragraphs, subparagraphs, or subsubparagraphs, or
 - (ii) any such similar series in the Oregon Revised Statutes, or
- (b) range of numbers are letters.
- (2) For example,
 - (a) LCC 921.100 to 921.325 includes both LCC 921.100 and LCC 921.325 and all intervening sections, and
 - (b) 10 to 12, or A to G includes both 10 and A, respectively, and 12 and G, respectively, and all intervening numbers or letters.
- (D) When a provision of this Development Code is less restrictive or is superseded by provisions established under other laws, rules, ordinances or regulations, the more restrictive laws, rules, ordinances or regulations shall apply.

920.100 Definitions

- (A) A term not defined in this Development Code shall have its ordinary accepted meaning within the context in which it has been used. The most current edition of *Webster's New Collegiate Dictionary* shall be considered the source of accepted meanings.
- (B) As used in 920.010 to 939.999:
 - (1) “**Abut**” means to border another unit of land for greater than point contact.
 - (2) “**Accepted farming practice**” means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money and customarily utilized in conjunction with farm use.
 - (3) “**Accepted forest practice**”
 - (a) Means cultivation, management, protection and harvest of forest crops including activities such as growing, spraying, thinning, pruning, protecting, harvesting through cutting, and transporting of deciduous and coniferous trees.
 - (b) The term also includes the development of forest access roads and the extraction and processing of aggregate resources necessary for construction and maintenance of such roads, and include facilities necessary for protection of the forest resource from wildfire.
 - (4) “**Access**” means the place, means or way by which pedestrians or vehicles shall have adequate and usable ingress and egress to a property, a use of land, or a parking space (see **access roads**).
 - (5) “**Accessory buildings**” means any building, the use of which is incidental, appropriate, and subordinate to that of a principal building or use.
 - (6) “**Accessory farm dwelling**” means a dwelling that meets the requirements of OAR 660-033-0130 (24).
 - (7) “**Accessory structure**” means any structure, the use of which is incidental, appropriate and subordinate to that of the principal buildings or uses.
 - (8) “**Accessory transportation improvements**” means transportation improvements that are incidental to a land use to provide safe and efficient access to that use (see **transportation improvements**).
 - (9) “**Accessory use**” means a use incidental and subordinate to either:
 - (a) the principal use of the authorized unit of land; or
 - (b) to a building located on the same authorized unit of land.

- (10) “**Access roads,**” as that term is defined and used in OAR 660-012-0065, means low volume public roads that principally provide access to property or as specified in the *Comprehensive Plan* (see **access**).
- (11) “**Administrative unit of land**”
- (a) means a unit of land established for the purpose of governmental administration such as taxing, security, and interment:
 - (b) The term includes such units as:
 - (i) tax-lots,
 - (ii) mortgage-lots (when considered separately from the entire unit of land in which the mortgage-lot is located), and
 - (iii) cemetery-lots.
 - (c) The term does not include authorized units of land.
- (12) “**Advertising sign**” means a sign consisting solely of the name of the establishment, advertising activities conducted on the premises, or identifying the establishment’s principal product or services offered on the premises.
- (13) “**Aggregate resources**” means naturally occurring concentrations of stone, rock, sand and gravel, decomposed granite, lime, pumice, cinders, and other naturally occurring solid materials commonly used in construction and road building. The term usually means aggregate that has not been removed from its location for use as an aggregate material.
- (14) “**Aggregate materials**” means aggregate resources that have been extracted from the resource site and are capable of being bound together or used individually as a construction material.
- (15) “**Agriculture area**” or “**ag area**” has the same meaning given the term in LCC 928.607.
- (16) “**Airport**” includes public and personal-use airports (see **personal use airport** and **public use airport**).
- (17) “**Alley**” means a public way not over 30 feet wide providing a secondary means of access to private property.
- (18) “**Alter**” means to make any change, addition or modification in construction or occupancy of a building or structure. “**Alteration**” means any such change, addition, or modification.
- (19) “**Alternative forestland dwelling**” means a single-family dwelling permitted on an authorized unit of land in the forest area of the F/F zoning district that complies with ORS 215.750 (formerly referred to by the Department as a template dwelling, see **template dwelling** in LCC 920.200).
- (20) “**Amendment**” means a change in wording adopted by the hearing authority that alters the context or substance of this Development Code, or a change in zoning district boundaries or sub-district boundaries on the zoning map.
- (21) “**Appear**” or “**appearance**” means the submission of testimony or evidence in a proceeding involving a land use decision, whether oral or written. Appearance does not include the act of placing a name or address on a petition or having a name or address placed on a petition.
- (22) “**Applicant**” means any person who files an application with the Planning and Building Department for review and decision by the Director, Planning Commission or Board of Commissioners.

- (23) “**Approach surface**,” in reference to an airport, means a trapezoidal plane, longitudinally centered on the extended runway centerline and extending outward and upward from a point starting 200 feet from each end of the runway.
- (24) “**Approved septic system**” means a subsurface sewage disposal system that has been installed in compliance with the rules and regulations of and approved by EHP.
- (25) “**Approved septic system site**” means
- (a) an initial area sufficient for an on-site, subsurface sewage disposal system approved by EHP, and
 - (b) a replacement area sufficient for an on-site, subsurface sewage disposal system approved by EHP, often referred to as a repair area.
- (26) “**Area**” means an unspecified quantity of land.
- (27) “**Armory**” means any building, together with the grounds upon which it is situated, used for the storage and maintenance of military property or the training of troops. The term includes real property acquired or held in contemplation of such use and National Guard Readiness Centers.
- (27) “**Arterial** or “**arterial road**” means a state highway or other public road that principally provides service to through traffic between cities and towns, state highways and major destinations or as specified in the Comprehensive Plan (see OAR 660-012-0065 (2) (c)).
- (28) “**Assessor’s Office**” means the Linn County Assessor’s Office.
- (29) “**Authorized unit of land**”
- (a) Means a unit of land that:
 - (i) has been lawfully created (see **lawfully created unit of land**), and
 - (ii) is one of the lots described in subparagraph (b), or one of the parcels described in subparagraph (c), or one of the units-of-record described in subparagraph (d).
 - (b) A lot:
 - (i) that was platted before January 4, 1968, and
 - (I) recorded on an individual deed before March 22, 1972; or
 - (II) recorded on an individual deed on or after March 22, 1972 but before September 2, 1980, and meeting the requirements of land use regulations in effect between March 22, 1972 and September 2, 1980; or
 - (ii) that was platted on or after January 4, 1968 but before March 22, 1972; and
 - (I) recorded on an individual deed before March 22, 1972; or
 - (II) designated RR or RCT in August 14, 1991; or
 - (iii) that was platted on or after March 22, 1972 but before September 2, 1980; and
 - (I) recorded on an individual deed before September 2, 1980; or
 - (II) designated RR or RCT in August 14, 1991; or
 - (iv) that was platted after September 2, 1980.
 - (c) A parcel:
 - (i) that was approved and recorded on an individual deed between 1980 and 1991 and that conforms to the partition as approved; or
 - (ii) that was platted after 1991.

- (d) A unit-of-record that was:
 - (i) described by metes and bounds on a deed that was recorded in Linn County:
 - (I) before March 22, 1972. The term may include more than one authorized unit of land if each unit was recorded on a deed before March 22, 1972, and if Appendix 2 are met; or
 - (II) on or after March 22, 1972 but before September 2, 1980 and meeting the requirements of land use regulations in effect between March 22, 1972 and September 2, 1980. The term may include more than one authorized unit of land if each unit was recorded on a deed on or after March 22, 1972, but before September 2, 1980, and if Appendix 2 are met; or
 - (ii) created by a judgment of a foreclosure of:
 - (I) a lien financing the purchase or improvements of real property; or
 - (II) a recorded contract of sale of real property.
 - (e) An authorized unit of land may or may not be a developable unit of land. Notwithstanding any provision to the contrary, the determination that a lawfully created unit of land is an authorized unit of land only authorizes the applicant thereof to apply for a development permit under the Land Development Code. That determination does not grant any development rights.
 - (f) Notwithstanding the definition of **authorized unit of land** in this paragraph, for purposes of units of land located in the Rural Resource, Rural Development, and Urban Growth Management zoning designations, the term also includes a unit of land:
 - (i) described by metes and bounds on an individual deed that was recorded in Linn County between March 22, 1972 and September 1, 1980; and
 - (ii) which contain a lawfully established dwelling that was established as of September 1, 1980.
 - (g) The term, **authorized unit of land**, does not include administrative units of land (see Appendix 2 entitled “Authorized Units of Land” following this Chapter).
- (30) “**Barrier strip**”
- (a) Means a strip of land one foot in width which may overlay the outer one foot of any public road right-of-way and over which authority is reserved by Board or the private land owner specifically to control access to adjacent lands.
 - (b) In reference to Linn County Assessor’s maps, old subdivision maps, and similar records, **barrier strip** has the same meaning as “reserve strip” used thereon. Other names for a barrier strip include “spite strip” and “road plug.”
- (31) “**Board**” means the Linn County Board of Commissioners.
- (32) “**Building**” means any structure which is built and maintained for the support, shelter or enclosure of persons, motor vehicles, animals or personal property.
- (33) “**Building Code**” includes LCC Chapters 810 (Specialty Codes), 820 (Dangerous Building Code), 850 (Fill and Excavation Code), and 870 (Floodplain Management Code).

- (34) “**Building height**” or “**height**,” in reference to a building, means the vertical distance from the grade 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 pitch or hip roof.
- (35) “**Building line**” means a line on a site map indicating the limit beyond which structures may not be erected and which is the minimum distance prescribed by this Development Code between the property line and the permitted building excluding any permitted protrusions (see LCC 934.205; see **front building line**).
- (36) “**Building Official**” means the Linn County Building Official or designate, including a duly-designated assistant or building inspector.
- (37) “**Building permit**” includes permits authorized and issued by the Building Official for the development of, but not limited to:
- (a) a structure;
 - (b) a manufactured dwelling;
 - (c) an electrical supply (whether temporary or permanent);
 - (d) a grading permit.
- (38) “**Calendar year**” means 12 calendar months commencing on January 1 and ending on December 31 following.
- (39) “**Camper Cabin**” means a camp structure with no permanent foundations or plumbing, located within a camping area and intended for occupancy by one to eight persons.
- (40) “**Campground**” means an area devoted to overnight, temporary use for vacation or recreational purposes, or in conjunction with an emergency declaration pursuant to ORS Chapter 401, but not for residential purposes and which may be occupied by tents or recreational vehicles. The term does not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
- (41) “**Cannabinoid**” means any of the chemical compounds that are the active constituents of marijuana.
- (42) “**Cannabinoid Concentrate**” has the meaning given the term in ORS 475B.015.
- (43) “**Cannabinoid Edible**” has the meaning given the term in ORS 475B.015.
- (44) “**Cannabinoid Extract**” has the meaning given the term in ORS 475B.015.
- (45) “**Cannabinoid Product**” has the meaning given the term in ORS 475B.015.
- (41) “**Cemetery**”
- (a) Means land:
 - (i) used or intended to be used for the interment of human remains, and
 - (ii) dedicated and approved for cemetery purposes.
 - (b) The term includes columbaria, crematoriums, mausoleums and mortuaries when operated in conjunction with and within the boundaries of a dedicated cemetery.
- (42) “**Cemetery-lot**” means an administrative unit of land in a cemetery wherein a person is interred.
- (43) “**Clerk’s Office**” means the records section of the Linn County Clerk’s Office.
- (44) “**Class-IV or worse dwelling**” means a single-family residential dwelling not provided in conjunction with a farm use established on an authorized unit of land that complies with ORS 215.284(1).

- (45) “**Class-VI or worse dwelling**” means a single-family residential dwelling not provided in conjunction with a farm use established on an authorized unit of land that complies with ORS 215.284(4).
- (46) “**Clustering,**” in the areas of major and peripheral habitat, means:
- (a) to locate dwellings and structures near each other and existing roads; and
 - (b) to locate dwellings and structures to avoid habitat conflicts and utilize least valuable habitat areas; and
 - (c) to minimize road development to that necessary to support the residential use.
- (47) “**Collector**” or “**collector road**” means a public road that provides access to property and that collects and distributes traffic between access roads and arterials or as specified in the *Comprehensive Plan* (see OAR 660-012-0065(2)(b)).
- (48) “**Commercial**” means any use or activity conducted, made, done or operated primarily for obtaining a profit in money.
- (49) “**Commercial activities in conjunction with a farm use**”
- (a) Means any commercial activities that:
 - (i) provide products and services, particularly processing services,
 - (ii) are essential to agriculture as practiced in the region, and
 - (iii) are not defined as a farm use.
 - (b) The principal distinction between commercial farm uses reviewed as conditional uses and farm uses allowed outright, relate to whether or not the farm product or service is grown or provided by the farmer on land owned or operated by the producer (see **farm use**).
 - (c) Examples of commercial activities in conjunction with a farm use include but are not limited to:
 - (i) Hop, nut, and fruit drying, for crops not wholly grown on land owned or operated by the dryer;
 - (ii) Feed mixing and storage facilities, when the component grains are not wholly grown on land owned or operated by the mixer;
 - (iii) Hullers, when the crop is not wholly grown on land owned or operated by the huller;
 - (iv) Structures for the storage or packing of agricultural products, when the products are not wholly grown on land owned or operated by the owner of the structures;
 - (v) Seed processing, packing, shipping and storage, for crops not wholly grown on land owned or operated by the seed processor;
 - (vi) Mint distilleries, for mint not wholly grown on land owned or operated by the distiller;
 - (vii) Alcohol distilleries, for grains and other agricultural products not wholly grown on land owned or operated by the distiller;
 - (viii) Feedlots for livestock, when the livestock is not wholly grown on land owned or operated by the feedlot operator; or
 - (ix) Any other similar processing or allied commercial farm activities associated with regional farm uses.
 - (d) The term does not include the production, processing, wholesaling, retailing, research or testing of marijuana.

- (50) “**Commercial agriculture**” means farm units that either contribute in a substantial way to the existing agricultural economy and help maintain agricultural processors and established farm markets or diversify agricultural processing and create farm markets through the production of agricultural goods currently not part of the agricultural economy. While the propagation or harvesting of a forest product is allowed in a farm zone, only trees defined by ORS 215.203 qualify as a farm use for producing farm income.
- (51) “**Commercial dairy farm**” means a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033- 0135 (5) (a) or (7) (a), whichever is applicable, from the sale of fluid milk.
- (52) “**Commercial forestry**” consists of forest operations which will contribute in a substantial way to the area’s existing forest economy and help maintain forest processors and established forest markets.
- (53) “**Commercial tree species**” means trees recognized under rules adopted under ORS 527.715 for commercial production (see ORS 215.720 (2)).
- (54) “**Commission**” means the Linn County Planning Commission.
- (55) “***Comprehensive plan***” or “***Plan***”
- (a) when in italics, means the plan adopted by the Board to serve as a guide to the orderly growth, development and improvement of Linn County consistent with the statewide planning goals.
 - (b) The term includes the written text with goals and policies, the diagrammatic map or maps of desired land use allocations and any amendments to such text and map(s).
- (56) “**Comprehensive plan**” or “**plan,**” when in regular font, means a plan, similar to the *Comprehensive Plan* in scope and intent, adopted by a governing body to so serve other communities in the county.
- (57) “**Condition**” means a limitation that must be satisfied or avoided as a basis for issuing a development permit. A condition includes:
- (a) a limitation, referred to in the Land Development Code as a condition of approval, that must be satisfied or avoided. A condition of approval is mandatory and is not subject to appeal; and
 - (b) a limitation imposed on a development permit to insure conformance with a standard. This is referred to as a permit condition. A permit condition is discretionary and subject to appeal. A permit condition is not subject to a variance.
- (58) “**Conditional use**” means a use that may be permitted, permitted with conditions or denied at the discretion of the decision maker based upon findings of fact as required by the Land Development Code and the Linn County *Comprehensive Plan*.
- (59) “**Conflict of interest**”
- (a) “**Actual conflict of interest**” has the meaning given the term in ORS 244.020 (1).
 - (b) “**Potential conflict of interest**” has the meaning given the term in ORS 244.020 (12).
- (60) “**Corner property,**” in reference to a unit of land,

- (a) means a property which has
 - (i) at least two adjacent sides each of which abuts a road or roads other than alleys (see Examples A, C, and D, Appendix 1, Figure 3 following this chapter), or
 - (ii) a front property line that is a common boundary with a right-of-way that is a curve (see Example B, Appendix 1, Figure 3 following this chapter).
 - (b) The determination of how much of the property fronts on a road or roads is used to determine where to apply a front property line setback. If the road is curved, the front property line is based on the nature of that curvature as determined by the County.
- (61) **“County road”**
- (a) means a public road under the jurisdiction of Linn County that has been designated as a county road under ORS 368.016, for which Linn County is responsible for improvement and maintenance.
 - (b) The following road designations illustrated in this subparagraph are used in the *Comprehensive Plan* and in the Land Development Code. The designations may or may not be a county road.
 - (i) Arterial, major arterial, county arterial;
 - (ii) Collector, collector road, county feeder road;
 - (iii) Minor road, including frontage road and some cul-de-sacs;
 - (iv) Stubbed road;
 - (v) Half road; and
 - (vi) Industrial road.
- (62) **“Coverage”** (of property), in reference to a unit of land,
- (a) Means that portion of a unit of land which, when viewed directly from above, would be covered by buildings and other structures, excluding such structures as fences (see Appendix 1, Figure 1 following this chapter).
 - (b) The factors to be considered in determining coverage include the adequacy of:
 - (i) setbacks;
 - (ii) storm water absorption;
 - (iii) approved septic system;
 - (iv) open space and neighborhood livability preservation;
 - (v) nonstructural amenities such as areas for parking, loading, traffic circulation and landscaping; and
 - (vi) productivity of resource land preservation.
- (63) **“Create”** or **“creation,”** in reference to a unit of land, means the act of recording a deed, land sale contract or plat in the Clerk’s Office. The date of creation is the date on which the deed, land sale contract, or plat was recorded.
- (64) **“Criterion”** or **“decision criterion”** means a decision standard in the Land Development Code that is applicable to a proposed use and which is used by a decision maker to make a determination whether the proposed use should be approved or denied. Decision standards are labeled as “criteria” or “decision criteria” in the code to distinguish them from other standards. A land use proposal must be approved or denied based on decision criteria and only by one of three types of procedure: legislative, ministerial or discretionary. No variance may be taken to a decision standard or criterion.

- (65) **“Cul-de-sac,”**
- (a) Means a turn-around at the end of a stubbed road farthest from the intersection onto a public road.
 - (b) If a cul-de-sac is classified as a county road in the *Comprehensive Plan*, then the cul-de-sac is a minor road and where so classified means the equivalent of a stubbed road terminating in a cul-de-sac.
- (66) **“Cultured Christmas trees”** means trees:
- (a) grown on lands exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing the soil;
 - (b) of a species for which the Department of Revenue requires a “Report of Christmas Trees Harvested” for purposes of ad valorem taxation;
 - (c) managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United State Department of Agriculture; and
 - (d) evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation and irrigation.
- (67) **“Currently employed for farm use”** or **“current employment of land”** includes the uses given the term “current employment’ for farm use” in ORS 215.203 (2) (b) which includes:
- (a) Farmland, the operation or use of which is subject to any farm-related government program;
 - (b) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
 - (c) Land planted in orchards or other perennials prior to maturity, other than land specified in subparagraph (d);
 - (d) Land not in an exclusive farm use zoning district which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
 - (e) Wasteland, in an exclusive farm use zoning district, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with farm land which is not currently being used for any economic farm use;
 - (f) Land under buildings supporting accepted farm practices;
 - (g) Water impoundments lying in or adjacent to and in common ownership with farm use land;
 - (h) Land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued at true cash value for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
 - (i) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer’s immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such illness results in death;
 - (j) Land described under ORS 321.267 (1) (e) or 321.824 (3); and

- (k) Land in an exclusive farm use zoning district used for the storage of agricultural products that would otherwise be disposed of through open field burning or propane flaming.
- (68) **“Day care facility,”**
 - (a) Means a facility that provides day care, as that term is defined by statute, to children.
 - (b) The term includes a day nursery, nursery school home of a family day care provider or similar unit operating under any name.
 - (c) The term does not include a:
 - (i) Facility providing care that is primarily educational, unless the care is provided to a preschool child for more than four hours a day;
 - (ii) Facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music or religion;
 - (iii) Facility providing care that is primarily for group athletic or social activities sponsored by or sponsored under the supervision of an organized club or hobby group;
 - (iv) Facility operated by a school district, political subdivision of this state or a governmental agency;
 - (v) Residential facility licensed under ORS 443.400 to 443.455; and
 - (vi) Babysitting, as that term is defined in ORS 657A.250.
- (69) **“Day care nursery”** means any institution, establishment or place which customarily accepts for purpose of being given board, care or training apart from their parents or guardians, for compensation or reward under all the following circumstances:
 - (a) not less than three children at any one time;
 - (b) such children are:
 - (i) not of common parentage, and
 - (ii) under the age of six years, and
 - (iii) for a period not exceeding 12 hours per day.
- (7069) **“Day care provider”** (see **family day care provider**).
- (71) **“Decision maker”** has the same meaning given the hearing authority and, where the context requires, the term includes the Director.
- (72) **“Depth”** (of property), in reference to a unit of land, means the horizontal length of a straight line connecting the midpoints of the front and rear property lines (see Appendix 1, Figure 2 following this chapter).
- (73) **“De novo,”**
 - (a) In reference to an appeal, means a completely new hearing for a second or more times, identical in procedure to the initial proceedings, with an opportunity for all parties to present all testimony and evidence previously accepted and any new evidence or testimony.
 - (b) A de novo hearing (literally translated means “from new”) is in contrast to a “on-the-record” review during which a decision on a land use case is based solely upon the record previously established at the initial hearing. Typically, these terms are associated with reviews brought about by an appeal.
- (74) **“Department”** means the Linn County Planning and Building Department.
- (75) **“DEQ”** means the Oregon Department of Environmental Quality.

- (76) “**Develop**” or “**developing**” means
- (a) the act, process, or result of erecting, reconstructing, structurally altering, enlarging, partly or wholly demolishing, or moving a building or certain structures; or
 - (b) to use, develop, adjust property lines, partition or subdivide land or create a road necessary to permit the division of land in any manner not in compliance with the procedures and regulations established in this Development Code.
- (77) “**Developable unit of land**” or “**developable property**” means a unit of land upon which development is authorized because the unit of land meets the requirements of this Land Development Code for development. A developable unit of land is an authorized unit of land.
- (78) “**Development**” means the act, process or result of developing a unit of land.
- (79) “**Development permit**” means a written authorization by Linn County to develop an authorized unit of land in the unincorporated areas of Linn County. A development permit may or may not be a land use decision.
- (a) The term includes permits that are not land use decisions such as building and EHP permits (see **building permits** and **EHP permits**).
 - (b) The term also includes planning permits that may be land use decisions (see **planning permits**).
 - (c) Notwithstanding the requirement herein that a development permit be in writing, a permit resulting from a Type IA process, as set forth in LCC Chapter 921 (Land Development Administration Code), does not have to be in writing.
- (80) “**Director**” means the Director of the Linn County Planning and Building Department.
- (81) “**Display surface**,” in reference to a sign,
- (a) Means the overall dimensions of all panels capable of displaying messages excluding the area of supports and frames unless the support or frame is designed to be part of the display area.
 - (b) If both sides of the sign are visible and could be used for display, the display surface shall include both sides of the sign (see **sign**).
- (82) “**District**” or “**zoning district**” means an area of land identified by Linn County for the purpose of preserving a class of uses determined to be appropriate for preservation, continuation, or establishment in that area and for which Linn County has adopted provisions in the *Comprehensive Plan* and the Land Development Code to allow for or permit, after review, such uses within the zoning district.
- (83) “**Department of State Lands**” or “**DSL**” means the Oregon Division of State Lands.
- (84) “**DOGAMI**” means the Oregon Department of Geology and Mineral Industries.
- (85) “**Double-frontage**” (property) in reference to a unit of land, means a property other than a corner property with frontage on more than one road.
- (86) “**Driveway**” means that part of a direct vehicular access other than an easement that is on a unit of land to serve a development. The term includes dedicated service drives.
- (87) “**Dwelling unit**”

- (a) Means one or more habitable rooms used, intended, or designed to be built, used, rented, leased, let or hired out to be, occupied, or which are occupied for living purposes providing complete, independent, separate living quarters for one or more persons including provisions for living, sleeping, eating, sanitary facilities, and a separate, permanent cooking facility.
 - (b) One or more habitable rooms with any roof, wall or floor in common with any other dwelling unit may constitute a separate dwelling unit.
- (88) “**Easement**” means:
- (a) a right of use over the property of another,
 - (b) in writing and recorded, and
 - (c) which is for a specific purpose, such as an easement across a unit of land for road access or for utility services (see **right-of-way** and **utility easement**).
- (89) “**Easement of record for road access**” means an easement:
- (a) granted for the specific purpose of providing functional road access from one authorized unit of land across another authorized unit or units of land to a public road;
 - (b) which conveyed perpetual access to the authorized unit of land under review;
 - (c) not requiring review under an easement recognition process;
 - (d) recorded before March 22, 1972; and
 - (e) is still in effect as originally recorded (see **right-of-way** and **road-related easement**).
- (90) “**Easement of road access**” means an easement:
- (a) granted for the specific purpose of providing functional road access from one authorized unit of land across another authorized unit or units of land to a public road;
 - (b) which conveyed perpetual access to the authorized unit of land under review;
 - (c) recognized by the Board, Commission or Director under an easement recognition process in effect at that time;
 - (d) recorded on or after March 22, 1972; and
 - (e) is still in effect as originally recorded ((see **right-of-way** and **road-related easement**)).
- (91) “**EHP permit**” means a permit authorized and issued by the Environmental Health Program for the installation, repair or alteration of or authorization for an approved septic system.
- (92) “**Environmental Health Program** or “**EHP**” means the Linn County Environmental Health Program. The EHP is a division of the Linn County Health Department.
- (93) “**Ex parte contact**” means contact outside of the formal hearing process between interested parties and a decision-maker without notice to, or opportunity to participate in the contact, by any person adversely interested. Ex parte contact does not include contacts between the hearing authority and employees of the Board.
- (94) “**Facility for the primary processing of forest products**” means a facility used for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a

- one-year period, which is renewable. These facilities are intended to be only portable or temporary in nature.
- (95) “**Family**” means one or more persons occupying a single dwelling unit and using common housekeeping facilities, provided that, unless all members are related by blood or marriage, no such family shall contain over five persons.
- (96) “**Family day care provider**” means a person who regularly provides day care for fewer than 13 children in that person’s home or in accessory buildings to the home.
- (97) “**Farm area**” has the same meaning given the term in LCC 928.607.
- (98) “**Farmland**,” in reference to land in an EFU, F/F, or FCM zoning district in Linn County, means land that is classified, based on its soil composition, as:
- (a) high-value farmland (type 1) as described in ORS 215.710 (1). Such land may be referred to as HVFL-1;
 - (b) high-value farmland (type 2) as described in ORS 215.710 (3). Such land may be referred to as HVFL-2; or
 - (c) non-high-value farmland. Such land may be referred to as NHVFL.
- (99) “**Farm operator**” means a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding, and marketing.
- (100) “**Farm or ranch operation**” means all units of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203.
- (101) “**Farmed property**” means a unit of land on which the predominant active use is farming.
- (102) “**Farm-related**,” in reference to a dwelling, means a dwelling customarily provided in conjunction with farm use.
- (103) “**Farm-relative dwelling**” means a dwelling on real property that is described in ORS 215.283 (1) (e).
- (104) “**Farm unit**” means the contiguous and noncontiguous tracts in common ownership used by the farm operator for farm use as defined in ORS 215.203.
- (105) “**Farm use**”
- (a) Means:
 - (i) the on-site establishment or maintenance of farming equipment and facilities, and
 - (ii) the current employment of land for the primary purpose of obtaining a profit in money by:
 - (I) raising, harvesting and selling crops;
 - (II) feeding, breeding, managing, selling, or producing livestock, poultry, raptines (emu, ostrich, kiwi, moa), psittacines (parrots), fur-bearing animals or honeybees;
 - (III) dairying and selling dairy products;
 - (IV) any other agricultural or horticultural uses;
 - (V) animal husbandry;
 - (VI) animal grazing; or
 - (VII) any combination of (I) to (V) (see **currently employed for farm use** or **current employment of land**)
 - (b) The term includes:

- (i) The preparation, storage and disposal by marketing or otherwise of the products or by-products raised or produced for human or animal use on land owned or operated by the producer.
 - (ii) The current employment of land for the primary purpose of obtaining a profit in money by stabling, breeding or training equines including but not limited to providing riding lessons, training clinics and schooling shows.
 - (iii) The propagation, cultivation, maintenance and harvest of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission.
 - (iv) The production of hardwood timber, including but not limited to hybrid cottonwood subject to ORS 321.267 (1) (e) or 321.415 (5).
 - (v) The on-site construction and maintenance of equipment and facilities used for the activities described in subparagraphs (a) and (b) of this paragraph.
- (c) The term does not include the use of land for growing trees that is subject to the taxation requirements of ORS Chapter 321, except for the use of land to grow cultured (i) Christmas trees as defined in ORS 215.203 (3); (ii) trees described in ORS 321.267 (1) (e) or 321.824 (3).

(106) “**Farmworker**” means any person who, for an agreed remuneration or rate of pay, performs temporary or permanent labor for another in the production of farm products or in the planting, cultivating or harvesting of seasonal agricultural crops or in the forestation or reforestation of lands, including but not limited to the planting, transplanting, tubing, pre-commercial thinning and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related activities.

(107) “**Farmworker housing**” means housing:

- (a) Limited to occupancy by farmworkers and their immediate families; and
- (b) No dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing.

(108) “**Farm-zoned property**” means a unit of land located in an EFU or F/F zoning district that is farmed. The term may include farmed property.

(109) “**Final decision**” or “**final determination**” means a written action of the director or hearing authority that disposes of a matter decided or determined by the director or hearing authority. If the written action is appealable and a timely appeal is made in compliance with the Land Development Code, a final decision is the order made by the appropriate hearing authority.

(110) “**Firearms training facility**” means an indoor or outdoor facility that provides training courses and issues certification required for law enforcement personnel; the State Department of Fish and Wildlife; or nationally recognized programs that promote shooting matches, target shooting and safety.

(111) “**Fish bearing Type F streams**” means a fish-bearing stream as classified by the Oregon Board of Forestry pursuant to OAR 629-635-0200 (4) (a) for fish use or for both fish use and domestic water use. Type F streams were formerly designated as fish bearing Class I waters.

(112) “**Flag-lot**” means a unit of land, excluding the area of the flag strip, that

- (a) except for its flag strip, is separated from a road by other units of land; and

- (b) has a long, narrow flag strip, that reaches to the road (see Appendix 1, Figure 4 following this chapter).
- (113) “**Flag strip**” means the long, narrow extension of a unit of land connecting a property to a road when the property is mostly separated from the road by other units of land and which provides an access way from a public road to a site located behind other properties which have frontage upon that road (see Appendix 1, Figure 4 following this chapter).
- (114) “**Flooding**” means the rise of a natural stream or other water body to the level at or above the Intermediate Regional Flood, otherwise known as the 100-year flood, which periodically covers an area of land that is not under water at other times.
- (115) “**Floodway**” means the channel of a river and the area adjacent to a river identified by FEMA that must be reserved in order to discharge the base flood as that term is used in LCC Chapter 870.
- (116) “**Floodplain**” means a land area susceptible to flooding from any source, as delineated on the *Flood Insurance Rate Maps* applicable to Linn County.
- (117) “**Forest area**” has the same meaning given the term in LCC 928.607.
- (118) “**Forested property**” means a unit of land on which the predominant active use is forestry.
- (119) “**Forest homestead**” means a parcel smaller than the minimum parcel size required in the forest area of an F/F or in the FCM zoning district that may be permitted if the proposal meets the criteria in LCC 924.720.
- (120) “**Forest homestead dwelling**” means a single-family dwelling that may be permitted on a small forest homestead pursuant to a partitioning under LCC 924.728.
- (121) “**Forest labor camp**” means any building or facility, which is permitted on a temporary basis which is intended to house residents during management or cultivation activities in conjunction with a forest resource use, and which has included within such building or facility a minimum of one set of kitchen and bathroom facilities.
- (122) “**Forestland**” or “**FL**” means land which is used for the growing and harvesting of forest tree species, as that term is defined in ORS 527.620 (10), regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules, or regulations are applied.
- (123) “**Forest product**” means forest materials such as trees, cones, and mosses grown upon the unit of land contiguous to the location of a primary processing facility.
- (124) “**Forest-related,**”
- (a) In reference to a use or dwelling generally, means a use or dwelling used in conjunction with the management of forested property.
 - (b) In reference to dwellings in a forest area of an F/F zoning district means:
 - (i) a forest-resource dwelling;
 - (ii) an alternative forestland dwelling;
 - (iii) a large tract forestland dwelling; or
 - (iv) a pre-85 forestland dwelling.

- (125) “**Forest-resource dwelling**” means a dwelling that existed prior to a partitioning under LCC 924.729 and that, by that partitioning, becomes known as a forest-resource dwelling. This dwelling is a type of forest-related dwelling.
- (126) “**Forest tree species**” has the definition given the term in ORS 527.620 (6).
- (127) “**Forest use**” means a use of land for such purposes as:
- (a) The production of trees and the processing of forest products and uses accessory to forest operations;
 - (b) Open space, buffers from noise and visual separation of conflicting uses;
 - (c) Watershed protection and protection of wildlife and fisheries habitat;
 - (d) Soil protection from wind and water;
 - (e) Maintenance of clean air and water; or
 - (f) Outdoor recreational activities and related support services and wilderness values compatible with these uses.
- (128) “**Frontage**” (property) in reference to a unit of land, means that portion of the unit abutting a public road. The term does not include that portion of a unit of land that abuts an alley.
- (129) “**Frontage road**” means a minor road which is parallel to and adjacent to a public road and which provides access to abutting properties while relieving them of the effects of through-traffic.
- (130) “**Front building line**” means a line on a site map which is, parallel to the road right-of-way, indicating the limit beyond which buildings or structures may not be erected. The front building line is the minimum distance between the front property line and a permitted building, excluding any permitted protrusions (see LCC 934.205).
- (131) “**Front property line,**” in reference to a unit of land,
- (a) means:
 - (i) A line that is the common boundary between the property and any abutting public road. A front property line does not include the line that is the common boundary between the property and any abutting alley.
 - (ii) In reference to an interior property, the line of the interior property lying closest to and parallel with the road, other than an alley. A front property line does not include the line of the interior property lying closest to and parallel with any abutting alley.
 - (b) The determination of how much of the property fronts on a road or roads is used to determine where to apply a front property line setback. If the road is curved, the front property line is based on the nature of that curvature as determined by the County (see Appendix 1, Figure 2 following this chapter).
- (132) “**Front yard**” means the unoccupied and unobstructed space extending the full width of the property between a building and the front property line, and measured perpendicular to the building line and the closest point of the front property line (see Appendix 1, Figure 6 following this chapter).
- (133) “**Functional road access**” means the route by which a resident of a dwelling or an occupant of a structure gains vehicular access to a public road from a given property on a day-to-day basis.
- (134) “**Geothermal resources**” has the meaning given that term in ORS 522.005. The term includes the placement and operation of compressors, separators and

other customary production equipment for an individual well adjacent to the wellhead.

- (135) “**Golf course**” means an area of land with highly-maintained, natural turf laid out for the game of golf with a series of 9, but not more than 36 holes, each including a tee, a fairway, a putting green and often one or more natural or artificial hazards consistent with the following:
- (a) A regulation 18-hole golf course, generally characterized by a site of about 120 to 150 acres of land, having a playable distance of 5,000 to 7,200 yards and a par of 64 to 73 strokes.
 - (b) A regulation 9-hole golf course, generally characterized by a site of about 65 to 90 acres of land, having a playable distance of 2,500 to 3,600 yards and a par of 32 to 36 strokes, or
 - (c) A combination of a 9- and an 18-hole regulation golf course (see **non-regulation golf course** and OAR 660-033-0130 (20)).
- (136) “**Governing body**” means the Linn County Board of Commissioners or its designee.
- (137) “**Habitable**,” in reference to a lawfully-established dwelling, means a dwelling that:
- (a) Has intact exterior walls and roof structure;
 - (b) Has indoor plumbing consisting of kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - (c) Has interior wiring for interior lights; and
 - (d) Has a heating system.
- (138) “**Half road**” means a road having only a portion of its width provided in one subdivision, with the remainder of its width to be provided through the subdivision of adjacent property.
- (139) “**Hearing authority**” means the Commission, the Board, or hearings board.
- (140) “**Hearings board**” means a body appointed by the Board for the purpose of making land use decisions between September 2, 1980 and on or about December 1985.
- (141) “**High-value farmland**” or “**HVFL**”
- (a) means farmland in an EFU or F/F zoning district in Linn County consisting predominantly of
 - (i) one of two of the soil groupings; or
 - (ii) a combination of soils from both groups.
 - (b) The term includes:
 - (i) high-value farmland (type 1), and
 - (ii) high-value farmland (type 2).
- (142) “**High-value farmland (type 1)**” or “**HVFL-1**,” has the meaning given the term in ORS 215.710 (1) and OAR 660-033-0020 (8) (a), i.e., land in a Willamette Valley tract composed predominantly of soils that are irrigated or non-irrigated and inventoried in the *Soil Survey of Linn County Area Oregon* as prime, unique, Class I, or II. In Linn County, these soils include:
- Abiqua (1A) Abiqua (1B)
 - Amity (3) Bellpine (9C)
 - Briedwell (16B) Chapman (19)
 - Chehalis (21) Clackamas (23)*
 - Clackamas var. (24) Cloquato (25)

Coburg (26) Holcomb (46)*
 Jory (51C) Malabon (63)
 Malabon var. (64) McAlpin (66B)
 McBee (67) Nekia (72C)
 Newberg (73) Pengra (77A)*
 Salem (87) Salkum (88B)
 Santiam (89B) Saturn var. (91)
 Silverton (93C) Wapato (99)*
 Willakenzie (101C) Willamette (102)
 Woodburn (106A) Woodburn (106C)
 *High value only when drained as defined in
 NRCS memo to DLCD dated March 17, 1997.

(143) “**High-value farmland (type 2)**” or “**HVFL-2,**” has the meaning given the term in ORS 215.710 (3) and OAR 660-033-0020 (8) (c), i.e., land in a Willamette Valley tract composed predominantly of soils that are inventoried in the *Soil Survey of Linn County Area Oregon* as Class III or IV or composed predominantly of a combination of type-1 high-value soils and the following soils. In Linn County, these soils include:

Awbrig (7) Bashaw (8)
 Bellpine (9D) Bellpine (9E)
 Chehalem (20C) Concord (27)
 Conser (28) Courtney (29)
 Dayton (33) Jory (51D)
 Jory (51E) Nekia (72D)
 Salkum (88C) Whiteson (100)
 Willakenzie (101D) Willakenzie (101E)

(144) “**Historic property**” or **historic resource**” means property
 (a) currently listed in the *National Register of Historic Places* or if the *National Register* ceases accepting nominations, the property is approved for listing on an Oregon register of historic places (see ORS 358.480); or
 (b) listed on the *Linn County Register of Historic Resources* and therefore subject to the historic resource alteration or demolition review provisions of this Development Code.

(145) “**Holiday**” includes the legal holidays listed in ORS 187.010 and Saturday.

(146) “**Home occupation**” means a small-scale business activity operated in conjunction with a residence subject to the home occupation decision criteria and performance standards contained in this Development Code. “Home Occupation” does not include the production, processing, wholesaling, retailing, research or testing of marijuana..

(147) "**Immature marijuana plant**" means a marijuana plant that is not flowering.

(147) “**Indoor marijuana production**” means producing marijuana in any manner that utilizes artificial lighting on mature marijuana plants; or any other manner of producing other than outdoor production.

(147) “**Industrial road**” means a road designed to carry large volumes of truck traffic and to provide truck access to abutting commercial or industrial properties.

(148) “**Initiate,**” in reference to development or an authorized use, means at a minimum:

(a) Purchasing a permit from the Linn County Environmental Health Program, installing an approved septic system and receiving a certificate of satisfactory completion. The purchase and installation must be completed and the certificate obtained before the expiration of the land use permit; or

- (b) Purchasing a permit from the Linn County Environmental Health Program for an approved septic system and purchasing a permit for and satisfactorily completing at least the foundation of the authorized principal use; or
 - (c) When neither a new septic permit nor a construction permit is required for the authorized use, the use shall be deemed to have been initiated when the use has actually commenced. For example, a conditional use permit to operate a home occupation has been initiated when the authorized business is operating within the allowed limits at the approved location; or
 - (d) as may be otherwise determined by the Director or hearing authority.
- (149) “**Insect species**” shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture.
- (150) “**Instrument airport**” means an airport which has an approach using electronic aids designed for the purpose of conducting aircraft operations in instrument meteorological conditions.
- (151) “**Interior**” (property), in reference to a unit of land, means a property with frontage on only one road.
- (152) “**Intervisible turnout**” means an area alongside a road designed to allow vehicles to pass and so spaced to provide visibility between the turnouts to users of the road.
- (153) “**Irrigated**” means watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is “irrigated” if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider. For purposes of LCC 928.300 to 928.636, an area of tract within a water irrigation district that was once irrigated shall continue to be considered “irrigated” even if the irrigation water was removed or transferred to another tract.
- (154) “**Junk**” has the meaning as that term is defined in LCC 531.450.
- (155) “**Junkyard**” means any place where there is an accumulation of junk.
- (156) “**Kennel**” means any premises on which five or more dogs that are six months or older are kept, whether by owners of the dogs or by persons providing facilities and care, whether or not for compensation.
- (a) The term includes the boarding of cats.
 - (b) The term includes “Commercial Kennels” and “Boarding Kennels” as defined in OAR 603-015-0025.
- (157) “**Land Conservation and Development Commission**” or “**LCDC**” means the agency of the State of Oregon responsible for the administration of the statewide land use planning program.
- (158) “**Land Evaluation and Site Assessment**” or “**LESA**” means the treatise by Huddleston, Pease *et al*, 1984, applicable to Linn County, Oregon.
- (159) “**Land division**” or “**division of land**” means a dividing of an authorized unit of land pursuant to LCC Chapter 924 (Partitioning Code) or LCC Chapter 926 (Subdividing Code).
- (160) “**Land-locked**” (property) in reference to a unit of land, means a unit of land,
- (a) Without frontage onto a road, and
 - (b) For which an easement of road access has not been recognized by the Director or Hearing Authority (see Appendix 1, Figure 5 following this chapter).

- (161) “**Land reclamation**” means the restoration of the land to its final use or use recognized by the Development Code.
- (162) “**Land Use Board of Appeals**” or “**LUBA**” means the administrative body which has the authority to hear appeals of land use decisions made by the Board.
- (163) “**Land use decision**”
- (a) means a discretionary action that
 - (i) is made by the Board, Commission or Director,
 - (ii) is a final decision or a final determination,
 - (iii) is appealable, except as otherwise provided in ORS Chapter 197, and
 - (iv) concerns the adoption, amendment or application of:
 - (I) A statewide land use planning goal;
 - (II) A *Comprehensive Plan* provision; or
 - (III) A land use regulation.
 - (b) The term does not include a ministerial decision (see legislative land use decision, ministerial decision and quasi-judicial land use decision).
- (164) “**Large tract forestland dwelling**” means a single-family dwelling established in the forest area of the F/F or in the FCM zoning district pursuant to ORS 215.740.
- (165) “**Lawfully created unit of land,**”
- (a) means a unit of land created pursuant to a lawful:
 - (i) partitioning process;
 - (ii) subdividing process; or
 - (iii) process creating a unit-of-record, whether by recording a metes and bounds description on a recorded deed prior to land use regulations being adopted by Linn County or by judicial foreclosure.
 - (b) The term is used in this Land Development Code for the sole purpose of determining whether the unit is an authorized unit of land or a developable unit of land. A declaration by the County that a unit of land is a lawfully created unit of land for this purpose without any further determination does not mean that the unit is a developable unit of land. Whether or not a unit of land is a lawfully created unit of land for purposes other than determining whether the unit is a developable unit of land (for example, whether the unit may be lawfully sold or conveyed) will not be made by the Director (see **developable unit of land** and **authorized unit of land**).
- (166) “**Lawfully established dwelling**” means a dwelling that was established prior to any building codes that would apply to the establishment of the dwelling or a dwelling that was established pursuant to then existing building codes and land use regulations.
- (167) “**Legislative land use decision**” means
- (a) a land use decision adopted as an ordinance by the Board which
 - (i) creates policy and which has broad application to an entire community or class of individuals, and
 - (ii) prescribes criteria and standards by which cases arising under the policy will be decided.

- (b) Examples include the adoption of or amendment to the *Comprehensive Plan* or Land Development Code; simply put, legislative land use decisions make law.
- (168) “**Limited farm use**” includes:
- (a) the cultivation and harvesting of
 - (i) Vines, shrubs, berries, vegetables, nursery stock, hay, grains, seed or similar food or fiber products; or
 - (ii) Trees, including those that qualify as farm use or the propagation or harvest of forest products.
 - (b) the marketing of farm products grown under the limited farm use provisions is limited to those farm products grown on-site.
 - (c) The following animal husbandry:
 - (i) On a property of any size, the hatching and raising of poultry, rabbits, fowl, rattites (emu, ostrich, kiwi, moa), psittacines (parrots) and similar small animals.
 - (ii) On a property of any size, one farm animal which is pastured, bred, fed, or raised for competition purposes.
 - (iii) On a property one acre or larger,
 - (I) the raising of honey bees, and
 - (II) the pasturing, feeding, breeding, or raising of equines, sheep, cattle, goats or llamas.
 - (d) The term does not include on-site processing of farm products, except as otherwise provided by the Land Development Code.
 - (e) The term does not include the production, processing, wholesaling, retailing, research or testing of marijuana.
- (169) “**Livestock**” means
- (a) equine (horse, pony, mule, donkey or hinny),
 - (b) cattle, llama, sheep, goat, and
 - (c) swine,
 - (d) domestic fowl, rattite (emu, ostrich, kiwi, moa), psittacine (parrot), and
 - (e) any fur-bearing animal bred and maintained, commercially or otherwise, within pens, cages or hutches.
- (170) “**Living history museum**” means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events.
- (171) “**Local access road**” means a public road that is not a county road, state highway or federal road. Local access roads are dedicated to the public, the ownership of which is formally accepted by Linn County for access purposes only, without any responsibility, obligation or agreement for improvement or maintenance by the County except as otherwise specified in the formal acceptance by the County.
- (172) “**Local distribution line**” means that portion of the distribution of a service (such as electricity, telephone, natural gas, oil, or geothermal resources) that makes available that service from the common transmission or distribution line to the end user. The term includes tap lines and service hookups.

- (173) “**Local historical society**” means the local historical society recognized by the county governing body and organized under ORS chapter 65.
- (174) “**Lot**” means a unit of land that was created by a subdivision process pursuant to then existing subdivision laws. A lot may or may not be a developable unit of land (see **authorized unit of land, developable unit of land**, and Appendix 2 following this Chapter).
- (175) “**Lot- or parcel-of-record dwelling**” or “**lot-of-record**” or “**parcel-of-record**”
- (a) As those terms are used in ORS 215.700 to 215.730 or in the rules promulgated to implement those provisions, means, as the case may be, one of the following single family residences or the unit of land upon which one of the following dwellings may be established:
- (i) Pre-85 HVFL-1 dwelling.
- (ii) Pre-85 HVFL-2 dwelling.
- (iii) Pre-85 non-HVFL dwelling.
- (iv) Pre-85 FL dwelling.
- (b) For a dwelling to be approved on a lot-of-record or parcel-of-record, the lot-of-record or parcel-of-record must also meet the definition of an authorized unit of land and developable unit of land.
- (176) “**Manufactured dwelling**” means
- (a) a **residential trailer**,
- (b) a **mobile home**, and
- (c) a **manufactured home**.
- (177) “**Manufactured dwelling park**” means any place where four or more manufactured dwellings are located within 500 feet of one another on a unit of land, or on a tract of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. A manufactured dwelling park does not include a lot located within a subdivision or a parcel within a partition being rented or leased for occupancy with no more than one manufactured dwelling authorized unit of land.
- (178) “**Manufactured home**” means a structure with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. subsection 5401 *et seq.*), as amended, and was constructed for movement on public roads that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, and is being used for residential purposes.
- (179) “**Manufactured structure**” means **recreational vehicle, manufactured dwelling, and recreational structure**. (ORS 446.003 (25))
- (180) “**Map**”
- (a) Means a representation of the whole or part of an area.
- (b) In reference to partitioning or subdividing land, map means the final plat.
- (181) “**Marijuana**” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family

Cannabaceae. Marijuana does not include industrial hemp as defined in ORS 571.300.

- (182) “**Marijuana items**” means marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.
- (183) “**Marijuana processing**” means the processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.
- (184) “**Marijuana production**” means the manufacturing, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Liquor Control Commission, or registered with the Oregon Health Authority and qualifies as a “person designated to produce marijuana by a registry identification cardholder.”
- (185) “**Marijuana research**” means a use that includes those activities specified in an OLCC approved research proposal that are conducted by qualified public or private researchers that are in possession of a valid OLCC Marijuana Research Certificate pursuant to ORS 845-025-5300.
- (186) “**Marijuana retailing**” means the sale of marijuana items to a consumer, provided that the marijuana retailer is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.
- (187) “**Marijuana testing laboratory**” means a use that includes the testing of marijuana in a laboratory certified by the authority under ORS 438.605 to 438.620 and for the purposes specified within OAR 845-025.
- (188) “**Marijuana wholesaling**” means the purchase of marijuana items for resale to a person other than a consumer, provided that the marijuana wholesaler is licensed by the Oregon Liquor Control Commission.
- (189) “**Mature marijuana plant**” means a marijuana plant that is flowering and is not an immature marijuana plant.
- (181) “**Medical hardship dwelling**” means a manufactured dwelling or a conversion of an existing building pursuant to the Land Development Code.
- (182) “**Minerals**” has the meaning given that term in ORS 517.750.
- (183) “**Mining**” means all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed.
 - (a) Mining includes open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those created for the construction of access roads.
 - (b) Mining does not include:
 - (i) underground mining; or
 - (ii) excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or authorized tenant on the landowner’s property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or non-surface impacts of underground mines.

- (184) “**Ministerial decision**” means a decision made using clear and objective land use standards, the application of which does not require interpretation or the exercise of policy or legal judgment.
- (a) An example of a ministerial decision is the issuance or denial of a building permit under clear and objective land use standards. Such decision is made without providing an opportunity for a hearing.
- (185) “**Minor road**” means a road which is used, or is intended to be used, primarily for providing access to abutting properties. The *Comprehensive Plan* classifies some cul-de-sacs and frontage roads as minor roads.
- (186) “**Mobile home**” means a structure constructed for movement on public roads that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
- (187) “**Model aircraft**” means a small-scale version of an airplane, glider, helicopter, dirigible, or balloon that is used or intended to be used for flight and is controlled by radio, lines, or design by a person on the ground.
- (188) “**Mortgage-lot**” means an administrative unit of land, approved by the Department, for use as collateral to secure financing for a structure, typically, but not necessarily, a dwelling and which is treated only for that purpose as if it were separated from the balance of the property. Mortgage-lot, when considered separately from the entire unit of land in which it is located, is an administrative unit of land. A mortgage-lot, together with the entire unit in which it located, is an authorized unit of land.
- (189) “**Natural vegetative fringe**” means the naturally-vegetated area that provides a transition between the water of a river, lake or naturally-occurring wetland and the most landward edge of this naturally-vegetated area as determined by aerial photographs on file in the Department (see Appendix 1, Figure 8 following this Chapter).
- (190) “**Neighborhood or community organizations,**” as that term is used in ORS 197.763 and 215.416, means an organization recognized by order of the Board following consideration of at least the following factors: nature of the organization; date organization formed; bylaws, if any; officers of the organization, if any; frequency of meetings; date of last meeting; membership qualifications; method of conducting meetings and making minutes of such meetings. Such recognition by the Board is discretionary and is subject to the continued existence of the organization.
- (191) “**Non-conforming use**” means a lawful use of land which:
- (a) existed on the effective date of the ordinance which rendered the use non-conforming and continues to exist, or
- (b) has existed for a period of 20 years immediately preceding the date of an application for a nonconforming use review, and
- (c) does not conform to the applicable regulations specified by that ordinance (see LCC Chapter 936 (Non-conforming Uses and Preexisting Uses Code)).
- (192) “**Non-farm related dwelling**” means a dwelling that is a:
- (a) Class-IV or worse single-family

- (b) Class-VI or worse single-family dwelling.
- (193) “**Non-mineral subsurface resources**” includes water.
- (194) “**Non-public water system**” means a water system supplying potable water to less than four dwellings.
- (195) “**Non-regulation golf course**” means a golf course-like development that does not meet the definition of golf course, including but not limited to executive golf courses, Par 3 golf courses, pitch and putt golf courses, miniature golf courses and driving ranges.
- (196) “**Non-resource-related**,” in reference to a dwelling, means a dwelling not customarily provided in conjunction with farm use, or not provided in conjunction with forest management.
- (197) “**Nursing home**” means any home, place or institution which operates and maintains facilities providing convalescent or chronic care for more than 24 hours for two or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage.
- (198) “**Oil or gas**” has the meaning given those terms in ORS 520.005. The term includes the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.
- (199) “**On-site filming and activities accessory to on-site filming**”
 - (a) Includes:
 - (i) Filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming.
 - (ii) Production of advertisements, documentaries, feature film, television services and other film productions that rely on the rural qualities of an exclusive farm use zone in more than an incidental way.
 - (b) The term does not include:
 - (i) Facilities for marketing, editing and other such activities that are allowed only as a home occupation; or
 - (ii) Construction of new structures that requires a building permit.
- (200) “**Order**” means the written action of the Board to implement a quasi-judicial land use decision.
- (201) “**Ordinance**” means the written action of the Board to adopt an amendment to the Land Development Code or *Comprehensive Plan*.
- (202) “**Ordinary high water line**” means the level to which waters ordinarily annually rise, usually represented by the line of permanent vegetation. In areas without vegetation, this line may be determined with nearby permanent vegetation either upstream or downstream, by the visible collection of woody debris, or by the location of a high bank extending out of the floodplain (see Appendix 1, Figure 8 following this chapter).
- (203) “**Oregon agricultural land use policy**” means open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all the people of this state, whether living in rural, urban or metropolitan areas of the state.
- (204) “**Outdoor marijuana production**” means producing marijuana in an expanse of open or cleared ground or in a greenhouse, hoop house, or similar non-rigid

- structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources.
- (204) “**Overburden**” means the soil, rock and similar materials that lie above natural deposits of minerals.
- (205) “**Owner**”
- (a) Means the person who has ownership of land.
 - (b) For purposes of initiating land use actions or giving notice of land use decisions, the term also means the contract purchaser of record of real property.
- (206) “**Ownership**” means the existence of legal or equitable title to land.
- (207) “**Parcel**” means a unit of land that was created by a partitioning process pursuant to partitioning laws in existence at the time the parcel was created. A parcel may or may not be a developable unit of land (see **authorized unit of land, developable unit of land**, and Appendix 2 following this Chapter).
- (208) “**Park**” means an area on which one or more of the following uses may be authorized:
- (a) campgrounds: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;
 - (b) day use areas: picnic shelters, barbecue areas, swimming areas, open play fields, play structures;
 - (c) recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;
 - (d) boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;
 - (e) amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack;
 - (f) support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;
 - (g) park maintenance and management facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging.
 - (h) In a state park, Natural and cultural resource interpretative, educational and informational facilities in state parks: interpretative centers, information/orientation centers, self-supporting interpretative and informational kiosks, natural history or cultural resource museums, natural history or cultural educational facilities, reconstructed historic structures for cultural resource interpretation, retail stores not exceeding 1500 square feet for sale of books and other materials that support park resource interpretation and education;
 - (i) Visitor lodging and retreat facilities in state parks: historic lodges, houses or Inns and the following associated uses in a state park retreat area only:

- (A) Meeting halls not exceeding 2000 square feet of floor area;
- (B) Dining halls (not restaurants).

- (209) “**Park-and-ride area**” has the meaning as that term is used in Goal 12.
- (210) “**Parking area, public**” (see **public parking area**)
- (211) “**Parking space**” means a permanently maintained space with proper access for one, standard-sized automobile as indicated in the Development Code.
- (212) “**Park trailer**” means a recreational vehicle built on a single chassis, mounted on wheels, designed to provide recreational, seasonal, or temporary living quarters which may be connected to utilities for operation of installed fixtures and appliances, and with a gross trailer area not exceeding 400 square feet when in the set-up mode. Such a vehicle shall be referred to as and identified by the manufacturer or converter as a recreational vehicle (see OAR 918-525-0005 (22) and **recreational vehicle**).
- (213) “**Partition**” means
- (a) the act of partitioning land or
 - (b) the unit of land which has been so partitioned.
- (214) “**Partition land**”
- (a) Means to divide land into two or three parcels of land within a calendar year,
 - (b) The term does not include:
 - (i) A division of land resulting from judicial foreclosure of
 - (I) a lien financing the purchase or improvement of real property,
 - (II) a recorded contact for the sale of real property, or
 - (III) the creation of cemetery-lots; or
 - (ii) An adjustment of a property line by the relocation of a common boundary where
 - (I) an additional unit of land is not created, and
 - (II) the existing unit of land being reduced in size by the adjustment complies with applicable Development Code provisions; or
 - (iii) A sale or grant by a person to a public agency or public body for use as a public road or other right-of-way purposes provided that such road or right-of-way complies with the applicable *Plan* and Development Code requirements. Any property divided by the sale or grant of property described in this sub-subparagraph shall continue to be considered a single unit of land until such time as the property is subdivided or partitioned;
 - (iv) 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 use as a public road 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; or
 - (v) The creation of a mortgage lot consistent with this Development Code.
- (215) “**Partition plat**” means a final map and other writing containing all the exterior boundary descriptions, locations, specifications, provisions and information concerning a partition.
- (216) “**Party**” in a proceeding involving a land use decision, means:
- (a) the applicant,

- (b) all owners or contract purchasers-of-record of the property subject to the application, and
 - (c) any person who makes an appearance in a proceeding for a land use decision (see **appearance**).
- (217) “**Pedestrian way**” A right-of-way for pedestrian traffic.
- (218) “**Person**” means an individual, including heirs, executors, administrators or assigns; a firm, partnership, association, domestic or foreign corporation, its heirs, successors or assigns; or any political subdivision, agency, board or bureau of the state or federal government; or the authorized agent of any of the above.
- (219) “**Person designated to produce marijuana by a registry identification cardholder**” means a person designated to produce marijuana by a registry identification cardholder under ORS 475.304 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides or at an address where more than 12 mature plants are produced.
- (219) “**Personal-use airport**”
- (a) means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. It is a private as opposed to a public airport.
 - (b) The term includes helicopter pads, including associated hangar, maintenance and service facilities.
 - (c) Exceptions to the activities permitted under this definition may be granted through waiver action by the Department of Transportation in specific instances (see ORS 215.283 (2) (h)).
- (220) “**Planning permit**” include permits authorized and issued by the Director or hearing authority for, but not limited to the following property developments:
- (a) conditional use permit;
 - (b) variance;
 - (c) easement recognition;
 - (d) partition without recognized road access;
 - (e) subdivision; or
 - (f) property line adjustments requiring discretion.
- (221) “**Planted vineyard**” means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
- (222) “**Plat**” means the map, diagram, replat and other writing containing the description, location, specifications, dedications, provisions and all other requirements pursuant to the Development Code regulating subdivisions or partitions within the unincorporated areas of Linn County.
- (223) “**Pre-85 forestland dwelling**” or “**pre-85 FL dwelling**” means a single-family dwelling established pursuant to ORS 215.705 (1) (a) to (c), and (e) to (g), and 215.720.
- (224) “**Pre-85 high-value farmland (type 1) dwelling**” or “**pre-85 HVFL-1 dwelling**” means a single-family dwelling established pursuant to ORS 215.705 (1) (a) to (d), (f) and (g), and (2).

- (225) “**Pre-85 high-value farmland (type 2) dwelling**” or “**pre-85 HVFL-2 dwelling**” means a single-family dwelling established pursuant to ORS 215.705 (1) (a) to (d), (f) and (g), and (3).
- (226) “**Pre-85 non-high-value farmland dwelling**” or “**pre-85 non-HVFL dwelling**” or “**pre-85-NHVFL dwelling**” means a single family dwelling established pursuant to ORS 215.705 (1) (a) to (d), (f) and (g).
- (227) “**Pre-85 single-family dwelling**”
- (a) means a single family dwelling proposed on an authorized unit of land in the Rural Resource Zone that complies with (i) ORS 215.705 (1) (a) to (d), (f) and (g) [in EFU or the farm area of the F/F zoning district], or (ii) ORS 215.705 (1) (a) to (c) and (e) to (g) [in forest area of the F/F zoning district].
 - (b) The term includes the following pre-85 single-family residences in the farm area of the F/F or in the EFU zoning district:
 - (i) a pre-85 non-high-value farmland single-family dwelling;
 - (ii) a pre-85 high-value farmland (type 1) single-family dwelling; and
 - (iii) a pre-85 high-value farmland (type 2) single-family dwelling.
 - (c) The term includes the following pre-85 single-family residence in the forest area of the F/F: a pre-85 forestland dwelling.
 - (d) The term includes terms formerly used in this Development Code such as “lot of record dwelling,” “lot or parcel of record dwelling,” and certain statutory terms used in, for example, ORS 215.705.
- (228) “**Predominantly**” means
- (a) more than 50% when comparing two variables, or
 - (b) the greatest quantity if more than two variables are compared.
- (229) “**Pre-existing use**” means
- (a) any lawful use of land, and
 - (b) which existed prior to that use becoming a conditional use by county land use regulation, and
 - (c) which is now a conditional use under the current zoning district, and
 - (d) which has not been reviewed and approved (see LCC Chapter 936 (Non-conforming Uses and Pre-existing Uses Code)).
- (230) “**Primary processing of forest products**” means the initial treatments of logs or other forest plant or fungi materials to prepare them for shipment for further processing or to market, in a building or buildings that do not exceed 10,000 square feet in total floor area, or an outdoor area that does not exceed one acre excluding laydown and storage yards, or both, that are adequately separated from surrounding properties to reasonably mitigate noise, odor and other impacts generated by the facility that adversely affect forest management and other existing uses, as determined by the governing body. Treatments may include, but are not limited to, debarking, peeling, drying, cleaning, sorting, chipping, grinding, sawing, shaping, notching, biofuels conversion, or other similar methods of initial treatments.
- (231) “**Primary timber processing**” means the placement of portable barkers, portable chippers, portable stud mills, or other similar methods for initial treatment of a forest product in order to enable its shipment to market (see **forest product**).

- (232) “**Principal building**” means a building within which is conducted the principal use permitted on the property as provided by this Development Code.
- (233) “**Principal farm dwelling**” means a dwelling that meets one of the requirements of OAR 660-033-0135.
- (234) “**Principal sign**” means the sign that is the only sign on the premises or if there is more than one sign on the premises then the determination of the principal sign is based on the following factors: size, illumination, visibility, cost, and content.
- (235) “**Principal use**” means
- (a) the use for which the zoning district is intended, i.e., farming in a farm zoning district, or a residence in a residential zoning district, or a forest operation or practice in the forest area of the F/F or of the FCM zoning district.
 - (b) the use allowed or permitted in the zoning district.
- (236) “**Private airport**” (see personal use airport).
- (237) “**Property**,” when used in the Land Development Code, where criteria or standards are set forth and where such criteria and standards are required to be met, has the same meaning given **authorized unit of land**.
- (238) “**Property line adjustment**” means the adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land being reduced in size by the adjustment complies with applicable Development Code provisions.
- (239) “**Protected mineral or aggregate site**” or “**protected mineral site**” or “**protected aggregate site**”
- (a) Means a mineral or aggregate resource that has been placed on one of the following *Comprehensive Plan* inventories: Appendices 3, 5, 6, and 8.
 - (b) The term also includes sites on Appendices 4 and 10 for which a development permit has been issued pursuant to LCC 932.200 to 932.299.
- (240) “**Public and semi-public buildings and uses**” means a building or use owned or operated by a government agency or a public utility. Such buildings and uses include: meeting halls, fire stations, utility substations, parks, playgrounds or community centers.
- (241) “**Public parking area**” means
- (a) Privately-owned or publicly-owned property, other than roads or alleys, on which parking spaces are defined, designated or otherwise identified for use by the general public, either free or for remuneration.
 - (b) Public parking areas may include parking areas which may be required by this Development Code for customers, patrons and clients and those park-and-ride areas permitted by accessory transportation improvements.
- (242) “**Public road**” means a road over which the public has a right of use that is a matter of public record.
- (243) “**Public service**” means a service that is made available to the general public with or without cost to the recipient.
- (244) “**Public use airport**” means a public airport open to use by the flying public.
- (245) “**Public water system**” means a water system supplying potable water to four or more dwellings.
- (246) “**Quasi-judicial land use decision**” means:

- (a) a discretionary land use decision, subject to appeal, involving the application of specified criteria, including the exercise of policy or legal judgment to a specific individual or property or to a small, identifiable group of individuals or properties (see **land use decision**).
 - (b) Examples include zoning district changes, conditional uses and variances; simply put, it is to apply law.
- (247) “**Rear property line**,” in reference to a unit of land,
- (a) Means the property line most distant from the front property line.
 - (b) In the case of triangular, trapezoidal or other irregularly-shaped property, the term, qualified by the word “artificial,” means a line at least 10 feet long which is drawn more or less parallel to the front property line (see Appendix 1, Figure 2 following this chapter).
- (248) “**Rear yard**” means the unoccupied and unobstructed space:
- (a) from the ground upward, except as otherwise provided, and
 - (b) extending the full width of the property between a building and the rear property line, and measured perpendicular to the building line and the closest point of the rear property line (see Appendix 1, Figure 6 following this chapter).
- (249) “**Record**”
- (a) As a verb means,
 - (i) submitting a document to, and having that document accepted by the Clerk’s Office for the purpose of placing that document, or copies thereof, in official public evidence, or
 - (ii) submitting an instrument conveying or contracting to convey interest in real property to, and having that document accepted by the Clerk’s Office for the purpose of placing that document, or copies thereof, in the land records. Such recording before August 1, 1970, is indexed by book and page; after that date, by microfilm number.
 - (b) As a noun, means all of the information, evidence and exhibits presented in writing or orally to and accepted by the hearing authority at a land use hearing.
- (250) “**Recreational facilities**” or “**recreation uses**” means buildings, structures and uses owned or operated by a semi-public or private organization and includes fishing camps, hunting preserves, parks, recreational vehicle parks, playgrounds or similar activities.
- (251) “**Recreational structure**” means a campground structure with or without plumbing, heating, or cooking facilities intended to be used by any particular occupant on a limited-time basis for recreational, seasonal, emergency, or transitional housing purposes and may include yurts, cabins, fabric structures, or similar structures as further defined, by rule, by the director and intended for occupancy by one to eight persons.
- (252) “**Recreational vehicle**” means a vehicle with or without motive power, which is designed for human occupancy, intended for occupancy by one to eight persons and to be used temporarily for recreational, seasonal or emergency purposes and specifically includes camping trailers, camping vehicles, motor homes, park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck

campers, combination vehicles which include a recreational vehicle use and any vehicle converted for use or partial use as a recreational vehicle (see ORS 446.003 (34), OAR 918-525-0005 (22), and **park trailer**).

(253) “**Recycling facility**”

- (a) means equipment used by a trade or business solely for recycling: and includes:
 - (i) Equipment used solely for hauling and refining used oil;
 - (ii) New vehicles or modifications to existing vehicles used solely to transport used recyclable materials that cannot be used further in their present form or location such as glass, metal, paper, aluminum, rubber and plastic;
 - (iii) Trailers, racks or bins that are used for hauling used recyclable materials and are added to or attached to existing waste collection vehicles; and
 - (iv) Any equipment used solely for processing recyclable materials such as bailers, flatteners, crushers, separators and scales.
- (b) But not including equipment used for transporting or processing scrap materials that are recycled as a part of the normal operation of a trade or business as defined by the administrator.

(254) “**Replat**” includes a final map, diagram, drawing of the reconfiguration of lots, parcels, and easements of a recorded subdivision or partition plat, and other writings containing all the descriptions, location, specifications, dedications, and provisions and information concerning a recorded subdivision or partition.

(255) “**Requirement**” means

- (a) if, in reference to a limitation imposed on a permit that is not subject to appeal, that limitation. A requirement may be a property development standard or a performance standard. A requirement may be a prerequisite to other requirements each of which must be satisfied as and in the order imposed by the permit before the principal use will be allowed (see **standard**), or
- (b) if, in reference to a provision of the Linn County Code or other law requiring satisfaction or compliance, that provision.

(256) “**Residential home**” means

- (a) One of the following establishments licensed or registered by the appropriate authority pursuant to state statute, that depending upon its license or registration, may provide residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related.
 - (i) A residential treatment home under ORS 443.400 to 443.825;
 - (ii) A residential training home under ORS 443.400 to 443.825;
 - (iii) An adult foster home under ORS 443.705 to 443.825; or
 - (iv) A residential facility under ORS 443.480 to 443.500.
- (b) Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

(257) “**Residential trailer**” means a structure constructed for movement on public roads, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed before January 1, 1962.

- (258) “**Resource-related**,” in reference to a property or a dwelling,
- (a) Means a unit of land or a dwelling located in an EFU, F/F, or FCM zoning district that is principally related to a farm or forest use.
 - (b) The term includes:
 - (i) farm-related property and dwellings, or
 - (ii) forest-related property and dwellings.
- (259) “**Right-of-way**”
- (a) Means the area between boundary lines of a road or other easement of road access. Right-of-way is not limited to the surfaced width of the road.
 - (b) The term includes:
 - (i) a reservation by the developer for a road right-of-way not yet dedicated;
 - (ii) an easement for road access, easement of record for road access, a service, utility, pedestrian, or conservation easement (see **easement of record road access, road-related easement, and utility easement**)
 - (iii) Road dedications.
 - (iv) Rights-of way held in fee title by or dedications to a governmental body.
- (260) “**Riparian habitat**” means the bank and natural vegetative fringe adjacent to any perennial or intermittent stream, lake, or naturally occurring pond, or wetland. Sensitive riparian habitats that require setback standards are inventoried in the *Comprehensive Plan* (see Appendix 1, Figure 8 following this chapter).
- (261) “**Road**”
- (a) Means the entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles.
 - (b) Road includes but is not limited to:
 - (i) Ways described as streets, roads, drives, highways, throughways or alleys;
 - (ii) Road-related structures that are in the right-of-way such as tunnels, culverts or similar structures; and
 - (iii) Structures that provide for continuity of the right-of-way such as bridges.
 - (c) The term does not include a private way created to provide ingress or egress to land used solely in conjunction with forestry, noncommercial mining, or agricultural purposes or any combination thereof when such land does not contain a dwelling.
- (262) “**Roadway**” means that portion of the road right-of-way that is designed for vehicular travel.
- (263) “**Road-related easement**” includes both easements of record of road access and easements of road access.
- (264) “**Room and board**” means the provision of lodging, with or without meals, for compensation for five or fewer unrelated persons in an existing dwelling. The term does not include homes for the aged, nursing homes or group-care homes.
- (265) “**Rural development-zoned**” in reference to property, means property that is located in one of the nine zoning districts (AB, FIC, HI, LI, RCM, RCT, RR, UD-I, or UD-II) in the Rural Development Zone.
- (266) “**Rural resource-zoned**” in reference to property, means property that is located in one of the four zoning districts (EFU, F/F, or FCM) in the Rural Resource Zone.

- (267) “**Salvage yard**” has the meaning given the term **recycling facility**.
- (268) “**School**” means
- (a) a building established primarily for private or public education intended to provide instruction, or training on a regular basis, or
 - (b) a building in which such education is primarily conducted which may include classrooms, laboratories, day-care, or other similar facilities.
- (269) “**Secondary use**” (see accessory use).
- (270) “**Septic system**” (see approved septic system).
- (271) “**Series partition**” means a series of partitions of land resulting in the creation of four or more parcels over a period of more than one calendar year.
- (272) “**Service station**” means a place selling motor fuel and oil for motor vehicles, servicing batteries, furnishing repair and service, excluding painting, body work, steam cleaning, tire recapping and mechanical car washing, which necessitates equipment to wash more than one car at a time.
- (273) “**Side property line,**” in reference to a unit of land means one or more property lines which are not a front or rear property line (see Appendix 1, Figure 2 following this chapter).
- (274) “**Sidewalk**” means a pedestrian way with concrete surfacing or similar permanent surfacing. (see **pedestrian way**).
- (275) “**Side yard**” means the unoccupied and unobstructed space
- (a) from the ground upward, except as otherwise permitted,
 - (b) extending from the front yard to the rear yard between the building and the side property line measured perpendicular to the building line and the closest point of the side property line (see Appendix 1, Figure 6 following this chapter).
- (276) “**Sign**”
- (a) Means any visual presentation designed, used or intended for advertising purposes or to inform or attract the attention of the public.
 - (b) The term includes the sign’s structure, display surface and all other component parts of a sign (see **display surface**), such things as a display, message, emblem, device, figure, painting, drawing, placard, poster, billboard or other object.
 - (c) The term shall not include the flag or emblem of a nation or government unit, except that such emblems shall conform to illumination standards set forth in this Development Code.
- (277) “**Single-family dwelling**” means a building containing only one dwelling unit having one roof, one front door, one power meter and one address. The term includes, but is not limited to, a manufactured dwelling or site-built home. For purposes of LCC 932.860 to 932.895 (Medical Hardship Manufactured Dwellings) only, the term includes a **park trailer** (see LCC 920.100).
- (278) “**Single ownership**” means a person or group of persons who either singularly or jointly own one or more contiguous units of land.
- (279) “**Size**” (of property), in reference to a unit of land,
- (a) Means the total horizontal area within the property lines of the unit, exclusive of any public roads and of the area within a flag strip providing access to the unit.

- (b) When an authorized unit of land has been reduced in size because the right-of-way of an existing public road has been widened or because a new public road has been created, the area lost may continue to be included in the size of the unit of land for purposes of meeting minimum size standards.
 - (c) A description of a unit of land that includes a right-of way for a public road where no grant under subparagraph (b) of this paragraph has been made, the area of the property shall not include the right-of-way of that road.
- (280) *Soil Survey of Linn County Area Oregon*, about 1987, GPO #82427, United States Department of Agriculture, Natural Resource Conservation Service (NRCS) (formerly Soil Conservation Service (SCS) (hereafter referred to as the *Soil Survey*). The term also includes all maps prepared by the SCS and used by the Planning and Building Department prior to the publication date.
- (281) “**Solid waste**”
- (a) Means all organic and inorganic wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper and cardboard; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or their parts; discarded home and industrial appliances; manure, vegetable or animal solid and semi-solid wastes, dead animals and other wastes;
 - (b) The term does not include:
 - (i) Hazardous wastes as defined in state statute; or
 - (ii) Materials used for fertilizer or for other productive purposes when such materials are applied to land in farm use and when the Department of Environmental Quality designates the application to be a beneficial use.
- (282) “**Solid waste disposal site**” means land and facilities used for the disposal of, handling or transfer of, or resource recovery from solid wastes permitted by Department of Environmental Quality under ORS 459.245.
- (a) The term includes, but is not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, resource-recovery facilities, incinerators for solid waste delivered by the public or by a solid waste collection service, and composting plants.
 - (b) The term does not include
 - (i) a waste treatment facility subject to the permit requirements of ORS 468B.050;
 - (ii) a landfill site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar non-decomposable material, unless the site is used by the public either directly or through a solid waste collection service; or
 - (iii) a site licensed to buy, sell or deal in the wrecking, dismantling, disassembling and offering for sale of used components of vehicles required to be licensed in Oregon.
- (283) “**Split-zoned**” in reference to property, means that the property is bisected by a boundary that is common to two or more zoning districts. For example an authorized unit of land having one part in a zoning district designated EFU and the remainder in a zoning district designated RR, is a split-zoned property.

- (284) “**Staging area**” means the temporary use of land for the crushing, stockpiling, or processing of aggregate products used in the maintenance or construction of public roads. Free estimates to have yard, garden or lot work completed in the Willamette Valley.
- (285) “**Standard**” means a level or degree of quality or quantity that is proper and sufficient for some specific purpose, and
- (a) In reference to a land use decision, the term means a prerequisite to a decision. Decision standards are used in deciding both ministerial and discretionary land use proposals.
 - (i) Ministerial decisions are not subject to appeal.
 - (ii) Discretionary decisions are subject to appeal.
 - (b) A decision standard is referred to as a decision criterion in the Land Development Code (see **criterion**); or
 - (c) In reference to property development, the term means a limitation, imposed on a permit, relating to the development of the proposal that has been approved. That part of a decision that is based on a property development standard is ministerial and is not subject to appeal. A condition may also be imposed on a development permit to insure conformance with such standards. Any deviation from a property development standard must be first approved by the Director or hearing authority (see **requirement**);
 - (d) In reference to performance, the term means a requirement of operation and maintenance of an approved use. That part of a decision that is based on a performance standard is ministerial and is not subject to appeal. Variances from a performance standard may be allowed, except for the following uses: a home occupation, a medical hardship manufactured dwelling, and a kennel (see **requirement**).
- (286) “**Standing**” means appearing in a land use proceeding for which an appeal may be made pursuant to the Development Code.
- (287) “**Stream**” includes reservoirs formed by the damming of a stream.
- (288) “**Street**” means a public road that is usually under municipal jurisdiction. A street may lie within an urban growth area in which case it may be a county road or local access road.
- (289) “**Stubbed road**” means a road having only one outlet for vehicular traffic and which may be extended or continued to serve future subdivisions or development on adjacent lands and, in the interim, may require that the stubbed road be terminated in a cul-de-sac.
- (290) “**Structure**” means anything built or erected above or below ground.
- (291) “**Subdivide land**” means to divide land into four or more lots within a calendar year.
- (292) “**Subdivider**” means any person who undertakes the subdivision of land for the purpose of transferring ownership or development at any time, whether immediate or future.
- (293) “**Subdivision**” means either
- (a) an act of subdividing land or
 - (b) an area of land which has been subdivided.

- (294) “**Subdivision plat**” means a final map and other writing containing all the exterior boundary descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.
- (295) “**Surface mining refuse**” means all waste materials, soil, rock, mineral, liquid, vegetation and other materials resulting from or displaced by surface mining operations within the operating permit area, including all waste materials deposited in or upon lands within such operating permit area.
- (296) “**Surface impacts of underground mining**” means all waste materials produced by underground mining and placed upon the surface including, but not limited to, waste dumps, mill tailings, washing plant fines, and all surface subsidence related to underground mining.
- (297) “**Surveyor**” means a land surveyor who is registered in Oregon and holds a valid certificate to practice land surveying as provided by Oregon statute.
- (298) “**Tax-lot**”
- (a) Means an area of land mapped by the County Assessor as a unit for taxing purposes;
 - (b) A tax-lot is an administrative unit of land. The boundaries of a tax-lot are not necessarily identical to the boundaries of an authorized unit of land.
- (299) “**Temporary**” unless otherwise specified, means a period not to exceed 90-days.
- (300) “**Tract**” means one or more contiguous authorized units of land under a single ownership. The definition provided in ORS 215.010 (2) is interpreted to mean the same thing as the definition of the term given in this paragraph.
- (301) “**Transportation facility**” means any physical facility that moves or assists in the movement of people or goods including facilities identified in OAR 660-012-0020 but excluding electricity, sewage and water systems.
- (302) “**Transportation improvements**”
- (a) Mean transportation improvements on rural lands that provide safe and efficient access to the use for which it is related.
 - (b) The term includes:
 - (i) accessory transportation improvements that are allowed or conditionally permitted in the EFU, F/F, or FCM zoning districts;
 - (ii) transportation improvements that are allowed or conditionally permitted in the EFU, F/F, or FCM zoning districts;
 - (iii) Channelization (as that term is defined in OAR 660-012-0065 (2) (e));
 - (iv) Realignment (as that term is defined in OAR 660-012-0065 (2) (f)) of existing roads;
 - (v) Replacement of an intersection with an interchange;
 - (vi) Continuous median turn lane;
 - (vii) New access roads and collectors (as those two terms are defined in OAR 660-012-0065 (2) and (b)) within a built or committed exception area, or in other areas where the function of the road is to reduce local access to or local traffic on a state highway. These roads shall be limited to two travel lanes. Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

- (viii) Bikeways, footpaths and recreation trails not otherwise allowed as a modification or part of an existing road;
 - (ix) Park-and-ride areas;
 - (x) Railroad mainlines and branchlines;
 - (xi) Pipelines;
 - (xii) Navigation channels;
 - (xiii) Replacement of docks and other facilities without significantly increasing the capacity of those facilities;
 - (xiv) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes; and
 - (xv) Transportation facilities, services and improvements other than those listed in the Land Development Code that serve local travel needs. The travel capacity and level of service of facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the *Comprehensive Plan* or to provide adequate emergency access.
- (303) “**Transportation service**” means a service for moving people and goods, such as intercity bus service and passenger rail service.
- (304) “**Travel trailer**” (see **recreational vehicle**).
- (305) “**Underground mining**” means all human-made excavations below the surface of the ground through shafts or adits for the purpose of exploring for, developing or producing valuable minerals.
- (306) “**Unit of land**” means an area of land, the boundaries of which determines ownership or some administrative division and is either an
- (a) authorized unit of land;
 - (b) administrative unit of land, or (c) unit of land created by a process not approved by this Development Code.
- (307) “**Unit-of-record**”
- (a) Means a unit of land:
 - (i) described by metes and bounds on a deed recorded in the land records of Linn County prior to September 2, 1980; or
 - (ii) a unit of land created by a judicial judgment.
 - (b) A unit-of-record may or may not be a developable unit of land (see **authorized unit of land, developable unit of land**, and Appendix 2 following this Chapter).
 - (c) The term does not include a lot or parcel.
- (308) “**Use**” as a noun, means the purpose for which land is occupied or employed. The term includes structures that support the use of the land.
- (309) “**Utility easement**” means an easement granted for the purpose of providing access to or across the property of another for utility services. The term does not include road-related easements.
- (310) “**Utility facility**”
- (a) means any major structures:
 - (i) owned or operated by
 - (ii) a public, private, or cooperative electric, fuel, communications, sewage, or water company

- (iii) for the
 - (I) generation, transmission, distribution, or processing of its products, or
 - (II) disposal of cooling water, waste, or by-products.
- (b) The term includes power transmission lines, major trunk pipelines, power substations, fire substations, water towers, sewage lagoons, and similar facilities.
- (c) The term excludes hydroelectric facilities, local sewer, water, gas, telephone, and power distribution lines, and similar minor facilities allowed in any zone.
- (311) “**Vehicles**” means any device in, upon, or by which any person or property is or may be transported, or drawn upon a public road, and includes vehicles that are propelled or powered by any means excluding human power.
- (312) “**Veterinarian**” means a veterinarian licensed by the Oregon State Veterinary Medical Examining Board pursuant to OAR 333, Divisions 100 through 120.
- (313) “**Veterinary clinic**” means a business establishment including any separate boarding facilities in which veterinary services are rendered by a veterinarian to small domestic pets, equine or farm animals on either an out-patient basis or through overnight boarding.
- (314) “**Vision clearance area**” means a three dimensional area (usually triangular) at a road corner or intersection the purpose of which is to provide an unobstructed vision to traffic and pedestrians that
 - (a) is located at the corner of a corner property nearest the road corner or intersection, and
 - (b) is defined by a line drawn across the corner of the corner property, referred to as the base line, whose ends terminate
 - (i) on a property that has a road forming an angle, at the road rights-of-way and having two sides which are the portions of the two front property lines that meet at the corner. These two lines shall be referred to as the vision clearance lines. The vision clearance lines shall be located on the right-of-way boundary at an equal and specified distance from the corner, or
 - (ii) on a property that has a road forming a curve, at the road right-of-way and having two sides which are the portions of the two front property lines that meet at the corner. These two lines shall be referred to as the vision clearance lines. The vision clearance lines shall be located on the right-of-way boundary at an equal and specified distance from the corner (see Appendix 1, Figure 7 following this chapter).
- (315) “**Visual airport**” means an airport intended solely for the operation of aircraft using a visual approach procedure.
- (316) “**Water-dependent**” means a use or facility which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production or source of water.
- (317) “**Water-related**”
 - (a) Means a use or facility which is not dependent upon direct access to a water body but which provides goods or services that are directly associated with water-dependent or waterway uses, and which, if not located adjacent to water, would result in a loss of quality in the goods or services offered.

- (b) Except as necessary for water-dependent or water-related uses or facilities, residences, parking areas, spoil and dump sites, roads, restaurants, businesses, and factories are not generally considered dependent on or related to water location needs.
- (318) “**Water system**” means a supply of potable water to a development. The term includes a public water system and a non-public water system.
- (319) “**Width**” (of property), in reference to a unit of land, means the horizontal distance between the side property lines, measured perpendicular to the depth line at a point midway along the property depth line (see Appendix 1, Figure 2 following this chapter).
- (320) “**Willamette Valley**” in reference to high-value and non-high-value farmlands, means Linn County.
- (321) “**Wrecking yard**” means any place used for the storage, dismantling or sale of either used motor vehicles, trailers, machinery, or building materials, or parts thereof.
- (322) “**Yard**” (see front yard, rear yard, and side yard).
- (323) “**Youth camp**” means a facility either owned or leased, and operated by a state or local government, or a nonprofit corporation as defined under ORS 65.001, to provide an outdoor recreational and educational experience primarily for the benefit of persons twenty-one (21) years of age and younger. Youth camps do not include any manner of juvenile detention center or juvenile detention facility.
- (324) “**Yurt**” means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance and intended for occupancy by one to eight persons.
- (325) “**Zone**” means an area of land identified by Linn County for the purpose of preserving a class of uses determined to be appropriate for preservation, continuation, or establishment in that area and for which Linn County has adopted provisions in the *Comprehensive Plan* and the Land Development Code to allow for or permit, after review, such uses within the zoning district. The term also means a group of related zoning districts, such as the Rural Resource Zone and the Rural Development Zone.

920.200 Terms having legal meaning for purposes of administering the Land Development Code but which may not be used in the Code

- (A) The terms set forth in subsection (B) of this section have a legal meaning and significance for purposes of administering the Land Development Code but may not be used in the Development Code. The Director may rely on the use and application of such terms in the administration and application of the Development Code.
- (B) *Administrative terms.*
- (1) “**Abandoned well**” means a well that has been properly plugged and sealed under the regulations, and to the satisfaction of, the Department of Geology and Mineral Industry (DOGAMI).
- (2) “**Bed and breakfast**” means a business offering temporary, commercial lodging with or without meals in the residence of the owner of the business, after having met the criteria and been approved for a home occupation. To keep the scale and intensity of the use consistent with that intended for home occupations, the number of bedrooms available for the business shall not exceed six.

- (3) “**Boarding house**” or “**rooming house**” means a building where lodging, with or without meals, is provided for compensation but shall not include homes for the aged, nursing homes or group-care homes.
- (4) “**Cellar**” means that portion of a building between floor and ceiling, which is wholly or partly below grade and located so that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.
- (5) “**Daylight basement**” means that portion of a building between floor and ceiling, which is partly below and partly above grade, located so that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.
- (6) “**Department of Land Conservation and Development**” or “**DLCD**” means the staff of the Land Conservation and Development Commission of the State of Oregon.
- (7) “**Disabled person**” means an individual who has a physical or mental impairment which for the individual constitutes or results in a functional limitation of self-care, ambulation, communication, transportation, education, socialization, employment or the ability to acquire and maintain adequate, safe and decent shelter.
- (8) “**Duplex**” (see **two-family dwelling**).
- (9) “**Dwelling**” (see **two-family dwelling** and **multiple-family dwelling**).
- (10) “**Gross floor area**” means the floor area of a building.
 - (a) The term does not include, areas used exclusively for the service of the building, such as:
 - (i) Mechanical equipment spaces and shafts;
 - (ii) Elevators, stairways, escalators, and ramps; or
 - (iii) Public restrooms, loading docks, and ramps.
- (11) “**Hotel**” or “**motel**” means any building or group of buildings used for motortransient, residential purposes containing guest rooms which are intended or designed to be used, or which are rented, by guests.
- (12) “**Loading space**” means a space
 - (a) that is on the same unit of land as, and contiguous with, a principal building or group of buildings for the temporary parking of commercial vehicles while loading or unloading, and
 - (b) that abuts a road, or other appropriate way of ingress and egress.
- (13) “**Motel**” (see **hotel**).
- (14) “**Multiple-family dwelling**” means a building having three or more dwelling units.
- (15) “**Notice area**” means that area composed of one or more units of land the owners of which are entitled to receive notice as provided in LCC Chapter 921 (Land Development Administration Code).
- (16) “**Property subject to notice**”
 - (a) means all properties within the notice boundary of the exterior property lines of all authorized units of land involved in a land use review.

- (b) The term includes, in addition to the subject property, all properties within the notice boundary along an existing or proposed easement of road access to the subject property.
- (17) “**Story**” means that portion of a building included between the upper surface of any floor and the lower surface of the ceiling above, but shall not include a basement or cellar.
- (18) “**Skydiving facility**” means the use of any land for the training, the taking off and the landing of skydivers, exclusive of any buildings, structures or airport facilities in conjunction with such use.
- (19) “**Template dwelling**” has the meaning given the term “**alternative forestland dwelling**.”
- (20) “**Two-family dwelling (duplex)**” means a building having two dwelling units.
- (21) “**Veterinarian hospital**” has the meaning given to **veterinarian clinic**.

920.300 Interpretations of zoning map boundaries

Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules shall apply:

- (A) Boundaries indicated as approximately following the centerlines of roads or alleys shall be construed to follow the centerlines of the rights-of-way of such roads or alleys;
- (B) Boundaries indicated as approximately following the property line of a unit of land shall be construed as following the property line of such unit.
- (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 centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines;
- (F) Boundaries indicated as parallel to, or extensions of, features indicated above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map; and
- (G) The Director may interpret the zoning boundaries
 - (1) where physical or cultural features existing on the ground would indicate boundaries different from those shown on the official zoning map;
 - (2) when other boundary-related circumstances are not covered by this subsection; or
 - (3) when a property is split-zoned. If necessary, the Director may refer the matter to the Board for interpretation pursuant to LCC 921.600 to 921.670.

920.400 Expired practices, interpretations, and policies

- (A) The purpose of this section is to put the public on notice that certain practices, interpretations, and policies are no longer applicable.
 - (1) Land use applications approved by the Director or the Hearing Authority permitting development are not valid indefinitely and are subject to LCC 921.
 - (2) *Policy*. The purpose of time limitations on land development permits is that decision criteria used to approve a land use application often change or provisions in state law change after the original approval which either restrict the use or no longer allow the use.

- (3) Planned Unit Developments (PUDs) are no longer allowed by this Development Code. A PUD previously authorized by Linn County and specified in the *Comprehensive Plan* is recognized as a lawful development option for the property affected by the PUD.

920.500 Current practices, interpretations, and policies

- (A) The current practices, interpretations, and policies in applying the Land Development Code are set forth in subsection (B) of this section.
- (B) *Current practices, interpretations, and policies.*
 - (1) When a dwelling has been authorized on a property through a review or is authorized as an outright use, accessory structures may be established on the property prior to establishment of the principal use.
 - (2) Although the review and creation of a mortgage-lot is exempt from partitioning, the development of the mortgage-lot is subject to the setback standards and access requirements of this Development Code.
 - (3) Based on zoning district and the uses permitted, an applicant seeking approval for a partitioning of land must at the same time file an application in which the applicant seeks approval for a proposed use that is allowed or permitted on such property in the zoning district.
 - (a) Approval of an application for a partition does not grant approval for any use.
 - (b) Approval of any proposed use permitted on the parcel must be sought in an independent application at the same time as the application for partitioning.
 - (4) Beginning July 1, 1997, land use applications shall have file numbers that reflect the calendar year in which the application is submitted, e.g., CU-1-98. In years prior to July 1, 1997, the applications had been numbered reflecting the fiscal year in which they were submitted, e.g., CU-1-97/98.
 - (5) Unless an exception set forth in subsection (6) or (7) applies, a development permit issued by the Director is valid indefinitely if development has been timely initiated, even if the use approved by the permit has been in any matter discontinued. (6) Exceptions to the indefinite validity of a development permit of subsection (5) are:
 - (a) paragraph (8) of this subsection;
 - (b) paragraph (9) of this subsection;
 - (c) LCC 921.960;
 - (d) 921.990 (D); or
 - (e) if the development permit expressly states otherwise.
 - (7) The following permits issued pursuant to the Land Development Code are temporary, and unless continued or renewed in compliance with the Development Code, expire on the date imposed by the Development Code:
 - (a) manufactured dwellings,
 - (i) approved for medical hardships, or
 - (ii) approved for storage,
 - (b) home occupations, and
 - (c) recreational vehicle on-site uses.
 - (8) A surface mining use shall not be deemed to be interrupted or abandoned for any period after July 1, 1972, provided:

- (a) The owner or operator was issued and continuously renewed a state or local surface mining permit, or received and maintained a state or local exemption from surface mining regulation; and
 - (b) The surface mining use was not inactive for a period of 12 consecutive years or more.
- (9) For purposes of paragraph (8) of this subsection, “**inactive**” means no aggregate materials were excavated, crushed, removed, stockpiled or sold by the owner or operator of the surface mine.
- (C) A permit issued under the Land Development Code is transferable unless the permit limits its transferability.

920.600 New uses and existing uses

- (A) Notwithstanding subsection (C) of this section, where a use is listed as an allowed use in the Land Development Code, the creation, expansion, maintenance or enhancement of that use is also allowed if the establishment of that use did not violate then existing land use regulations adopted by Linn County, if any.
- (B) Notwithstanding subsection (C) of this section, where a use is listed as a permitted use in the Land Development Code, the creation, expansion, maintenance or enhancement of that use is also permitted if the establishment of that use did not violate then existing land use regulations adopted by Linn County, if any.
- (C) A non-conforming use is subject to expansion pursuant to LCC Chapter 936 (Nonconforming Uses and Pre-existing Uses Code).
- (D) If the expansion, maintenance and enhancement of an existing use is provided for in a list of uses, that use as a new use may be set forth in a different list of uses.