

## Proposed Expanded Transfer of Development Rights (TDR) Program: Balancing the Need to Protect Wetlands with the Need to Protect Property Rights

<u>Intent:</u>	To guide development away from wetlands while still achieving development objectives.
<u>Assumption:</u>	Clatsop County will continue to see development pressures. Achieving a fair and easily implementable TDR Program will help to advance local and regional ecological and economic objectives.
<u>Background:</u>	<p>Clatsop County has a decades-long history of administering a TDR Program in the Clatsop Plains planning area. While not perfect, the TDR Program has had some success guiding development away from wetland resources and into areas better suited for development.</p> <p>The Clatsop County Wetlands Advisory Committee recommends moving forward with a countywide TDR Program. To execute a countywide TDR Program, Clatsop County must adopt Goal Exceptions (OAR 660, Division 4) and amendments to its Comprehensive Plan and Land and Water Development and Use Ordinance (LWDUO).</p>
<u>Proposal:</u>	Adopt a countywide Transfer of Development Rights Program.
<u>Next Steps:</u>	<ol style="list-style-type: none"> <li>1. <u>WAC</u>: Identify planning areas for the TDR Program. Forward recommendation to Clatsop County Board of Commissioners. Upon direction from the BOCC:</li> <li>2. <u>Establish Technical Work Group</u>: Focus on goal exception, plan amendment and LWDUO amendments and findings. Funding: In-house, consultant-led or hybrid?</li> <li>3. <u>Establish Stakeholder Work Group</u>: Focus on gaining buy-in from property owners, environmental advocates, business interests and residents. Funding: In-house, consultant-led or hybrid?</li> <li>4. <u>Provide Regular Reports to Planning Commission and BOCC</u></li> <li>5. <u>Initiate Public Hearings for Plan and Code Amendments</u></li> </ol>
<u>Data Sources:</u>	<ul style="list-style-type: none"> <li>• Spatial: Clatsop County GIS Maps (for transfer area boundaries, zoning, wetlands, floodplains, landslides, tsunami, transportation, parcelization, etc.)</li> <li>• Policy/Regulatory: Clatsop Plains TDR Program (as a template to start with) and other TDR Programs within Oregon or elsewhere</li> <li>• Policy/Regulatory: Statewide Planning Goals 5, 6 &amp; 7, ODFW, OHA, DEQ, EPA, USFW, FEMA, <a href="http://www.orwap-lp">www.orwap-lp</a>; many others</li> </ul>
<u>Triggers:</u>	<ul style="list-style-type: none"> <li>• Voluntary or mandatory?</li> <li>• Development proposal wholly or partially within a mapped or known wetland resource</li> <li>• Development proposal wholly or partially within a river, stream or creek riparian area</li> <li>• Development proposal that would encumber essential storm water conveyance for a neighborhood or region</li> </ul>
<u>Other:</u>	<ul style="list-style-type: none"> <li>• Low Impact Development (LID) techniques</li> </ul>

Attachments: Excerpt from the Development Code and Standards Document regarding the Clatsop Plains TDR Program, planned development, and cluster development.

## EXCERPTS FROM THE DEVELOPMENT CODE

### CLATSOP PLAINS DENSITY TRANSFER

#### SECTION 4.500 NORTH CLATSOP PLAINS OVERLAY DISTRICT (/NCP).

##### Section 4.560 Development and Use Standards.

- (1) Increases in residential density in the /NCP overlay district through zone changes and density transfers are prohibited.
- (2) Notwithstanding the provisions of Development Standards Section 3.160, where common open space is required to be designated within the North Clatsop Plains Sub-Area, the location and configuration of such open space shall be prioritized based on the following criteria; open space areas meeting more than one criterion are preferred:
  - (A) Open space buffers between residential uses and Camp Rilea;
  - (B) Wildlife corridors;
  - (C) Trail corridors;
  - (D) Ridge tops, deflation plains, and shorelands.
- (3) New dwellings within the /NCP overlay shall comply with the noise attenuation construction standards of Title 15 of the Clatsop County Code of Regulations.
- (4) Notwithstanding the provisions of S3.161, Density Transfer Standards within the /NCP district are subject to the following requirements and exceptions:
  - (A) Density may be transferred more than once from a single density transfer sending site within the /NCP overlay until all density is removed from the site;
  - (B) All density transfer receiving sites shall be located outside the /NCP overlay district;
  - (C) Density transfer credits need not be applied to a receiving site at the time of transfer but may be saved in a Density Transfer Bank maintained by Clatsop County.

### CLUSTER AND PLANNED DEVELOPMENT

CLUSTER DEVELOPMENT -- A development technique wherein house sites or structures are grouped together around accessways or cul-de-sacs, with the remainder of the tract left in open space or common open space. Clustering can be carried out in the context of a major or minor partition, subdivision, planned development or through the replatting of existing lots. No commercial or industrial uses are permitted in a cluster development.

**Section 3.098. Additional Development and Use Standards:** *(NOTE: The following language is found in all Rural Community Residential Zones)*

All planned development and subdivisions may be required to cluster land uses and designate areas as permanent common open space. The development shall be reviewed according to Section 4.140 for Planned Developments or Clatsop County Standards Document, Section S3.150 for Cluster Developments. The minimum percentage of common open space shall be thirty percent (30%) excluding roads.

**Section 3.170. Additional Development and Use Standards in the Clatsop Plains Planning Area.**

*(NOTE: additional regulations, such as the following, are found throughout the Development Code)*

- (2) All planned developments and subdivisions shall be required to cluster land uses and designate areas as permanent common open space. The development shall be reviewed according to Section 4.140 for Planned Developments or Clatsop County Standards Document, Section S3.150 for Cluster Developments. The minimum percentage of common open space shall be 30% excluding roads.

## **Section 4.140. Planned Development Overlay District (/PDO).**

### **Section 4.141. Purpose.**

It is the intent of the Planned Development special district to encourage appropriate and orderly development of tracts of land sufficiently large to allow comprehensive planning and to provide a degree of flexibility in the application of certain regulations which cannot be obtained through traditional lot-by-lot subdivision. In this manner, environmental amenities may be enhanced by promoting a harmonious variety of uses; the economy of shared service and facilities; compatibility of surrounding areas; and the creation of attractive, healthful, efficient, and stable environments for living, shopping, or working. Specifically, it is the purpose of this section to promote and encourage:

- (1) Comprehensive development equal to or better than that resulting from traditional lot-by-lot land use development.
- (2) Appropriate mixtures of housing types and designs.
- (3) Appropriate mixture of uses.
- (4) More attractive and usable open space.
- (5) Advances in technology, architectural design, functional land use design.
- (6) Recognition of the problems of population density, distribution, and circulation and to allow a deviation from rigid established patterns of land uses, but controlled by defined policies and objectives.
- (7) Flexibility of design in the placement and uses of buildings and open spaces, circulation facilities and off-street parking areas, and to more efficiently utilize potential of sites characterized by special features of geography, topography, size or shape.

It is also not the intention of this section to be a bypass of regular zoning provisions solely to allow increased densities nor is it a means of maximizing densities on parcels of land which have unbuildable or unusable areas.

### **Section 4.142. Applicability.**

A Planned Development may be located in any of the following zones provided that a Planned Development (/PDO) suffix has been added to the underlying zone and provided the development is in accordance with the criteria, standards and provisions of this section: AC-RCR, KS-RCR, RCR, RCMFR, RSA- SFR, RSA-MFR, CR, SFR-1, RA-1, RA-2, RA-5, RA-10, RCC, GC, TC RCC-LI, RCI, and LI (except in the Clatsop Plains planning area).

### **Section 4.143. Approval Criteria.**

In addition to the development standards and procedures specified in this special district, the Planning Commission shall require that the following criteria are met prior to approval of a Planned Development:

- (1) The location, size and type of development are consistent with the County Comprehensive Plan.
- (2) Commercial developments part of Planned Developments shall be limited in size and service to that appropriate to serve the neighborhood of which the Planned Development is an integral part and shall be designed to provide goods and services primarily to the residents of the Planned Development.
- (3) The location, size and design are such that the development can be well integrated with its surroundings with little if any impact on adjacent properties and development.
- (4) The location, size and type of development are such that traffic generated can be accommodated safely and conveniently on existing or planned arterial or collector streets or on improved roads.

- (5) The development will be adequately served by existing or planned facilities and services.
- (6) Any deviation from the standards of the underlying zone are warranted by the design and amenities incorporated in the development plan and program.
- (7) Adequate provision is made for the preservation of natural resources such as bodies of water, significant vegetation and special terrain features.
- (8) Sufficient financing exists to assure that the proposed development will be substantially completed within four (4) years of approval.
- (9) Permanent common open space as part of subdivisions or planned development adjoining one another shall be integrated and continuous whenever possible. Open space can follow ridge tops, deflation plains or shorelands, forest land (as a buffer) and other resource lands.

**Section 4.144. General Development and Use Standards and Requirements.**

- (1) Size:
  - (A) Planned developments may be established in residential districts on parcels of land which are suitable for and of sufficient size to be planned and developed in a manner consistent with the purposes and objectives of Section 4.130 through 4.140. For those planned developments which are located in the RSA-SFR, RSA-MFR, CR, SFR-1, RA-1, GC, TC, and LI zones, the site shall include not less than four acres of contiguous land. For those located in a RA-2 the site shall include not less than eight acres of contiguous land, and for those located in a RA-5 the site shall include not less than twenty acres of contiguous land, unless the Planning Commission or Board of commissioners, upon appeal, find that property of less than the requirement above is suitable by virtue of its unique historical character, topography, or other natural features, or by virtue of its qualifying as an isolated problem area.
  - (B) Combination residential-commercial-industrial developments may be established in residential, commercial and light industrial zones on parcels of land which are suitable for and of a sufficient size to be planned and developed in a manner consistent with the purpose and objectives of Sections 4.130 through 4.136.
- (2) Ownership:
  - (A) The tract or tracts of land included in a proposed planned development must be in one ownership or control or the subject of a joint application by the owners of all the property included. The holder of a written option to purchase or any governmental agency or redeveloper under contract with a governmental agency, shall be deemed the owner of such land for the purposes of this section.
  - (B) Unless otherwise provided as a condition of approval of a planned development permit the permittee may divide and transfer units of any development. The transferee shall use and maintain each such unit in strict conformance with the approved permit and development plan.
- (1) Professional Design:
  - (A) The applicant for all proposed planned developments shall certify that the talents of the following professional will be utilized in the planning process for development: (1) an architect licensed by the state, (2) a landscape architect licensed by the state, and (3) a registered engineer or land surveyor licensed by the state. The Planning Commission may waive this requirement provided the applicant can show that equivalent and acceptable design talents have been utilized in the planning process.
  - (B) One of the professional consultants chosen by the applicant from the above group shall be designated to be responsible for conferring with the Department of Community Development with respect to the concept and details of the plan.
  - (C) The selection of the professional coordinator of the design team will not limit the owner or the developer in consulting with the Department of Community Development or the

Commission.

- (4) General Information. The planning process for development shall include:
  - (A) Plot plan of land in area to be developed indicating location of adjacent streets and all private rights-of-way existing and proposed.
  - (B) A legal boundary survey.
  - (C) Existing and proposed finish grades of the property with all drainage features.
  - (D) Location of all proposed structures, together with the usage to be contained therein and approximate location of all entrances thereto and height and gross floor area thereof.
  - (E) Vehicular and pedestrian circulation features within the site and on adjacent streets and alleys.
  - (F) The extent, location, arrangement and proposed improvements of all off-street parking and loading facilities.
  - (G) The extent, location, arrangement, and proposed improvements of all open space, landscaping, fences and walls.
  - (H) Architectural drawings and sketches demonstrating the planning and character of the proposed development.
  - (I) Number of units proposed.
  - (J) Contour lines at 2-foot intervals.

#### **Section 4.145. Development and Use Standards.**

In addition to, or as a greater requirement to the regulations normally found in the district, the following guidelines and requirements shall apply to all developments for which a planned development permit is required:

- (1) Outdoor living area guidelines: In all residential developments, or in combination residential-commercial-industrial developments, 40 percent of the total area should be devoted to outdoor living area. Of this area, 25 percent of said outdoor living area may be utilized privately by individual owners or users of the planned development; however, 75 percent of this area should be common or shared outdoor living area.
- (2) Height guidelines: The same restrictions shall prevail as permitted outright in the district in which such development occurs, except that the Commission may further limit heights:
  - (A) Around the site boundaries, and/or
  - (B) To protect scenic vistas from encroachments.
  - (C) Underground utilities: In any development which is primarily designed for or occupied by dwellings all electric and telephone facilities, fire alarm, conduits, street light wiring, and other wiring, conduits and similar facilities shall be placed underground by the developer.
- (3) Density guidelines:
  - (A) The density of a planned development shall not exceed the density of the parent zone, except as more restrictive regulations may be prescribed as a condition of a planned development permit. When calculating density, the gross area is used in the total area including street dedications.
  - (B) Areas of public or semi-public uses may be included in calculating allowable density.
- (4) Distribution of facilities without reference to lot lines: Individual buildings, accessory buildings, off-street parking, and loading facilities, open space, and landscaping and screening may be located without reference to lot lines, save the boundary line of the development, except that required parking spaces serving residential uses shall be located within 200 feet of the building containing the living units served.
- (5) Waiver or reduction of yard and other dimensional requirements: Except as otherwise provided in Section 4.138, the minimum lot area, width and frontage, height and yard requirements otherwise applying in the district shall not dictate the strict guidelines for development of the

planned development but shall serve to inform the designers of the importance of developing a project that will be in harmony with the character of the surrounding neighborhood.

- (6) Dedication and maintenance of facilities: The Planning Commission, or on appeal, the Board of Commissioners, may, as a condition of approval for any development for which a planned development permit is required, require that portions of the tract or tracts under consideration be set aside, improved, conveyed or dedicated for the following uses:
- (7) Recreation facilities: The Planning Commission or Board of Commissioners, as the case may be, may require that suitable area for parks, playgrounds be set aside, improved, or permanently reserved for the owners, residents, employees or patrons of the development.
  - (A) Outdoor living area: Whenever private outdoor living area is provided, the Planning Commission or Board of Commissioners shall require that an association of owners or tenants be created into a non-profit corporation under the laws of the State of Oregon, which shall adopt such Articles of Incorporation and Bylaws and adopt and impose such Declaration of Covenants and Restrictions on such outdoor living area and/or common areas that are acceptable to the Commission. Said association shall be formed and continued for the purpose of maintaining such outdoor living area. Such an association, if required, may undertake other functions. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to maintain said outdoor living areas for the purposes intended. The period of existence of such association shall be not less than 20 years, and it shall continue thereafter and until a majority vote of the members shall terminate it.
  - (B) Streets: The Planning Commission or Board of Commissioners may require that the right-of-way width of such other streets necessary to the proper development of adjacent properties be dedicated to the County.
  - (C) Easements: Easements necessary to the orderly extension of public utilities may be required as a condition of approval.
  - (D) Developments shall be allowed only if services or public facilities (water, sewer, fire protection) are capable of supporting increased loads. Phasing of development may be allowed if improvement of public facilities is assured by the time of construction and the additional loads are anticipated.
  - (E) If water, sewer or public utility systems are utilized either in the development of a subdivision or the building of individual residences, the provider of the services shall approve and show intentions to install services to the new structure(s) prior to the issuance of either plat approvals or development permits.
  - (F) All new development shall install underground utilities such as electric, telephone and television cable.

#### **Section 4.146. Application Procedures.**

There shall be a three-stage review process for planned developments consisting of Pre- application Conference (Stage One), Preliminary Approval (Stage Two), and Final Approval (Stage Three).

- (3) Pre-application Conference (Stage One): The owner, or his authorized agent, shall submit to the Department of Community Development the following information:
  - (A) A schematic drawing, drawn to a minimum scale of one inch equals 200 feet (1"=200'), showing the general relationship contemplated among all public and private uses and existing physical features.
  - (B) A written statement setting forth the source of water supply, method of sewage disposal, means of drainage, dwelling types, non-residential uses, lot layout, public and private access, height of structures, lighting, landscaped areas to be devoted to various uses, and population densities per net acre and per gross acre contemplated by the applicant.

The developer and the Department of Community Development shall meet together and determine whether the requirements of Section 4.142 of this Ordinance have been complied with. If there is disagreement on this issue, the applicant, by request, or the Department of Community Development, may take this pre-application information to the Planning Commission for their determination of whether this site qualifies for the contemplated planned development.

The applicant must indicate to the Department of Community Development or Commission his professional design team, as outlined in Section 4.142(1) during Stage One, and should also designate who is to be his professional coordinator.

The professional coordinator shall be responsible for presenting the developer's plan in all of the broad professional aspects to the Planning Department. If the Department of Community Development and applicant reach a satisfactory agreement the applicant may proceed to prepare data for Stage Two-Preliminary Approval.

**(1) Preliminary Approval (Stage Two):**

**(A)** Applicants for planned developments, preliminary approval, shall be made by the owner of all affected property or his authorized agent, and shall be filed on a form prescribed by the Department of Community Development and filed with said department.

Applications shall be accompanied by the following information:

**1)** Four (4) copies of a preliminary development plan of the entire development, showing streets, driveways, sidewalks, pedestrian ways, off-street parking and loading areas; location and approximate dimensions of structures, utilization of structures, including activities and the number of living units; major landscaping features; relevant operational data, drawings and/or elevations clearly establishing the scale, character and relationship of buildings, streets, and open space. Such development plan shall include maps and information on the surrounding area within 400 feet of the development. A boundary survey or a certified boundary description by a registered engineer or licensed surveyor, plus contour information, shall also be submitted.

The elevations of all points used to determine contours shall be indicated on the preliminary plan and said points shall be given true elevation above mean sea level as determined by the County Engineer. The base data used shall be clearly indicated and shall be compatible to County datum, if bench marks are not adjacent. Two-foot contour intervals are required.

All elements listed in this subsection shall be characterized as existing or proposed and sufficiently detailed to indicate intent and impact.

- 2)** A tabulation of the land area to be devoted to various uses, and a calculation of the average residential density per net acre.
- 3)** A stage development schedule demonstrating that the developer intends to commence construction within one year after the approval of the final development plan and will proceed diligently to completion.
- 4)** It is proposed that the final development plan will be executed in stages, a schedule thereof will be required.

**(B)** An application for a planned development permit shall be considered by the Planning Commission under a Type III procedure. After such hearing, the Commission shall determine whether the proposal conforms to the permit criteria set forth in Section

4.136 and to the planned development regulations in Sections 4.130 through 4.138, and may approve or disapprove in concept the application and the accompanying preliminary development plan or require changes or impose conditions of approval as are in its judgment necessary to ensure conformity to said criteria and regulations. In so doing, the Commission may, in its discretion, authorize submission of the final development plan in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the preliminary development plan and stage development schedule. Should a decision not be rendered within 60 days after filing, the application and preliminary development plan shall be deemed approved in concept unless said time has been extended by the Commission.

(2) Final Approval (Stage Three):

- (A) Within one year after concept approval or modified approval of a preliminary development plan, the applicant shall file with the Planning Department a final plan for the entire development or, when submission in stages has been authorized pursuant to Section 4.142(2) for the first unit of the development. The final plan shall conform in all major respects with the approved preliminary development plan. The final plan shall include all information included in the preliminary plan plus the following: the location of water, sewerage and drainage facilities; detailed building and landscaping plans and elevations; the character and location of signs; plans for street improvements and grading or earth moving plans. The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development. Copies of legal documents required by the Commission for dedication or reservation of public facilities, or for the creation of a non-profit homeowner association, shall also be submitted.
- (B) Within 30 days after the filing of the final development plan, the Commission shall forward such development plan and the original application to the County Road Department for review of public improvements, including streets, sewers and drainage. The Commission shall not act on a development plan until it has first received a report from the County Road Department or until more than 30 days have elapsed since the plan and application were sent to the County Road Department, whichever is the shorter period.
- (C) Upon receipt of the final development plan, the Planning Commission shall examine such plan and determine whether it conforms in all substantial respects to the previously approved planned development permit, or require such changes in the proposed development or impose such conditions of approval as are in its judgment necessary insure conformity to the applicable criteria and standards. In so doing, the Commission may permit the applicant to revise the plan and resubmit it as a final development plan within 30 days.
- (D) After final concept approval by the Planning Commission, the planned development application will be sent to the Board of Commissioners for consideration for final approval. A public hearing shall be held on each such application. After such hearing, the Board of Commissioners shall determine whether the proposal conforms to the permit criteria set forth in Section 4.138 and to the planned development regulations in Sections 4.130 through 4.138 and may approve or disapprove the application and the accompanying development plan or require changes or impose conditions of approval as are in its judgment necessary to insure conformity to said criteria and regulations. The decision of the Board of Commissioners shall be final.

**Section 4.147. Limitation on Resubmission.**

Whenever an application for a planned development permit has been denied, no application for the

same plan or any portion thereof shall be filed by the same applicant within six months after the date of denial.

**Section 4.148. Adherence to Approved Plan and Modification Thereof.**

- (1) The applicant shall agree in writing to be bound, for himself and his successors in interest, by the conditions prescribed for approval of a development. The approved final plan and stage development schedule shall control the issuance of all building permits and shall restrict the nature, location, and design of all uses. Minor changes in an approved preliminary or final development plan may be approved by the Zoning and Subdivision Administrator if such changes are consistent with the purposes and general character of the development plan. All other modifications, including extension or revisions of the stage development schedule, shall be processed in the same manner as the original application and shall be subject to the same procedural requirements.
- (2) A performance bond shall be required, in an amount to be determined by the Planning Commission, to insure that a development proposal is completed as approved and within the time limits agreed to.

**Section 4.149. Violation of Conditions.**

Failure to comply with the final development plan, any condition of approval prescribed under Section 4.142(3), or to comply with the stage development schedule, shall constitute a violation of this Ordinance. In this event, the Board of Commissioners may, after notice and hearing, revoke a planned development permit.

**Section 4.150. Common Open Space.**

Maintenance of common open space shall be subject to Section S3.180.

**EXCERPTS FROM THE STANDARDS DOCUMENT**

**S3.150. Cluster Development and Density Transfer**

**S3.151. Purpose.**

The intent of these standards is to preserve lands suitable for open space by providing an alternative to the division of rural residential lands into the minimum sized lots allowed in the appropriate zones, and to apply standards to rural residential lands consistent with state administrative rules governing cluster developments.

**S3.152. Procedures for Cluster Development.**

A cluster development shall comply with the procedures and standards in this section.

- (1) The applicant shall discuss the proposed cluster development with the staff of the Clatsop County Department of Community Development in a pre-application conference pursuant to Section 2.020.
- (2) An applicant for a cluster development must submit a development plan and receive approval of the plan prior to development.
- (3) As soon as plan approval is given, the plan and any conditions of approval shall be recorded in the Office of the County Clerk by book and page and shall constitute an agreement not to divide the property as long as it remains in its present zoning.

- (4)
  - (A) As a condition to the approval that may be given for partitioning under this section, the applicant shall provide all deeds or contracts affecting the original farm use parcel to assure that the maximum density will not be exceeded.
  - (B) For each partition application under this Standard the Community Development Director or designate shall determine and include with the approved plan map a statement including:
    - 1) the number of homesite lots allowable on the original parcel,
    - 2) a legal description of the original parcel,
    - 3) the number of homesite lots that will result from the proposed partition, and
    - 4) the number of homesite lots, if any, that could be allowed in the future on the original parcel.

**S3.158. Residential Cluster Development Standards.**

- (1) The tract of land to be developed shall not be less than 4 contiguous acres in size, provided that land divided by a road shall be deemed to be contiguous.
- (2) The development may have a density not to exceed the equivalent of the number of dwelling units allowed per acre in the zone or zones.
- (3) The cluster development shall not contain commercial or industrial developments.
- (4) The minimum percentage of common open space shall be 30% excluding roads and property under water (MHHW).
- (5) Attached residences are permitted provided the density allowed per acre in the zone is not exceeded (this does not apply in the Clatsop Plains planning area).
- (6) The prescribed common open space may be used to buffer adjacent forest, farm, hazard areas or other resource lands such as but not limited to archeological and historical sites, water bodies, etc.
- (7) Land in the same ownership or under a single development application that is divided by a road can be used in calculating the acreage that can be used in the clustering option.
- (8) For lands zoned primarily for rural residential uses located outside urban growth boundaries, unincorporated community boundaries, and located outside non-resource lands as defined in OAR660-004-000(5)(3), the following additional conditions must be met.
  - (A) The number of new dwellings units to be clustered does not exceed 10;
  - (B) None of the new lots or parcels created will be smaller than two acres;
  - (C) The development is not served by a new community sewer system or by any extension of a sewer system from within an urban growth boundary or from within an unincorporated community, unless the new service or extension is authorized consistent with OAR 660-011-0060;
  - (D) The overall density of the development will not exceed one dwelling for each unit of acreage specified in the base zone designations effective on October 4, 2000 as the minimum lot size for the area;
  - (E) Any group or cluster of two or more dwelling units will not force a significant change in accepted farm or forest practices on nearby lands devoted to farm or forest uses and will not significantly increase the cost of accepted farm or forest practices there; and
  - (F) For any open space or common area provided as part of the cluster development under this subsection (8), the owner shall submit proof of non-revocable deed restrictions recorded in the deed records. The deed restrictions shall preclude all future rights to construct a dwelling on the lot, parcel or tract designated as open space or common area for as long as the lot, parcel or tract remains outside an urban growth boundary.

**S3.160. Additional Residential Cluster Development Standards for the Clatsop Plains Planning Area.**

- (1) All planned developments and subdivisions shall designate and retain areas as permanent common open space.
- (2) The minimum percentage of common open space shall be 30% excluding roads.
- (3) Permanent common open space shall include, whenever possible, steep dunes which would require substantial alterations for building, buffers along streams, water bodies, deflation plains, and farm and forest lands.
- (4) Buffers (screening) shall be provided in all subdivisions and planned developments along all property lines adjacent to arterials and/or collectors.
- (5) Permanent common open space as part of subdivisions or planned developments adjoining one another shall be interrelated and continuous whenever possible. This could mean that the common open space could continuously follow ridge tops, deflation plains or shorelands. The Clatsop County Department of Community Development shall prepare a map of potential systems of common open space to be used as a guide for developers.
- (6) Streams and drainages which form a system of common open space shall be preserved.

**S3.161. Density Transfer Standards for the Clatsop Plains Planning Area.**

- (1) Transfer of residential development rights between sites in the Clatsop Plains Planning Area is allowed as follows:
  - (A) The remaining lot or parcel of the sending site shall be rezoned to either the Open Space Parks and Recreation zone or Natural Uplands zone or Conservation Shorelands zone or Natural Shorelands zone. The applicant shall file the rezone request at the same time as the density transfer request is submitted, and
  - (B) Prior to final approval of a density transfer the County shall require that deed restrictions be filed in the Clatsop County Deed Records in a form approved by County Counsel, that prohibits any further development beyond that envisioned in the approved density transfer until such time as the entire area within the density transfer approval has been included within an urban growth boundary; and
  - (C) The Community Development Director shall demarcate the approved restrictions on the official Zoning Map, and
  - (D) No lot or parcel of land shall be involved in more than one (1) density transfer transaction, and
  - (E) Density transfer goes with the property - not the owner; and
  - (F) Minimum lot or parcel size shall be one (1) acre for the receiving site.
- (2) All lots or parcels sending or receiving density credits shall be recorded in the "Density Table" (S3.162). If a receiving site cannot be identified for all density credits created by the application the applicant shall prepare a notarized affidavit identifying the sending site and number of credits that are not being assigned. This affidavit shall be kept on file with the Community Development Department. The remaining credits may be assigned at a later time to a cluster development in the Clatsop Plains subject the applicable standards of this section.

**S3.162. Density Transfer Standards for the Clatsop Plains Planning Area.**

The table tracking all density transfers is maintained administratively by the Clatsop County Community Development Department.