

## **ARTICLE 5 EXCEPTIONS**

### **SECTION 5.010. NONCONFORMING USES.**

A. Subject to the provisions of this section, a nonconforming use or structure may be continued, but may not be altered or extended. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this Ordinance is not an enlargement or expansion of a nonconforming use. A nonconforming structure which conforms with respect to use may be altered or extended if the alteration or extension does not cause the structure to deviate further from the standards of this Ordinance.

B. If a nonconforming use is discontinued for a period of one year, further use of the property shall conform to this Ordinance.

C. If a nonconforming use is replaced by another use, the new use shall conform to this Ordinance.

D. If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 80 percent of its fair market value as indicated by the records of the County Assessor and is not returned to use and in actual operating condition within one year from the date of destruction, a future structure or use on the site shall conform to this Ordinance.

E. Nothing contained in this Ordinance shall require any change in the plans, construction, alteration, or designated use of a structure for which a building permit has been issued by the county and construction has commenced prior to the adoption of this Ordinance provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the permit is issued.

### **SECTION 5.020. GENERAL EXCEPTIONS TO LOT SIZE REQUIREMENTS.**

The following lot size exceptions shall only apply to lots within the Rural Service Center, Rural Residential, Farm Residential (FR-2) and Suburban Residential Zones.

A. If a lot or the aggregate of contiguous lots held in a single ownership, as recorded in the office of the County Clerk

at the time of the passage of this Ordinance, has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone, provided that, if there is an area deficiency, residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone.

B. Any parcel of land or portion thereof which is to be dedicated to a public or semi-public entity for a road, canal, railroad, utility or other public use shall be exempt from the minimum lot size requirements set forth by this Ordinance.

C. Whereas land sections in the county are affected by survey adjustments, minimum requirements relative to lot sizes where applicable shall be considered as standard metes and bounds land section divisions; i.e., 160, 80, 40, 20, etc.; lot sizes therefore, may be reasonably smaller than set forth by this Ordinance if a total section acreage reduction is due to a survey adjustment or other man-made barriers over which the applicant has had no control.

**SECTION 5.030. LOT EXCEPTIONS, SPECIAL.** In any zone, the state minimum lot area for residential purposes may be abolished by ruling of the Planning Commission, provided that it is replaced by a maximum gross density of equal restrictiveness. For example, given an undeveloped five-acre parcel in a Suburban Residential Zone, the Planning Commission may rule on a request that, instead of five houses on one-acre lots, there may be a cluster of five houses on a small plot of ground and the remainder of the five acres shall be kept undeveloped and shall not be re-divided for sale or building development.

**SECTION 5.040. NONCONFORMING LOTS OF RECORD.** Any lot which is smaller than the minimum area required in any zone may be occupied by an allowed use in the zone provided that:

A. The lot was a lot in a duly platted and recorded subdivision on or before the date of this Ordinance, or was a parcel created by an approved land partitioning prior to such date.

B. The use conforms to all other requirements of that zone.

C. If there is an area deficiency, residential use shall be limited to a single dwelling unit.

D. Approval for sewage disposal is obtained as applicable.

E. In the case of the issuance of a farm dwelling permit on a lot or parcel below the minimum lot size of the EFU or SF-40 zone, the following additional standards apply:

1. The lot or parcel is typical of the existing commercial agricultural operation within a 2 mile radius of the area and is of sufficient size to support production of food or fiber using accepted farm practices as that term is defined in ORS 215.203(2)(c) and taking into account:

a. soil types and patterns in the area and typical yields;

b. type of crops grown in the area and typical yields;

c. potential markets;

d. other relevant information included in the agricultural element of the Morrow County Comprehensive Plan; and

e. average size of parcels conducting agricultural farming practices in the area.

2. The lot or parcel is appropriate for an intensive commercial farm operation (e.g., nursery, berries, greenhouses, etc.);

3. The lot or parcel is currently in "farm use" as defined under ORS 215.203(2)(a);

4. The farm will help maintain agricultural processors and established farm markets;

5. The proposed use is compatible with the farm use in the area and does not interfere either in itself or in the location of improvements, with "current accepted practices" as that term is defined in ORS 215.203(2)(c);

6. The proposed use is consistent with the agricultural land use policy for the State of Oregon expressed in ORS 215.243;

7. The proposed use would not materially alter the stability of the overall land use pattern of the area, nor would substantially add to the demand for increase use of roads, groundwater during growing seasons, or public facilities and services; and

8. In the case of the issuance of a nonfarm dwelling on land zoned EFU and FR-40, the provision of ORS 215.283(3) and ORS 215.236 shall apply.

**SECTION 5.060. GENERAL EXCEPTIONS TO YARD REQUIREMENTS.** The following exceptions to yard requirements are authorized for a lot in any zone.

A. If there are buildings on both abutting lots which are within 100 feet of the intervening lot, and the buildings have front yards of less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.

B. Architectural features such as cornices, eaves, sunshades, gutters, chimneys, and flues may project into a required yard. Also steps, terraces, platforms, and porches having no roof covering, and fences not interfering with the vision clearance requirements may occupy a yard. Signs conforming to the requirements of this Ordinance and all other applicable Ordinances shall be permitted in required yards.

C. Canopies: The yard between a canopy and any lot line shall be a minimum of 10 feet, except that a smaller setback may be permitted if specifically allowed in a given zone.

**SECTION 5.070. EXCEPTION TO BUILDING HEIGHT LIMITATIONS.** The following types of structures or structural parts are not subject to the building height limitations of this Ordinance: chimneys, tanks, church spires, belfries, domes, monuments, fire and hose towers, observation towers, transmission towers, smokestacks, flagpoles, radio and television towers, masts, cooling towers, elevator shafts, and other similar projections. This exception does not apply to an Airport Approach Zone.