



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150
Salem, OR 97301-2540
(503) 373-0050
Fax (503) 378-5518
www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

06/07/2011

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Polk County Plan Amendment
DLCD File Number 001-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, June 21, 2011

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Jerry Sorte, Polk County
Jon Jinings, DLCD Community Services Specialist
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> YA

FORM 2

DLCD

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

☐ In person	☐ electronic	☐ mailed
DEPT OF		
JUN 01 2011		
LAND CONSERVATION AND DEVELOPMENT		
For DLCD Use Only		

Jurisdiction: **Polk County**

Local file number: **LA 11-01**

Date of Adoption: **5/25/2011**

Date Mailed: **5/31/2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **3/2/2011**

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The Board of Commissioners adopted Ordinance No. 11-03 which amends Polk County Zoning Ordinance Chapters 136, the Exclusive Farm Use (EFU) Zoning District; 138, the Farm Forest (FF) Zoning District; and 177, the Timber Conservation (TC) Zoning District. The adopted updates implement recent changes to the Oregon Revised Statutes and the Oregon Administrative Rules. The adopted amendments also include a general audit and minor typographical and formatting corrections.

Does the Adoption differ from proposal?

Yes, text language was modified through the legislative amendment process.

Plan Map Changed from: **N/A**

to:

Zone Map Changed from: **N/A**

to:

Location: **N/A**

Acres Involved:

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☐	☐	☒	☒	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

DLCD File No. 001-11 (18738) [16661]

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Jerry Sorte**

Phone: (503) 623-9237 Extension:

Address: **850 Main Street**

Fax Number: **503-623-6009**

City: **Dallas**

Zip: **97338**

E-mail Address: **sorte.jerry@co.polk.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

1
2
3
4
5 **BEFORE THE BOARD OF COMMISSIONERS FOR**
6 **POLK COUNTY, OREGON**
7

8 In the matter of Legislative)
9 Amendment LA 11-01 to amend Polk)
10 County Zoning Ordinance Chapters)
11 136, 138, and 177)
12

13 **ORDINANCE NO. 11-03**
14

15 **WHEREAS**, recent changes to the Oregon Revised Statutes (ORS) and the Oregon
16 Administrative Rules (OAR) have added new permitted uses and changed the standards for
17 multiple uses listed in the Exclusive Farm Use, Farm Forest, Farm Forest Overlay, and Timber
18 Conservation Zoning Districts; and
19

20 **WHEREAS**, on March 2, 2011 the Board of Commissioners initiated a legislative
21 amendment process to update Polk County Zoning Ordinance Chapters 136, the Exclusive Farm
22 Use Zoning District; Chapter 138, the Farm Forest and Farm Forest Overlay Zoning Districts; and
23 Chapter 177, the Timber Conservation Zoning District, in light of the recent changes to ORS and
24 OAR; and
25

26 **WHEREAS**, the Planning Commission conducted a duly noticed public hearing on April
27 19, 2011 to receive comments and testimony. The Planning Commission deliberated at the April
28 19, 2011 meeting and unanimously recommended that the Board of Commissioners approve the
29 proposed updates to Polk County Zoning Ordinance Chapters 136, 138, and 177; and
30

31 **WHEREAS**, the Board of Commissioners conducted a duly noticed public hearing on
32 May 11, 2011, and provided an opportunity for the submission of testimony and evidence. The
33 Board of Commissioners deliberated at the May 11, 2011 meeting, and passed a motion to
34 approve Legislative Amendment 11-01 as recommended by the Planning Commission and
35 Planning staff; now, therefore:
36

37 **THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:**
38

39 Sec. 1. That Polk County adopts the findings in favor of the amendments to the Polk
40 County Zoning Ordinance as shown on Exhibit A.
41

42 Sec. 2. That Polk County repeals the existing Polk County Zoning Ordinance Chapter 136,
43 and adopts a new Chapter 136 as shown on Exhibit B.
44

45 Sec. 3. That Polk County repeals the existing Polk County Zoning Ordinance Chapter 138,
46 and adopts a new Chapter 138 as shown on Exhibit C.
47

48 Sec. 4. That Polk County repeals the existing Polk County Zoning Ordinance Chapter 177,
49 and adopts a new Chapter 177 as shown on Exhibit D.
50
51

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53

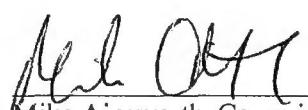
Sec. 5. That Polk County determines that an emergency related to the economic welfare of the citizens of Polk County is declared and this ordinance is effective immediately upon passage.

Dated this 25th day of May 2011 at Dallas, Oregon.

POLK COUNTY BOARD OF COMMISSIONERS



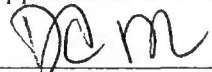
Craig Pope, Chair



Mike Ainsworth, Commissioner

Jennifer Wheeler, Commissioner

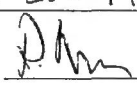
Approved as to Form:



David Doyle
County Counsel

First Reading: 5-25-11

Second Reading: 5-25-11

Recording Secretary:  _____

Findings in support of Legislative Amendment LA 11-01

I. CRITERIA FOR LEGISLATIVE AMENDMENTS

A legislative amendment to the text of the Polk County Zoning Ordinance (PCZO) may be approved provided that the request is based on substantive information providing a factual basis to support the change. In amending the PCZO, Polk County shall demonstrate compliance with PCZO 115.060. The criteria listed in PCZO 115.060 is listed in bold below, and is followed by staff's analysis and findings.

- (A) **Compliance with Oregon Revised Statutes, and the statewide planning goals and related administrative rules. If an exception to one or more of the goals is necessary, Polk County shall adopt findings which address the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4; [PCZO 115.060(A)]**
1. **A local government shall amend its acknowledged comprehensive plan, regional framework plan and land use regulations implementing either plan by a self-initiated post-acknowledgment process under ORS 197.610 to 197.625 to comply with:**
 - (a) **A new statutory requirement; or**
 - (b) **A new land use planning goal or rule requirement adopted by the Land Conservation and Development Commission. [ORS 197.646(1)]**
 2. **When a local government does not adopt amendments to a comprehensive plan, a regional framework plan and land use regulations implementing either plan as required by subsection (1) of this section [ORS 197.646(1)], the new statutory, land use planning goal or rule requirements apply directly to the local government's land use decisions. The failure to adopt amendments to a comprehensive plan, a regional framework plan and land use regulations implementing either plan required by subsection (1) of this section is a basis for initiation of enforcement action pursuant to ORS 197.319 to 197.335. [ORS 197.646(4)]**
 3. **Applicable sections of ORS and OAR are listed in Attachments D through G to the Staff Report.**

Findings: ORS 197.646(1) and (4) require that when new land use regulations are adopted in ORS or OAR, counties must adopt amendments to their local code to implement the changes. Until the county's local code is updated, the county must apply the ORS or OAR changes directly to land use applications. Over the past few years, the Land Conservation and Development Commission (LCDC) adopted updates to the Oregon Administrative Rules (OAR) that affect the review and decision criteria for several types of land use applications. As such, ORS 197.646 (1) requires that certain sections of PCZO Chapters 136, 138, and 177 be updated to reflect the changes to state law. Attachments D through G to the Staff Report list the sections of ORS and OAR that have been updated and would be implemented by the proposed amendments.

The updated sections of ORS 215, OAR 660-006, and OAR 660-033 currently apply directly to land use applications. When the updated sections of ORS and OAR conflict with the PCZO, an applicant must address the more restrictive of the two requirements. The proposed amendments would implement the recent changes to ORS and OAR, and where state law now allows uses that are currently not allowed in the PCZO, the text of the PCZO have been amended to add those uses and reflect the provisions of state law. The changes resulting from an audit of PCZO Chapters 136, 138, and 177 would not change any review and decision criteria.

The proposed amendments to PCZO Chapters 136, 138, and 177 would directly implement ORS and OAR. An exception to the Oregon Statewide Planning Goals is not required to approve these

amendments. Staff concludes that the proposed text amendments to the PCZO would comply with this criterion.

- (B) **Conformance with the Comprehensive Plan (PCCP) goals, policies and intent, and any plan map amendment criteria in the plan; [PCZO 115.060(B)]**
1. **[Agricultural Lands Goal 1] To preserve and protect agricultural lands within Polk County. [PCCP, Section 2, Element B]**
 2. **[Agricultural Lands Policy 1.1] Polk County will endeavor to conserve for agriculture those areas which exhibit a predominance of agricultural soils, and an absence of nonfarm use interference and conflicts. [PCCP, Section 2, Element B]**
 3. **[Agricultural Lands Policy 1.4] Polk County will permit those farm and nonfarm uses in agricultural areas authorized by Oregon Revised Statutes Chapter 215 and Oregon Administrative Rules Chapter 660, Division 33. [PCCP, Section 2, Element B]**
 4. **[Forest Lands Goal 1] To conserve and protect, and encourage the management of forest lands for continued timber production, harvesting and related uses. [PCCP, Section 2, Element C]**
 5. **[Forest Lands Goal 2] To conserve and protect watersheds, fish and wildlife habitats, riparian areas and other such uses associated with forest lands. [PCCP, Section 2, Element C]**
 6. **[Forest Lands Policy 1.4] Polk County shall zone forest lands for uses allowed pursuant to Oregon Administrative Rules Chapter 660, Division 6. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in Oregon Revised Statute 527.722, Polk County shall allow in the forest environment the following general types of uses:**
 - (a) **Uses related to, and in support of, forest operations;**
 - (b) **Uses to conserve soil, water and air quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate for the forest lands;**
 - (c) **Locally dependent uses such as communication towers, mineral and aggregate resources use, etc.;**
 - (d) **Forest management dwellings as provided for in Oregon Administrative Rule 660-06-027; and**
 - (e) **Other dwellings under prescribed conditions. [PCCP, Section 2, Element C]**

Findings: The Polk County Comprehensive Plan (PCCP) contains broad goals and policies that are implemented by the specific provisions in the Polk County Zoning Ordinance (PCZO) and the Polk County Subdivision and Partition Ordinance (PCSO). Section 7 of the PCCP, Implementation Techniques, states: "in theory, the zoning ordinance is a legislative expression of the Comprehensive Plan and must satisfy certain standards set out by state statute." The PCCP is implemented within the bounds provided by state law. In certain instances the PCZO or PCSO may be more restrictive than state law. However, the provisions of the PCZO or PCSO may not be less restrictive than state law.

Agricultural Lands Policy 1.4 and Forest Lands Policy 1.4 in the PCCP state that Polk County will permit those uses authorized in state law and administrative rule in Polk County's agricultural and forest zones. In light of recent changes to ORS and OAR, there are sections of the PCZO that are more restrictive than state law, because certain uses have been added to OAR that are not permitted under the PCZO. These include landscape contracting businesses and composting facilities on high-

value farmland in both the EFU and FF zones. The amendments would add those new uses to the PCZO and incorporate the additional restrictions to an array of uses as required by state law.

Composting Facilities and Landscape Contracting Businesses

The proposed amendments include adding two uses to the EFU and Farm Forest Zoning Districts. These are a composting facility on high-value farmland and a landscape contracting business in both high-value and not high-value farmlands. Both uses include specific, OAR required restrictions. Composting facilities on high-value farmland would be limited to operations that are auxiliary to farm use and that meet specific performance and permitting requirements prescribed by DEQ administrative rules. Compost could be sold to neighboring farm operations, but only in bulk loads. These aspects of the proposed composting facility would be reviewed through the administrative review process. Composting facilities on not high-value farmland are currently permitted, and the proposed changes to the criteria for those facilities are minor. Composting facilities on not high-value farmland need not be auxiliary to the farm use on the tract.

As proposed, and allowed under OAR, a landscape contracting business could be established through a conditional use application process if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use. The landscape contracting business would need to comply with the general standards for conditional use permits including a demonstration that the use would not force a significant change in, or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

These two uses have been determined by the Land Conservation and Development Commission (LCDC) to be consistent with Goal 3. The EFU and FF zones implement the Agricultural Lands provisions of the PCCP, which implement Goal 3. Staff believes that adding provisions for limited composting facilities on high-value farmland and landscape contracting businesses on all farmland in the EFU and FF zones would be consistent with the goals and policies in the PCCP for Agricultural Lands. Both uses would be accessory to farm use and could be used to contribute to the viability of existing farm operations. A composting facility would provide an opportunity to recycle agricultural waste for use in the agricultural community. A landscape contracting business would provide a more comprehensive service to those purchasing nursery crops. A landscape contracting business may produce increased traffic on a property or other offsite impacts; however, those impacts could be identified and mitigated through the conditional use application process.

Churches and Associated Cemeteries, Public Parks, Private Parks, Playgrounds, Hunting and Fishing Preserves, Campgrounds, Golf Courses, Community Centers, Living History Museums, Firearms Training Facilities, and Schools

The proposed amendments to PCZO Chapters 136 and 138 include new standards for specific uses that would be located within three miles of an urban growth boundary. These standards reflect changes to OAR that were implemented as a result of a Land Use Board of Appeals (LUBA) decision that found that OAR prohibited, without a compelling governmental interest, the establishment of churches within three miles of a UGB where it allowed uses such as community centers and golf courses that have similar impacts to churches. Consequently, LUBA found that the provisions for churches were inconsistent with the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). LCDC responded by adopting new standards for churches and associated cemeteries, public parks, private parks, playgrounds, hunting and fishing preserves, campgrounds, golf courses, community centers, living history museums, firearms training facilities, and schools, that would be established within three miles of an urban growth boundary. The proposed amendments to PCZO Chapters 136 and 138 would implement OAR 660-033-0130(2), which requires specific size and spacing requirements for buildings associated with those uses.

The proposed standards also speak to the expansion of existing facilities within three miles of a UGB. These standards apply to the above mentioned uses whether they are adopted into the PCZO or not. The proposed amendments would provide continuity between the PCZO and OAR, and

thereby assist staff and the general public have a clearer understanding of what uses are allowed in the EFU and FF zones.

ORS 215.283(2)(e) was amended to allow community centers to provide specific services to veterans. The proposed amendments to the EFU and FF zones would incorporate these changes and provide consistency between ORS and the PCZO.

Processing Facility for Farm Crops

Staff is proposing a minor update to the processing facility for farm crops standards in the EFU zone. The proposed language would clarify that the production of biofuel as defined in ORS 315.141 is authorized under that use. Arguably, an operation that produces biofuel could already be considered a processing facility for farm crops; however, adding that specification would allow the PCZO to be consistent with OAR and clarify how a biofuel production facility would be permitted in the EFU zone. Such a facility would still be required to produce at least ¼ of the farm products that are processed at the biofuel production facility. These changes may provide additional markets for local farm products, thereby promoting agricultural use of EFU land as aspired by the PCCP.

Farm Stands & Commercial Activities in Conjunction with Farm Use

The proposed amendments to PCZO Chapters 136 and 138 would update the scope and criteria for farm stands and commercial activities in conjunction with farm use. The proposed language would mimic OAR. The definition of “farm crops or livestock” in the EFU zone would be updated to include both fresh and processed farm crops and livestock including jams, syrups, etc. In the EFU and FF zones, the proposed farm stand language would specify that in addition to selling farm crops and livestock grown on the farm operation, a farm stand may sell farm crops and livestock grown on any other farm in Oregon. With these amendments, the farm stand criteria in the EFU zone, FF zone, and OAR would be the same. Staff believes that both updates would assist farm operations in marketing their farm products as well as farm products produced on other farms in Oregon.

The proposed updates to the commercial activity in conjunction with farm use standards in the EFU and FF zones would also mimic OAR and indicate that an operation that processes farm crops into bio-fuels, and is not categorized as a processing facility for farm crops, may be established as a commercial activity in conjunction with farm use. The processing facility for farm crops provisions in OAR, the FF zone, and as proposed in this update in the EFU zone, allow biofuel production on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The facility is also limited to a building that does not exceed 10,000 square feet. The proposed commercial activity in conjunction with farm use update would feasibly allow larger biofuel processors that supply some, but not necessarily one-quarter, of the farm crops processed at the facility to be established in the EFU and FF zones. Clarification that such a use falls within the umbrella of a commercial activity in conjunction with farm use would not significantly alter the types of uses, and their associated impacts, that would be permitted in the EFU and FF zones. For example a fruit or hop processing facility could be established under the current standards for a commercial activity in conjunction with farm use. Fruit or hop processing facilities are also industrial in nature and have generally similar offsite impacts to a bio-fuel processing facility. Consequently, staff finds that the proposed amendment to the commercial activity in conjunction with farm use provisions in the EFU and FF zones would be consistent with the uses currently permitted in those zones.

Soil Productivity Definitions

The proposed amendments to the TC and FF zones include updates to the definitions of “Cubic Foot Per Acre Per Year” and “Cubic Foot Per Tract Per Year.” These amendments mimic those definitions in OAR. In a recent OAR update, DLCD removed language from these definitions that spoke to what data must be used to determine soil productivity if NRCS data is unavailable. The new language in OAR states that only NRCS data is used for determining soil productivity except when lands are designated as forest lands. Adopting the proposed amendments would allow the

PCZO to be consistent with OAR and would guide staff when conducting forest “template” dwelling analyses, which require consideration of the forest productivity of a subject tract.

Permanent Processing Facility for Forest Products

When the County updated the Farm Forest Zoning District text in 2009, we inadvertently added language to PCZO 138.060(A) which requires a permanent facility for the primary processing of forest products to be temporary. The current standards for that use are listed in PCZO 138.060(A), and reflect the language written in OAR 660-033 and the EFU zone. The current language is inconsistent with the fact that “temporary portable facilities for primary processing of forest products” are permitted outright in FF zone under PCZO 138.040(D). The proposed amendments to the provisions for a permanent facility for the primary processing of forest products in the FF zone would remove language that requires these facilities to use portable chippers and stud mills. Also, this amendment would remove the language requiring findings that the facility would “not seriously interfere with accepted farm practices and is compatible with farm uses.” This type of facility would still be subject to the general conditional use permit standards which require a demonstration that “[t]he proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands,” as required by PCZO 138.100.

The proposed amendment to PCZO 138.060(A) would be consistent with the criteria for a permanent facility for the primary processing of forest products in the TC zone and OAR 660-006-0025(2). OAR 660-006 implements Goal 4, as does the FF zone. The FF zone is a mixed use zone, and its purpose is to implement both Goals 3 and 4 in a single zone. Without the proposed changes, the TC zone would be the only zone that permits permanent onsite processing facilities for forest products. The current standards in the FF zone allow temporary processing facilities; however, it is unlikely that a forest operator would make a significant investment in a temporary facility. Staff believes that allowing permanent processing facilities for forest products in the FF zone is important in order to allow greater land management flexibility and to maintain a mixed use zone that implements Polk County’s Agricultural and Forest Land goals and policies.

Commercial Power Generation Facilities

The proposed amendments to the commercial power generation facility rules in the EFU and FF zones would allow temporary workforce housing for workers constructing a power generation facility. The proposed language is identical to OAR. That housing would need to be removed or converted to another allowed use when project construction is complete. This provision would be consistent with the Agricultural Land Policy 1.4, which seeks continuity between the permitted uses in OAR and the PCZO. This housing would be temporary, and any anticipated negative offsite impacts could be mitigated through the conditional use application process.

The proposed updates to the EFU and FF zones also include new standards for commercial wind power generation facilities. These standards would not affect smaller scale non-commercial wind power generation facilities, such as residential wind power generation facilities that are net metered. Providing this update would clarify to potential applicants that commercial wind power generation facilities have their own criteria. Staff included a referral to administrative rule for the specific criteria for commercial wind power generation facilities because the County will likely see few applications for that use and the criteria are long and would add significant length to the already voluminous PCZO Chapters 136 and 138.

General Standards and Periods of Validity in the FF Zone

The proposed amendments include additions to the general review standards in the FF zone. The general review standards apply to most conditionally permitted uses, and require an applicant to demonstrate that a proposed conditional use will not force a significant change in or increase the cost of accepted farming and forestry practices on neighboring resource lands. As required in OAR 660-006-0025(5), certain conditional uses must also be shown to not significantly increase fire hazard, significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel. Property owners seeking to establish those uses must also sign an agreement

that acknowledges the rights of nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules. The general review standards required by OAR 660-006-0025(5) are not included in the FF zone, and the proposed updates would bring the PCZO into consistency with OAR. Applying those standards would be consistent with the Forest Lands Goals in the PCCP to protect commercial forestry operations.

These amendments also add periods of validity for administrative review land use approvals in the FF Zone. These periods of validity directly reflect OAR 660-033-0140. Adding the proposed code language would clarify to applicants how long they would have to initiate their projects. This information would assist applicants in planning projects that require a land use application.

Seasonal Farm Worker Housing & Residential Facilities

The proposed amendments would remove seasonal farm worker housing and residential facilities as uses that could be permitted in the EFU zone. These uses have been removed from OAR, and the PCZO cannot be less restrictive than ORS and OAR by continuing to permit those uses. The proposed amendments would bring the PCZO into conformance with OAR.

Replacement Dwelling

The proposed amendments would include adding the “deferred replacement dwelling” option for replacement dwellings in the EFU zone. OAR 660-033 allows the option for property owners to request a deferred replacement dwelling which requires that a dwelling be removed within three months after the land use permit is authorized. The property owner would then have an unlimited amount of time to reestablish the dwelling as long as they, or their spouse or child, owns the property. This provision would be consistent with the PCCP because it directly implements OAR, and would not increase the density of dwellings in the EFU zone. It would simply add an option for property owners seeking to replace their existing, lawfully established dwelling.

General Siting Standards and Fire Siting Standards

OAR 660-006-0029 and 660-006-0035 require that the general siting standards and the fire siting standards in the FF zone listed in PCZO Sections 138.110 and 138.120 apply to all new dwellings and structures. As currently written those standards only apply to dwellings and structures on land with a predominate use of forestry. The proposed changes would be consistent with the PCCP, because it would bring the FF zone into compliance with OAR.

General Audit

Staff has made a general review of these chapters and recommended changes intended to standardize some of the language within the PCZO. These audits are consistent with the PCCP because they would not change the review and decision criteria for any of the uses in the PCZO. In reviewing PCZO Chapter 177, staff found that there are two sections, both titled “Development Standards” (PCZO 177.140 and 177.190). Staff recommends deleting PCZO 177.140 because it is identical to 177.190. PCZO Chapter 177 also contains two sections both titled “Prohibited Uses” (PCZO 177.130 and 177.180). Staff recommends removing PCZO 177.180 and retaining PCZO 177.130. PCZO 177.130 and 177.180 are similar in intent, but PCZO 177.130 clarifies how nonconforming uses may be continued. PCZO 177.130 also states that “Subdivisions are not consistent with the purpose and intent of this [TC] zone.” Addressing whether or not subdivisions are consistent with the purpose and intent of the TC zone is outside of the scope of this legislative process, so the proposed amendments would not change that language.

Conclusion

The proposed amendments would change the criteria for several uses to reflect recent changes to ORS and OAR. The Agricultural Lands and Forest Lands policies in the PCCP state that the County will allow those uses permitted under OAR 660-033 and OAR 660-006. The proposed changes would be consistent with those policies. Based on the above findings, the proposed amendments to the PCZO would be consistent with the PCCP.

(C) That the proposed change is in the public interest and will be of general public benefit; and [PCZO 115.060(C)]

Findings: The purpose of this legislative amendment is to update the Polk County Zoning Ordinance (PCZO) in order to reflect changes in state law and administrative rule. The proposed amendments would be in the public interest because they would provide continuity between the requirements of state law and the PCZO. Currently, the Planning Division applies certain sections of state law directly to land use applications, and does not apply the sections of the PCZO that have been invalidated by changes to state law. This situation makes it difficult for applicants and other property owners to understand what regulations apply to their property. The proposed amendments would resolve this issue by updating Polk County's regulations so that the PCZO is consistent with state law. This continuity would eliminate the need to apply state law directly, and would benefit both applicants and other property owners seeking to understand their property rights.

This legislative amendment process also provides the opportunity for the Board to consider if retaining those sections of the PCZO that are more restrictive than state law and administrative rule are in the public interest. The EFU and FF zones are currently more restrictive than state law and administrative rule because they do not allow landscape contracting businesses or composting facilities on high value farm land. The EFU and FF zones also do not allow a deferred replacement dwelling as an option in the EFU zone or permanent processing facilities for forest products in the FF zone. The proposed amendments would add these uses. Staff believes that adding these uses would be in the public benefit because they would allow property owners additional ways in which to use their land that would be consistent with ORS and OAR. Permanent processing facilities for forest products and landscape contracting businesses would both require review through a conditional use application process. So while those uses could produce offsite impacts, the conditional use review process allows the County discretion to require conditions of approval that would ensure that the proposal would not significantly impact the costs to surrounding farm and forest operations.

Based on the above findings, staff concludes that the proposed changes to the PCZO are in the public interest and of general public benefit.

(D) Compliance with the provisions of any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land. [PCZO 115.060(D)]

Findings: Polk County has adopted intergovernmental agreements with each of the cities that have urban growth boundaries (UGB) in Polk County. Those cities are Salem, Dallas, Monmouth, Independence, and Willamina. Those cities were notified of the Planning Commission's and Board's public hearings on March 24, 2011. Falls City has an urban growth boundary; however, it is entirely located within city limits.

The proposed amendments to the PCZO would affect the criteria for specific land use applications in Polk County's planning jurisdiction countywide, including within UGBs. Staff believes that the proposed amendments would be consistent with all adopted intergovernmental agreements pertinent to land in UGBs. The proposed amendments would not amend any of the requirements of those agreements.

Consequently, Staff finds that the proposed amendments comply with this criterion.

II. CONCLUSION

Based on the findings above, Staff concludes that the proposed amendments to the Polk County Zoning Ordinance would comply with all of the applicable review and decision criteria for a legislative amendment.

CHAPTER 136
EXCLUSIVE FARM USE (EFU) ZONING DISTRICT

136.010.	Purpose
136.015.	Definitions
136.020.	Authorized Uses and Development
136.030.	Uses Permitted by Right
136.040.	Uses Subject to Administrative Review
136.050.	Conditional Uses [OAR 660-033-0130]
136.060.	General Review Standards [OAR 660-033-0130(5)]
136.065.	Expansion and UGB Proximity Standards [OAR 660-033-0130(2)]
136.070.	Land Partition Standards [ORS 215.780 (C)]
136.100.	Nonconforming Uses
136.120.	Non-Remonstrance Deed Restriction
136.140.	Prohibited Uses
136.150.	Development Standards
136.160.	Period of Validity for Administrative Review Uses
136.170.	Period of Validity for Non-farm, Lot-of-Record, and Replacement Dwellings

136.010. PURPOSE. The purpose and intent of the Exclusive Farm Use (EFU) Zoning District is to conserve agricultural lands, consistent with the Goals and Policies of the Polk County Comprehensive Plan. This objective is achieved by establishing clear standards for the use and development of designated agricultural lands.

The Exclusive Farm Use Zoning District will be applied to lands defined as "agricultural lands" by Oregon Administrative Rule (OAR) 660-033-0020(1). Within the Exclusive Farm Use Zoning District, the use and development of land is subject to review and authorization as provided by Polk County's land use regulations and as may further be indicated in State and federal laws.

136.015. DEFINITIONS. Terms related to farm land and land use found in this chapter are defined in the Oregon Revised Statutes (ORS), Chapter 215 and in the Oregon Administrative Rules (OAR), Division 33. A handout defining these terms is available from the Polk County Community Development Department.

136.020. AUTHORIZED USES AND DEVELOPMENT. The following uses, activities and development are authorized in the Exclusive Farm Use Zoning District, subject to review and approval under applicable regulatory standards:

Key

HV	High-Value Farm Land, defined by OAR 660-033-0020(8)
Other	Other lands, not defined as High-Value
P	Permitted outright
AR	Subject to administrative review and approval
CUP	Subject to review and approval as a conditional use
NP	Use not permitted
NA	Not applicable
PCZO	<i>Polk County Zoning Ordinance Chapter 136 subsection</i>

RESOURCE USES	HV	OTHER	PCZO
Farm Use as defined in ORS 215.203	P	P	030(A)
Facility for the Processing of Farm Crops	AR	AR	040(Q)
Use and Management of Forest Lands	P	P	030(B)
Farm and Forest Accessory Structures	P	P	030(C)
Forest Product Primary Processing Facility	CUP	CUP	050(A)
Wetland Creation/Restoration and Enhancement	P	P	030(D)
Wildlife Habitat Conservation and Management Plan	P	P	030(K)
Aquaculture	CUP	CUP	050(B)
Insect Breeding	CUP	CUP	050(C)
Operations for the Extraction and Bottling of Water	CUP	CUP	050(D)

Exhibit B to Ordinance No. 11-03

RESIDENTIAL	HV	OTHER	PCZO
Farm Dwelling	AR	AR	040(A,D,E,F)
Accessory Farm Dwelling	AR	AR	040(K)
Family Farm Help Dwelling	AR	AR	040(H)
Lot of Record Dwelling - Not High Value	NA	AR	040(G)
Lot of Record Dwelling - High-Value	AR	NA	040(C)
Dwelling in Conjunction With a Commercial Dairy	AR	AR	040(M)
Relocated Farm Operation Dwelling	AR	AR	040(N)
Small-Tract Dwelling - High-Value	AR	NA	040(B)
Nonfarm Dwelling	NP	CUP	050(E)
Nonfarm Dwelling on Nonfarm Parcel	NP	CUP	050(F)
Replacement Dwelling	AR	AR	040(I)
Replacement of Historic Dwelling	AR	AR	040(J)
Temporary Hardship Dwelling	AR	AR	040(L)
Residential Home (ORS 197.660)	CUP	CUP	050(G)
Room and Board Arrangements	CUP	CUP	050(H)

COMMERCIAL	HV	OTHER	PCZO
Activity In Conjunction with Farm Use	CUP	CUP	050(I)
Home Occupations	CUP	CUP	050(J)
Dog Kennels	NP	CUP	050(K)
Training and Stabling Horses for Profit	P	P	030(A)
Winery, as described in ORS 215.452	AR	AR	040(O)
On-site Filming and Accessory Activities for 45 days or less	P	P	030(L)
On-site Filming and Accessory Activities for more than 45 days	CUP	CUP	050(L)
Farm Stand	AR	AR	040(P)
Parking of not more than seven log trucks	AR	AR	040(R)
Destination Resort	NP	CUP	050(M)
Landscape Contracting Business	CUP	CUP	050(N)

MINERAL AND AGGREGATE	HV	OTHER	PCZO
Exploration and Production of Geothermal, (ORS 522.005) Oil and Gas (ORS 520.005)	P	P	030(E)
Mineral Exploration (ORS 517.750)	P	P	030(F)
Mining and Processing of Geothermal, (ORS 522.005) Oil and Gas (ORS 520.005)	CUP	CUP	050(O)
Mining and Processing of Mineral and Aggregate Materials	CUP	CUP	050(O)

Exhibit B to Ordinance No. 11-03

Processing of Aggregate into Asphalt or Portland Cement (ORS 517.750)	CUP	CUP	050(O)
Processing of Other Mineral Resources	CUP	CUP	050(O)

TRANSPORTATION	HV	OTHER	PCZO
Personal Use Airports and Helipads	CUP	CUP	050(P)
Climbing and Passing Lanes within Right-of Way existing on July 1, 1987	P	P	030(G)
Construction of Passing and Travel lanes, requiring acquisition of right-of-way, but not resulting in the creation of new land parcels	CUP	CUP	050(Q)
Reconstruction or Modification of Public Roads, not including addition of travel lanes or removal of buildings, but not resulting in the creation of new land parcels	P	P	030(H)
Reconstruction or Modification of Public Roads, involving the removal of buildings, but not resulting in the creation of new land parcels	CUP	CUP	050(R)
Temporary Public Road Detours	P	P	030(I)
Minor Improvements to Existing Road and Highway Related Facilities within right-of-way existing on July 1, 1987	P	P	030(J)
Improvements to Existing Road and Highway Related Facilities where additional property or right-of-way is required, but not resulting in the creation of new land parcels	CUP	CUP	050(S)
Other Roads, Highways and Transportation Facilities not listed	CUP and Exception	CUP and Exception	
Transportation Improvements on Rural Lands allowed by OAR 660-012-0065	CUP	CUP	050(T)

UTILITIES & SOLID WASTE DISPOSAL FACILITIES	HV	OTHER	PCZO
Utility Facilities Necessary for Public Service, including wetland waste treatment systems but not including commercial power generating facilities or transmission towers over 200 feet in height	AR	AR	040(S)
Transmission Towers over 200 feet in height	CUP	CUP	050(U)
Solid Waste Disposal Site under ORS 459.245	NP	CUP	050(V)
Composting Facilities	AR	CUP	040(U), 050(W)
Commercial Power Generating Facilities	CUP	CUP	050(X)
Commercial Wind Power Generating Facilities	CUP	CUP	050(Y)
Fire service facilities providing rural fire protection services	P	P	030(M)
Irrigation canals, delivery lines and those structures and accessory operation facilities	P	P	030(N)

associated with a district as defined in ORS 540.505			
Utility facility service lines	P	P	030(O)
Non-commercial wind energy systems, meteorological towers and photovoltaic systems	P	P	030(P)
Non-commercial wind energy systems and meteorological towers needing a height or type of construction modification	AR	AR	040(T)
Non-commercial wind energy systems and meteorological towers in a UGB	CUP	CUP	050(X)

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES	HV	OTHER	PCZO
Schools, public or private (K-12) that serve the residents of the rural area	NP	CUP	050(GG)
Churches and Associated Cemeteries	NP	AR	040(W)
Parks, private, including playgrounds, hunting/fishing preserves and campgrounds	NP	CUP	050(BB)
Parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120	CUP	CUP	050(AA)
Model Aircraft Takeoff and Landing Sites	AR	AR	040(V)
Expansion of Existing County Fairgrounds	CUP	CUP	050(CC)
Golf Courses	NP	CUP	050(DD)
Community centers owned by a governmental agency or a nonprofit organization	CUP	CUP	050(EF)
Firearms training facility as provided in ORS 197.770	AR	AR	040(X)
Living history museum	CUP	CUP	050(FE)

136.030. USES PERMITTED BY RIGHT. The following uses are permitted, subject to applicable standards set forth in the Polk County Zoning Ordinance and as may otherwise be indicated by federal, state and local permits or regulations:

- (A) Farm use, as defined in ORS 215.203.
- (B) Propagation or Harvesting of a Forest Product.
- (C) Accessory Buildings and Structures related to the use and management of farm and forest lands.
- (D) Creation, Restoration and Enhancement of Wetlands.
- (E) Exploration for and Production of Geothermal, Oil and Gas, as defined under ORS 522.005 and ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.
- (F) Mineral Exploration, as defined in ORS 517.750.
- (G) Climbing and Passing Lanes within the right-of-way existing as of July 1, 1987.

- (H) Reconstruction or Modification of Public Roads and Highways, not including the addition of travel lanes, removal or displacement of buildings or creation of new parcels.
- (I) Temporary Public Road or Highway Detours that will be abandoned and restored to original condition or use at such time as no longer needed.
- (J) Minor Betterment of Existing Public Road and Highway Related Facilities such as maintenance yards, weigh stations and rest areas, within right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
- (K) Wildlife Habitat Conservation and Management Plan pursuant to ORS 215.800 to 215.808.
- (L) On-site Filming and Activities Accessory to On-site Filming, for 45 days or less as provided for in ORS 215.306.
- (M) Fire service facilities providing rural fire protection services.
- (N) Irrigation canals, delivery lines and those structures and accessory operation facilities associated with a district as defined in ORS 540.505.
- (O) Utility facility service lines [OAR 660-033-0130(32)], and facilities or structures that end at a point where the utility service is received by the customer and that are located on one or more of the following:
 - (1) A public right of way; or
 - (2) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
 - (3) The property to be served by the utility.
- (P) Wind energy systems, meteorological towers, and photovoltaic systems that are not commercial power generating facilities, but not including wind energy systems utilizing a tower and meteorological towers that require tower lighting, are located in an adopted urban growth boundary, or that would require modification to the height or type of construction standards described in Section 112.135(C)(1). Wind energy systems utilizing towers and meteorological towers are subject to standards listed in Sections 112.135 and 112.137. Roof-mounted, building-integrated, building-mounted and architectural wind energy systems that extend no more than an additional 5 feet above the highest ridge of the building's roof or 15 feet above the highest eave, whichever is higher, and do not exceed the height limitation of the zone, are subject to the standards listed in Section 112.137. Photovoltaic systems are subject to the standards described in Section 112.138. [Amended by Ordinance 09-06]

136.040. USES SUBJECT TO ADMINISTRATIVE REVIEW. The following uses are permitted, subject to review and approval under the prescriptive standards specified herein and as may otherwise be indicated by federal, state and local regulations and permits:

SINGLE-FAMILY RESIDENCES

- (A) Dwelling for the Farm Operator on High-Value Farmland [OAR 660-033-0135(4) and (9)]. A Farm Dwelling may be authorized on a tract of land classified as high-value, where the tract meets the following criteria:
 - (1) The subject tract is currently in farm use and has produced at least \$80,000 gross annual income from the sale of farm products, each of the last 2 years or 3 out of the past 5 years. Only gross income from land owned, not leased or rented shall be counted. When determining gross annual income for livestock operations, the cost of purchased livestock must be deducted from the total

gross income attributed to the farm or ranch operation as defined in OAR 660-033-0135(11)(b). Noncontiguous lots or parcels designated for exclusive farm use in Polk County or a contiguous county may be used to meet the gross income requirements. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used unless both dwellings are subsequently authorized by provision of law;

- (2) The tract is currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing on lands designated for exclusive farm owned by the farm operator or on the farm operation); and
 - (3) The dwelling will be occupied by a person or persons who produced the commodities which provided the income under subsection 1 above.
 - (4) At the time of application for a dwelling that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross income requirements, the property owner shall provide a title report, for those lots or parcels located within a contiguous county, that was generated within 30 days of date the application is submitted.
 - (5) Prior to issuance of construction permits for a dwelling that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross income requirements, the property owner shall provide for the recording of a deed restriction with the Polk County Clerk consistent with that required by OAR 660-033-0135(9) for the properties subject to the application that precludes:
 - (a) All future rights to the establishment of a dwelling, except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215;
 - (b) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
- (B) Small Tract Dwelling on High-Value Farmland [OAR 660-033-0130(3)(d)]. A dwelling may be authorized on a tract of land classified as high-value, where the tract meets the following requirements:
- (1) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner since prior to January 1, 1985 (Note: Present owner may also qualify, if the property was inherited by devise or intestate secession from a person that acquired and had owned continuously the lawfully created parcel since prior to January 1, 1985);
 - (2) The tract is currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing);
 - (3) If the lot or parcel on which the dwelling will be sited was part of a tract existing on November 4, 1993 and no dwelling exists on another lot or parcel that was part of that tract;
 - (4) The dwelling meets all other requirements of the Comprehensive Plan and land use regulations, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat; and
 - (5) Any adjacent lot(s) or parcel(s) owned by the applicant shall be combined with the subject parcel to form a single lot or parcel;
 - (6) The tract where the dwelling would be sited is:

- (a) Not composed predominately of prime, unique Natural Resource Conservation Service (NRCS) Class I or II soils identified in OAR 660-033-0020(8)(a) or (b);
- (b) Composed predominately of high-value (NRCS) Class III and IV soils identified in OAR 660-033-0020(8)(c) or (d); or
- (c) Composed predominantly of a combination of high-value NRCS Class III and IV soils identified in OAR 660-33-020(8)(c) or (d) and prime, unique, NRCS Class I or II soils identified in OAR 660-033-0020(8)(a) or (b);
- (d) Twenty-one (21) acres or less in size; and
- (e) Bordered on at least 67% of its perimeter by tracts less than 21 acres in size and at least 2 such tracts had dwellings on them on Jan. 1, 1993; or,
- (f) The tract is not a flag lot and is bordered on at least 25% of its perimeter by tracts less than 21 acres in size and at least four dwellings existed on Jan. 1, 1993, within one-quarter mile of the center of the subject tract. Where the tract abuts an urban growth boundary, up to 2 of the 4 dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or
- (g) The tract is a flag lot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within ¼ mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. Where the tract abuts an urban growth boundary, up to 2 of the 4 dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary. The center of the tract shall be the point where half of the acreage is north, south, east, and west of the point, unless requested by the applicant to use the "geographic center of the flag lot". The geographic center of the flag lot means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flag lot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot. Regardless of the method of determining the center, the center of the subject tract shall be located on the subject tract.

- Notes:
- (1) As used in this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.
 - (2) Upon approval, the Planning Director shall notify the County Assessor that the governing body intends to allow the dwelling. [660-033-0130(3)(h)]
 - (3) An authorization to establish a dwelling pursuant to this subsection is valid for the duration specified in Section 136.160 for the applicant that qualified for the dwelling and for any other person that the qualified applicant transferred the property to after the date of the land use decision. [660-033-0130(3)(i)]

- (C) Lot-of-Record Dwelling on High-Value Farmland [OAR 660-033-0130(3)(c)]. A dwelling may be authorized on a tract of land classified as high-value, where the tract meets the following criteria:
- (1) The Polk County Hearings Officer shall determine whether the subject parcel is a lot-of-record, based on the following criteria:
 - (a) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner since prior to January 1, 1985 (Note: Present owner may also qualify, if the property was inherited by devise or intestate secession from a person that acquired and had owned continuously the lawfully created parcel prior to January 1, 1985);
 - (b) The tract on which the dwelling will be sited is currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing);
 - (c) If the lot or parcel on which the dwelling will be sited was part of a tract existing on November 4, 1993 no dwelling exists on another lot or parcel that was part of that tract;
 - (d) The dwelling meets all other land use regulations, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat; and
 - (e) Any adjacent lot(s) or parcel(s) owned by the applicant shall be combined with the subject lot to form a single lot or parcel.
 - (2) The Hearings Officer shall determine that:
 - (a) The parcel cannot practicably be managed for farm use, by itself, or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. This criterion requires evidence that the subject lot or parcel cannot be physically used for farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot or parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad, or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;
 - (b) The dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use;
 - (c) The dwelling will not significantly increase the cost of farm or forest practices on surrounding lands devoted to farm and forest use; and
 - (d) The applicant shall demonstrate that the proposed lot-of-record dwelling will not materially alter the stability of the overall land use pattern in the area.

- (3) Notice of the public hearing shall be provided to the State Department of Agriculture at least 20 calendar days prior to the public hearing before the hearings officer. Upon approval, the Planning Director shall notify the County Assessor that the governing body intends to allow the dwelling. [660-033-0130(3)(h)]
- (4) Authorization of a single-family dwelling under the provisions of this subsection may be transferred by a person who has qualified under this subsection to any other person after the effective date of the land use decision. An authorization to establish a dwelling pursuant to this subsection is valid for the duration specified in Section 136.160 for the applicant that qualified for the dwelling and for any other person that the qualified applicant transferred the property to after the date of the land use decision. [660-033-0130(3)(i)]

Note: As used in this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.

- (D) *Dwelling for the Farm Operator on Other Farmland - Acreage Standard* [OAR 660-033-0135(1)]. A farm dwelling may be authorized on a tract of land not classified as high value, subject to the following standards:
 - (1) The parcel on which the dwelling is to be located is at least 160 acres in size;
 - (2) The subject tract is currently in farm use;
 - (3) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and
 - (4) The subject tract is currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing).
- (E) *Dwelling for the Farm Operator on Other Farmland - Income Standard* [OAR 660-033-0135(3), (5) and (6)]. A farm dwelling may be authorized on a tract of land, not classified as high value, subject to the following standards:
 - (1) The subject tract is currently employed for farm use and has produced at least \$40,000 in gross annual income from the sale of farm products during each of the past two (2) years or three (3) of the past five (5) years. Only gross income from land owned, not leased or rented shall be counted. When determining gross annual income for livestock operations, the cost of purchased livestock must be deducted from the total gross income attributed to the farm or ranch operation. Noncontiguous lots or parcels designated for exclusive farm use in Polk County or a contiguous county may be used to meet the gross income requirements. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used unless both dwellings are subsequently authorized by provision of law; or
 - (2) The subject tract is currently employed for farm use and has produced gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture during each of the past two (2) years or three (3) of the past five (5) years. When determining gross annual income for livestock operations, the cost of purchased livestock must be deducted from the total gross income;

- (3) The subject tract, and all parcels subject to the application are currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing); and
 - (4) The dwelling will be occupied by a person or persons who produced the commodities during each of the past two (2) years or three (3) of the past five (5) years.
 - (5) At the time of application for a dwelling that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross income requirements, the property owner shall provide a title report, for those lots or parcels located within a contiguous county, that was generated within 30 days of date the application is submitted.
 - (6) Prior to issuance of construction permits for a dwelling that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross income requirements, the property owner shall provide for the recording of a deed restriction with the Polk County Clerk consistent with that required by OAR 660-033-0135(9) for the subject properties that precludes:
 - (a) All future rights to the establishment of a dwelling, except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215;
 - (b) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling;
- (F) *Dwelling for the Farm Operator on Other Farmland - Sales Capability Test* [OAR 660-033-0135(2)]. A farm dwelling may be authorized on a tract of land, not classified as high-value that is:
- (1) At least as large as the median size of those commercial farm and ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract;
 - (2) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size under subsection 1 above;
 - (3) Currently employed for farm use at a level capable of producing the gross annual sales requirement under subsection 2 above. (Note: If no farm use has been established at the time of application, land use approval shall be subject to full establishment of the farm use, as described under subsection 2 above, prior to issuance of a building permit for the dwelling);
 - (4) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing, or caring for livestock at a commercial scale;
 - (5) At least 10 acres in size; and
 - (6) Currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing).
- (G) *Lot-of-Record Dwelling Not High-Value Farmland* [(OAR 660-033-0130(3)(a))]. A dwelling may be authorized on a lot-of-record on land not classified as high-value farmland. To qualify as a lot-of-record, the parcel must meet the following criteria:

- (1) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner since prior to January 1, 1985 (Note: The owner may also qualify if the property was inherited by devise or intestate succession from a person that acquired and had owned continuously the lawfully created parcel since prior to January 1, 1985);
- (2) The tract on which the dwelling will be sited does not include a dwelling (excepting lawfully established seasonal farm worker housing);
- (3) The lot or parcel on which the dwelling will be sited was part of a tract existing on November 4, 1993 and no dwelling exists on another lot or parcel that was part of that tract;
- (4) The dwelling meets all other land use regulations, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat; and
- (5) Any adjacent lot(s) or parcel(s) owned by the applicant shall be combined with the subject lot or parcel to form a single lot or parcel.
- (6) An authorization to establish a dwelling pursuant to this subsection is valid for the duration specified in Section 136.160 for the applicant that qualified for the dwelling and for any other person that the qualified applicant transferred the property to after the date of the land use decision.
- (7) Upon approval, the Planning Director shall notify the County Assessor that the governing body intends to allow the dwelling.

- Notes:
- (1) As used in this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.
 - (2) Soil classes, soil ratings or other soil designations used in or made pursuant to this section are those of the Soil Conservation Service in its most recent publication for that class, rating or designation before November 4, 1993. For purposes of approving a land use application under Section 136.040(G), the soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner:
 - (a) Submits a statement of agreement from the Natural Resources Conservation Service of the United States Department of Agriculture that the soil class, soil rating or other soil designation should be adjusted based on new information; or
 - (c) Submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and
 - (d) Submits a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in subparagraph (A) of this paragraph and finds the analysis in the report to be soundly and scientifically based. [ORS 215.710(5)]

- (H) Dwelling for Family Farm Help [OAR 660-033-0130(9)]. A dwelling for family farm help may be authorized, on the same lot or parcel as the dwelling of the farm

operator, where the dwelling will be occupied by a relative of the farm operator whose assistance in the management and farm use of the existing commercial farm operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and use of the farm. A farm operator is 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. "Relative" means the farm operator or farm operators' spouses grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling, niece, nephew, or first cousin of either of the farm operator, or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator.

- (I) Replacement Dwelling [ORS 215.283(1)(p) and OAR 660-033-0130(8)]. A replacement dwelling may be authorized, where the lawfully established single-family dwelling being replaced has:
- (1) Intact exterior walls and roof structure;
 - (2) Interior plumbing, including kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - (3) Interior wiring for interior lights;
 - (4) A heating system; and
 - (5) The dwelling to be replaced shall be:
 - (a) Removed, demolished or converted to an approved nonresidential use, within 3 months of the completion of the replacement dwelling. The replacement dwelling may be placed on any part of the same lot or parcel as the existing dwelling and shall comply with all applicable siting standards. These standards shall not be applied in such a manner as to prohibit the siting of the replacement dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use and the replacement dwelling would be located on the portion of the lot or parcel zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record a deed restriction prohibiting siting of a dwelling on the portion of the lot or parcel not zoned for exclusive farm use. This deed restriction shall be irrevocable unless a statement of release is recorded in the County deed records. The release shall be signed by a representative of the County and shall state that the provisions of this section have been changed to allow the siting of another dwelling. The Planning Director shall maintain a record of the lots or parcels that do not qualify for the siting of a new dwelling under the provisions of this section, including a copy of the deed restrictions and release statements filed under this section; and
 - (b) For which the applicant has requested a deferred replacement permit, is removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant. [Amended by Ordinance 11-03]

- (6) An accessory farm dwelling authorized pursuant to Section 136.040(K)(2)(c), may only be replaced by a manufactured dwelling. [Amended by Ordinance 11-03]

Note: Executing and recording such a deed restriction may affect substantial future property rights. Please consult with Planning Division staff prior to submitting an application.

- (J) Replacement of Historic Dwelling [ORS 215.283(1)(l)]. A dwelling listed on the Polk County Historic Inventory and on the National Register of Historic Places which has been partitioned from the farm tract as provided by ORS 215.263(9)(b), may be replaced on a portion of the farm tract.
- (K) Accessory Farm Dwellings [OAR 660-033-0130(24)]. Each accessory dwelling customarily provided in conjunction with farm use is authorized, subject to review and approval under the following criteria:
- (1) Each dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use, such as planting, harvesting, marketing, or caring for livestock, is or will be required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates the farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing;
 - (2) The accessory dwelling will be located:
 - (a) On the same lot or parcel as the primary farm dwelling; or
 - (b) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcel in the tract; or
 - (c) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is re-authorized under these rules; or
 - (d) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing on the farm or ranch operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. All accessory farm dwellings approved under this subparagraph shall be removed, demolished, or converted to an authorized non-residential use when farm worker housing is no longer required; or
 - (e) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(5) or (7), whichever is applicable, and
 - (3) There is no other dwelling on lands zoned for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and

- (4) The primary farm dwelling, to which the proposed dwelling would be accessory, meets one of the following:
 - (a) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use and produced in each of the last two years or three of the last five years, the lower of the following:
 - (i) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products (Note: In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract); or
 - (ii) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. (Note: In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract); or
 - (b) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use and has produced at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;
 - (c) On land defined as a commercial dairy pursuant to OAR 660-033-0135(11) and the following:
 - (i) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and
 - (ii) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and
 - (iii) The Oregon Department of Agriculture has approved a permit for a Producer License for the sale of dairy products under ORS 621.072.
- (5) A partition shall not be approved that separates the accessory farm dwelling from the primary farm dwelling, unless a subsequent land use application determines that the accessory farm dwelling and the primary farm dwelling both qualify pursuant to the applicable provisions contained in Sections 136.040(A), (D), (E), or (F). A parcel may be created consistent with the minimum parcel size for the zone.
- (6) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use.

Note: "Accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.

- (L) Temporary Hardship Dwelling [OAR 660-033-0130(10)]. One manufactured dwelling, recreational vehicle, or the temporary residential use of an existing building in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or a relative of the resident, provided that:

- (1) The hardship is certified by a licensed physician;
 - (2) The manufactured home or existing building converted to residential use is connected to the existing sewage disposal system; except when the County Sanitarian finds the existing system to be inadequate and that it cannot be repaired or is not physically available; If the manufactured home will use a public sanitary system, such condition will not be required.
 - (3) The applicant agrees to renew the permit every two years.
 - (4) Within 3 months of the end of the hardship, the manufactured dwelling, recreational vehicle, or building converted to a temporary residential use, shall be removed, demolished, or converted to an approved nonresidential use.
 - (5) The dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
 - (6) The dwelling will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.
 - (7) As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.
 - (8) A temporary residence approved under this section is not eligible for replacement under Section 136.040(I).
- (M) Dwelling in conjunction with a commercial dairy [OAR 660-033-0135(7)]. A dwelling may be considered customarily provided in conjunction with a dairy farm as defined in OAR 660-033-0135(11) if:
- (1) The subject tract will be employed as a commercial dairy that owns a sufficient number of producing dairy animals capable of earning the gross annual income from the sale of fluid milk required by:
 - (a) Section 136.040(A) if located on high-value farmland; or
 - (b) Section 136.040(E) if located on non-high-value farmland, whichever is applicable; and
 - (2) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and
 - (3) The subject tract is vacant (no dwellings, excepting lawfully established seasonal farm worker housing.);
 - (4) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and
 - (5) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
 - (6) The Oregon Department of Agriculture has approved the following:
 - (a) A permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and
 - (b) A Producer License for the sale of dairy products under ORS 621.072.
- (N) Relocated farm operation dwelling [OAR 660-033-0135(9)]. A dwelling may be considered customarily provided in conjunction with farm use if:

- (1) Within the last two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in the last five years or four of the last seven years as required by Section 136.040(A) or (E), whichever is applicable;
- (2) The subject lot or parcel on which the dwelling will be located is:
 - (a) Currently employed for the farm use, as defined in Section 110.223, that produced in the last two years or three of the last five years the gross farm income required by Section 136.040(A) or (E), whichever is applicable; and
 - (b) At least the size of the applicable minimum parcel size; and
- (3) The subject tract is vacant (no dwellings, excepting lawfully established seasonal farm worker housing); and
- (4) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in paragraph (1) of this subsection;
- (5) In determining the gross income required by subsections (1) and (2)(a), of this subsection:
 - (a) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and
 - (b) Only gross income from land owned, not leased or rented, shall be counted.

COMMERCIAL USES

- (O) Winery [OAR 660-033-0120]. A winery, as described in Section 110.595, may be permitted subject to findings that:
 - (1) The related vineyards, as described in Section 110.595, have been planted or that the contract has been executed, as applicable;
 - (2) The winery use will not result in substantial conflicts with farm or forest practices on adjacent lands; and
 - (3) The winery use complies with Comprehensive Plan Goal and Policies and other applicable criteria in the Polk County Zoning Ordinance.
 - (4) Pursuant to ORS 215.452, standards imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming and forest practices on adjacent lands:
 - (a) Establishment of a setback, not to exceed 100 feet, from all property lines for the winery and all public gathering places; and
 - (b) Provision of direct local road access, internal circulation, and parking.
- (P) Farm Stand [OAR 660-033-0130(23)], A farm stand may be approved if:
 - (1) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in Oregon, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand, if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

- (2) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.
- (3) As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in Oregon. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.
[Amended by Ordinance 11-03]
- (Q) Processing Facility for Farm Crops [(OAR 660-033-0130(28))], or the production of biofuel as defined in ORS 315.141, located on a farm operation that provides at least one-fourth of all the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with all applicable siting standards, but the standards shall not be applied in a manner that prohibits the siting of the processing facility. Note: A land division that separates the processing facility from the farm operation is not allowed. [Amended by Ordinance 11-03]
- (R) Parking of Log Trucks [ORS 215.311], not more than seven log trucks may be parked on a tract when the applicant:
 - (1) Describes the surrounding land uses and farm and forest practices on the surrounding properties wholly or partially located within at least 750-feet of the outside perimeter of the subject property.
 - (2) Demonstrates that the proposed use would not force a significant change or increase the cost of accepted farm or forest practices on surrounding land devoted to farm or forest use.

UTILITIES AND SOLID WASTE DISPOSAL FACILITIES

- (S) Utility Facilities Necessary for Public Service [OAR 660-033-0130(16)], including wetland waste treatment systems, except commercial facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height.
 - (1) A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an Exclusive Farm Use zone due to one or more of the following factors:
 - (a) Technical and engineering feasibility;
 - (b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 - (c) Lack of available urban and nonresource lands;
 - (d) Availability of existing rights of way;
 - (e) Public health and safety; and
 - (f) Other requirements of state and federal agencies.

- (2) Costs associated with any of the factors listed in subsection (S)(1) of this section may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.
- (3) The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agriculture land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
- (4) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility siting to migrate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.
- (5) The utility facility necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Off-site facilities allowed under this paragraph are subject to OAR 660-033-0130(5). Temporary workforce housing facilities not included in the initial approval may be considered through a subsequent application. Such a request shall have no effect on the original approval. [Amended by Ordinance 11-03]
- (6) In addition to the provisions of subsections (S)(1) to (4) of this section, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.
- (7) The provisions of subsections (S)(1) to (4) of this section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulations by the Federal Energy Regulatory Commission.
- (8) Communication towers authorized under this section shall comply with the standards listed in Section 112.135. [Amended by Ordinance 11-03]
- (T) Wind energy systems utilizing a tower and meteorological towers outside of an adopted urban growth boundary that are not commercial power generating facilities that would utilize a tower(s) that requires lighting or that requires modification to the height or type of construction standards described in Section 112.135(C)(1), as provided in Sections 112.135 and 112.137. [Amended by Ordinance 09-06]
- (U) Composting Facilities High-Value Farmland [OAR 660-033-0130(29)(a)], Composting operations and facilities allowed on high-value farmland are limited to those that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, and that meet the performance and permitting requirements of the Department of Environmental Quality (DEQ) under OAR 340-093-0050 and 340-096-0060. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Existing facilities may be expanded on the same tract, subject to other requirements of law. [Amended by Ordinance 11-03]

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

- (V) Model Airplane Takeoff and Landing Sites [OAR 660-033-0130(26)], including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use as a model airplane site. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use as a model airplane site. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. [Amended by Ordinance 10-10]

As used in this paragraph:

- (1) "Model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible, or balloon that is used or is intended to be used for flight and is controlled by radio, lines, or design by a person on the ground.
- (W) Churches and Associated Cemeteries consistent with ORS 215.441 / ORS 215.283(1)(a)]. New churches and associated cemeteries are not authorized on lands classified as high-value. New churches and associated cemeteries on not high-value farmland, or the expansion of existing churches and associated cemeteries on all farmlands, shall be subject to the standards listed in Section 136.065. [Amended by Ordinance 11-03]
- (X) Firearms training facility as provided in ORS 197.770, subject to the standards listed in Section 136.065.

136.050 CONDITIONAL USES [OAR 660-033-0130]. The following uses may be approved, subject to compliance with the procedures and criteria under Chapter 119, applicable state and federal regulations, and other specific criteria as may be indicated:

RESOURCE-RELATED USES

- (A) Facility for the Primary Processing of Forest Products [ORS 215.283(2)(j) and OAR 660-033-0130(6)]. A facility for the primary processing of forest products is authorized 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. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest production order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or tract where the primary processing facility is located.
- (B) Aquaculture [ORS 215.283(2)(p) and OAR 660-033-0130(27)], including the propagation, cultivation, maintenance and harvesting of aquatic species, subject to compliance with Section 136.060.
- (1) Notice of the application shall be provided to the State Department of Agriculture at least 20 calendar days prior to any administrative action or initial public hearing on the application.
- (C) Insect Breeding [OAR 660-033-0130(27)], including the propagation, cultivation, maintenance and harvesting of insect species, subject to compliance with Section 136.060 and the following criteria:
- (1) Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture.

- (2) Notice of the application shall be provided to the State Department of Agriculture at least 20 calendar days prior to any administrative action or initial public hearing on the application.
- (D) Operations for the Extraction and Bottling of Water [ORS 215.283(2)(v)], subject to compliance with Section 136.060.

SINGLE FAMILY RESIDENCES

- (E) Nonfarm Dwelling - Not High-Value Farmland, (except as noted) [OAR 660-033-0130(4)(a)]. A nonfarm dwelling may be authorized on a parcel, not classified as high-value farmland, except as noted, subject to the following criteria:
 - (1) The dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use;
 - (2) The dwelling will not significantly increase the cost of farm or forest practices on surrounding lands devoted to farm and forest use;
 - (3) The dwelling will be placed on a lot or parcel created before January 1, 1993;
 - (4) The dwelling will be located on a parcel that is predominately composed of NRCS Class IV through VIII soils that, when irrigated, would not be classified as prime or unique, Class I or II soils (Note: This includes those Class IV soils defined as high-value farmland in OAR 660-033-0020(c));
 - (5) The applicant shall demonstrate that the proposed nonfarm dwelling will not materially alter the stability of the overall land use pattern of the area. To address this standard, the applicant shall prepare a cumulative impact study that:
 - (a) Includes at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcels and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall be identified but not be included in the study area;
 - (b) The cumulative impacts study shall identify the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc), and the dwelling development trends since 1993. Determine the potential number of nonfarm / lot-of-record dwellings that could be approved under Sections 136.040(B) and (G) and 136.050(E) The study shall identify the predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under Section 136.050(F) and Section 136.070(C). Findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph;
 - (c) Describes whether the proposed dwelling in conjunction with the dwellings identified in (b) above will make it more difficult for the existing types of farms in the area to continue operation due to

diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area. Determine whether approval of the proposed nonfarm dwelling together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. (Note: The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area).

- (6) The county shall consider the cumulative impact of possible new nonfarm and lot-of-record dwellings together with existing nonfarm dwellings on other lots or parcels in the area when determining whether the proposed nonfarm dwelling will alter the stability of the land use pattern in the area.
- (7) The dwelling complies with other applicable conditions.

Note: The parcel qualifying for a dwelling under this section shall be disqualified for Farm Use Assessment pursuant to ORS 215.236.

- (F) Nonfarm Dwelling on a Nonfarm Parcel - Not High-Value Farmland [OAR 660-033-0130(4)(b)]. A nonfarm dwelling may be authorized on a nonfarm parcel created under Section 136.070(C), subject to the following criteria:

- (1) The dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use;
- (2) The dwelling will not significantly increase the cost of farm or forest practices on surrounding lands devoted to farm and forest use;
- (3) The applicant shall demonstrate that the proposed nonfarm dwelling will not materially alter the stability of the overall land use pattern of the area. To address this standard, the applicant shall prepare a cumulative impact study that:
 - (a) Includes at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall described the study area its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcels and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall be identified, but not included in the study area;
 - (b) The cumulative impacts study shall identify the broad types of farm uses (irrigated or nonirrigated corps, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc), and the dwelling development trends since 1993. Determine the potential number of nonfarm / lot-of-record dwellings that could be approved under Sections 136.040(B) and (G) and 136.050(E). The study shall identify the predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under Section 136.050(F) and Section 136.070(C). Findings shall describe the existing land use pattern of the study area including the distribution and

arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph;

- (c) Describes whether the proposed dwelling in conjunction with the dwellings identified in (b) above will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area. Determine whether approval of the proposed nonfarm dwelling together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. (Note: The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area).
- (4) The county shall consider the cumulative impact of possible new nonfarm and lot-of-record dwellings together with existing nonfarm dwellings on other lots or parcels in the area when determining whether the proposed nonfarm dwelling will alter the stability of the land use pattern in the area.
- (5) The dwelling complies with other applicable conditions.

Note: The parcel qualifying for a dwelling under this section shall be disqualified for Farm Use Assessment pursuant to ORS 215.236.

OTHER RESIDENTIAL USES

- (G) Residential Home [ORS 215.283(2)(o)], as defined in ORS 197.660, in existing dwellings subject to compliance with Section 136.060.
- (H) Room and Board Arrangements [ORS 215.283(2)(u)], for a maximum of five unrelated persons in existing residences subject to compliance with Section 136.060.

COMMERCIAL ACTIVITIES

- (I) Commercial Activity In Conjunction with Farm Use [ORS 215.283(2)(a)], including the processing of farm crops into biofuel not permitted under the definition of “farm use” in ORS 215.203(2)(b)(L) or Section 136.040(Q) and activities related to the processing, distribution and marketing of farm products, a portion of which are produced by the subject farming operation, but not including the processing of farm crops as described in Section 136.040(Q), subject to compliance with Section 136.060. [Amended by Ordinance 11-03]
- (J) Home Occupations [OAR 660-033-0130(14)], subject to the general review standards under Section 136.060 and the following standards and conditions from ORS 215.448:
 - (1) The home occupation is operated by a resident of the property on which the business is located;
 - (2) No more than five full or part-time persons are employed by the business;
 - (3) The business is conducted within the dwelling or other building(s) normally associated with uses permitted within this zone; and

- (4) The business will not interfere with existing uses on nearby land or with other permitted uses.
- (K) Dog kennels [ORS 215.283(2)(n)], as defined by Section 110.301, may be authorized on land not classified as high-value farmland, subject to compliance with Section 136.060. (Note: Existing facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract subject to other requirements of law.)
- (L) On-site Filming and Activities Accessory to On-site Filming, for more than 45 days as provided for in ORS 215.306, subject to compliance with Section 136.060.
- (M) Destination Resort [ORS 215.283(2)(t)], subject to compliance with the requirements of Oregon Statewide Planning Goal 8 and Section 136.060. (Note: destination resorts are not authorized on lands classified as high-value.)
- (N) Landscape Contracting Business [OAR 660-033-0120, Table 1], as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, may be authorized if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use, subject to compliance with Section 136.060. [Amended by Ordinance 11-03]

MINERAL AND AGGREGATE OPERATIONS

- (O) The following operations are permitted subject to compliance with ORS 215.298, which describes mining activities in exclusive farm use zones, and with Section 136.060:
 - (1) Mining and processing of geothermal resources as defined by ORS 522.005, and oil and gas as defined by ORS 520.005, not otherwise permitted under the Polk County Zoning Ordinance; [ORS 215.283(2)(b)(A)]
 - (2) Mining of aggregate and other mineral and subsurface resources which are included in the County inventory of mineral and aggregate resources when the quantity of material proposed to be mined from the site is estimated to be 2,000,000 tons of aggregate material or more, subject to Chapters 115 and 174; [ORS 215.283(2)(b)(B)]
 - (3) Mining of aggregate and other mineral and subsurface resources which are included in the County inventory of mineral and aggregate resources when the quantity of material proposed to be mined from the site is estimated to be 2,000,000 tons of aggregate material or less, subject to Chapter 115 and the following:
 - (a) Not more than 35 percent of the proposed mining area consists of soil:
 - (i) Classified as Class I on Natural Resource and Conservation Service (NRCS) maps available on June 11, 2004; or
 - (ii) Classified as Class II or of a combination of Class II and Class I or Unique soil, on NRCS maps on June 11, 2004, unless average thickness of the aggregate layer within the mining area exceeds 25 feet in depth; or
 - (b) A local land use permit that allows mining on the site was issued prior to April 3, 2003, and the permit is in effect at the time of the significance determination; and
 - (c) The applicant shall propose and Polk County shall determine the post-mining use and provide this use in the Comprehensive Plan and land use regulations.

- (i) For significant aggregate sites on NRCS Class I, II and Unique farmland, post-mining use shall be limited to farm uses permitted in Sections 136.030 and 136.040 (H)-(J), (O)-(X), and fish and wildlife habitat uses, including wetland mitigation banking. Post-mining uses shall be coordinated with the Oregon Department of Geology and Mineral Industries (DOGAMI) regarding the regulation and reclamation of mineral and aggregate sites. [OAR 660-023-0180(4) and (6)]
- (4) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement more than two miles from a planted vineyard, at least 40 acres in size, planted as of the date the application for batching and blending is filed; and [ORS 215.283(2)(b)(C)]
- (5) Processing of other mineral resources and other subsurface resources. [ORS 215.283(2)(b)(D)]

TRANSPORTATION

- (P) Personal Use Airports and Helipads [OAR 660-033-0130(7)], including associated hangar, maintenance and service facilities, subject to compliance with Section 136.060. A personal-use airport, as used in this section, 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. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.
- (Q) Construction of Additional Passing and Travel Lanes [ORS 215.283(2)(q)], requiring the acquisition of right-of-way, but not resulting in the creation of new parcels, subject to compliance with Section 136.060.
- (R) Reconstruction or Modification of Public Roads [ORS 215.283(2)(r)], involving the removal or displacement of buildings, but not resulting in the creation of new parcels, subject to compliance with Section 136.060.
- (S) Improvements to Existing Public Road and Highway Related Facilities [ORS 215.283(2)(s)], such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required but not resulting in the creation of new parcels, subject to compliance with Section 136.060.
- (T) Transportation Facilities [ORS 215.283(3)(b) and OAR 660-012-0065(3)]. The following transportation facilities may be established, subject to compliance with Section 136.060:
 - (1) Accessory transportation improvements for an authorized land use to provide safe and efficient access to the use. Such accessory transportation improvements are subject to the same requirements applicable to the land use to which they are accessory;
 - (2) Channelization;
 - (3) Realignment of roads;
 - (4) Replacement of an intersection with an interchange;
 - (5) Continuous median turn lane;

- (6) New access roads or collectors consistent with OAR 660-012-0065(3)(g) (i.e., 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 provide adequate emergency access.
- (7) Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road;
- (8) Park and ride lots;
- (9) Railroad mainlines and branchlines;
- (10) Pipelines;
- (11) Navigation channels;
- (12) Replacement of docks and other facilities without significantly increasing the capacity of those facilities;
- (13) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes; and
- (14) Transportation facilities, services and improvements other than those listed in this section 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 acknowledged comprehensive plan or to provide adequate emergency access.

[Amended by Ordinance 01-10]

UTILITIES AND SOLID WASTE DISPOSAL FACILITIES

- (U) Communication and Broadcast Towers over 200 feet in Height [ORS 215.283(2)(m)], subject to compliance with Section 136.060, Section 112.135, and the following criteria:
 - (1) The location, size, design and functional characteristics of the tower are reasonably compatible with and have a minimum impact on the livability and development of other properties in the area;
 - (2) The tower shall be located so as to not interfere with air traffic; and
 - (3) The tower will not have a significant adverse effect on identified sensitive fish or wildlife habitat, natural areas, or scenic areas designated on the comprehensive plan;
- (V) Solid Waste Disposal Site under ORS 459.245 [ORS 215.283(2)(k)], subject to compliance with Section 136.060. New solid waste disposal sites are not authorized on lands classified as high-value.
- (W) Composting Facilities on Not High-Value Farmland [OAR 660-033-0130(29)(b)], subject to compliance with Section 136.060. Composting operations and facilities allowed on land not defined as high-value farmland shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle. [Amended by Ordinance 11-03]
- (X) Commercial Power Generating Facilities [OAR 660-033-0130(17) and (22)], not including commercial wind power generation facilities listed in Section 136.050(Y), subject to compliance with Section 136.060. On high-value farmland, an exception to the statewide Agricultural Lands Planning Goal is required where the permanent

features of the power generating facility removes more than 12 acres from commercial agricultural production. On farmland not classified as high-value, an exception to the statewide Agricultural Lands Planning Goal is required where the permanent features of the power generating facility removes more than 20 acres from commercial agricultural production. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be requested through a subsequent conditional use application. Such a request shall have no effect on the original approval. [Amended by Ordinance 11-03]

- (Y) Commercial Wind Power Generation Facilities [OAR 660-033-0130(37)], wind power generation facilities that are commercial utility facilities for the purpose of generating power for public use by sale as described in OAR 660-033-0130(37), subject to compliance with Section 136.060. [Amended by Ordinance 11-03]
- (Z) Wind energy systems utilizing a tower and meteorological towers within an adopted urban growth boundary up to 100 feet in height that are not commercial power generating facilities, as provided in Sections 112.135 and 112.137. [Amended by Ordinance 09-06]

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

- (AA) Parks, Public or Nonprofit, including Playgrounds [OAR 660-033-0130(31)], with public parks to include only the uses specified under OAR 660-034-0035, or OAR 660-034-0040 which ever is applicable, subject to compliance with Sections 136.060 and 136.065. A public park may be established consistent with the provisions of ORS 195.120.
- (BB) Private Parks, Playgrounds, Hunting and Fishing Preserves and Campgrounds [OAR 660-033-0130(19)], subject to compliance with Section 136.060. New facilities are not allowed on lands classified as high-value. New facilities on not high-value farmland within three miles of an urban growth boundary shall be subject to the standards listed in Sections 136.065(A) and (B). Existing facilities on all farmlands may be maintained, enhanced, or expanded subject to Section 136.065. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three (3) miles of an urban growth boundary unless an exception to Statewide Planning Goal 3, pursuant to ORS 197.732 and OAR Chapter 660, Division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site that is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A camping site may be occupied by a tent, travel trailer or recreation vehicle. Separate sewer, water, or electric hook-ups shall not be provided to individual camp sites. Campgrounds authorized under this provision shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six (6) month period. A private campground may provide yurts for overnight camping, however, no more than one-third or a maximum of ten (10) campsites, whichever is smaller, may include a yurt. [Amended by Ordinance 11-03]

As used in this paragraph:

- (1) “yurt” means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.
- (CC) Expansion of Existing County Fairgrounds [ORS 215.283(2)(w)], and activities directly related to county fairgrounds governed by county fair boards established pursuant to ORS 565.210, subject to compliance with Section 136.060.
- (DD) Golf Courses and accessory uses [OAR 660-033-0130(20)]. A new golf course and accessory uses may be approved on a tract of land determined not to be high-value farmland, as defined in ORS 195.300, consistent with Section 136.060. An existing golf course on all farmlands may be maintained, enhanced, or expanded, up to 36 holes on the same tract, consistent with Section 136.060 and OAR 660-033-0130(18). In addition, new golf courses or the expansion of existing golf courses within three miles of an urban growth boundary shall be subject to the standards listed in Section 136.065.

As used in this paragraph:

- (1) “Golf Course” means an area of land with highly maintained natural turf laid out for the game of golf with a series of 9 or 18 regulation golf course holes, or a combination 9 and 18 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 is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes.
 - (b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes.
 - (c) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course and conforms to the following:
 - (i) An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course include parking, maintenance buildings, cart storage and repair, practice range or driving range, clubhouse, restrooms, lockers and showers, food and beverage service, pro-shop, a practice or beginners course as part of an 18 hole or larger golf course, or golf tournament.
 - (ii) Accessory uses to a golf course do not include sporting facilities unrelated to golf such as tennis courts, swimming pools, or weight rooms, wholesale or retail operations oriented to the non-golfing public, or housing.
 - (iii) A use is accessory to a golf course only when limited in size and orientation to serve the needs of persons and their guests who patronize the golf course to golf.
 - (iv) Commercial activities such as a pro shop are accessory to a golf course when located in the clubhouse.
 - (v) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Accessory food and beverage service facilities shall not be designated for or include structures

for banquets, public gatherings or public entertainment. [Amended by Ordinances 10-10 and 11-03]

- (EE) Community Centers [ORS 215.283(2)(e)], owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community, subject to compliance with Sections 136.060 and 136.065. A community center authorized under this section may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services. [Amended by Ordinance 11-03]
- (FF) Living History Museum [OAR 660-033-0130(21)], related to resource based activities owned and operated by a governmental agency or a local historical society, subject to compliance with Sections 136.060 and 136.065. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located with authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. [Amended by Ordinance 11-03]

As used in this paragraph:

- (1) "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.
 - (2) "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65.
- (GG) Schools [ORS 215.283(2)(aa)]. New schools and the expansion of existing schools are subject to Section 136.060 and the following standards:
- (1) New public or private schools, including all buildings essential to the operation of a school, shall be for kindergarten through grade 12 and primarily for residents of the rural area in which the school is located. New schools under this section are not authorized on high-value farm land. New schools that are located within three miles of an urban growth boundary shall comply with the standards listed in Section 136.065(A) and (B).
 - (2) Existing schools that were lawfully established prior to January 1, 2009, do not comply with the standards listed in subsection (1) of this section, and that were formerly allowed pursuant to ORS 215.213(1)(a) or ORS 215.283(1)(a) as in effect before January 1, 2010, are non-conforming uses and subject to the standards of Chapter 114. Such schools may be expanded under the standards listed in Chapter 114 and OAR 660-033-0130(18)(b) and (c). Enclosed existing structures within three miles of an urban growth boundary may not be expanded beyond the requirements listed in Section 136.065(A) and (B).
 - (3) Existing schools, not including those listed in subsection (2) of this section, may be expanded on the same tract, subject to other requirements of law. Enclosed existing structures within three miles of an urban growth boundary may not be expanded beyond the requirements listed in Section 136.065(A) and (B). [Amended by Ordinances 10-10 and 11-03]

136.060. GENERAL REVIEW STANDARDS [OAR 660-033-0130(5)]. To ensure compatibility with farming and forestry activities, the Planning Director or hearings body shall determine that the proposed use meets the following requirements:

- (A) The proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (B) The proposed use will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

136.065. EXPANSION AND UGB PROXIMITY STANDARDS [OAR 660-033-0130(2)].

- (A) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.
- (B) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.
- (C) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule. [Amended by Ordinance 11-03]

136.070. LAND PARTITION STANDARDS [ORS 215.780 (C)]. No land(s) located within the Exclusive Farm Use Zoning District shall be partitioned without the expressed approval of Polk County under the provisions of Chapter 136 and the Polk County Subdivision and Partition Ordinance. A plat shall be prepared by a registered surveyor to document the land partition. Upon final approval of the plat, the survey shall be recorded by the Polk County Clerk. Parcels resulting from a foreclosure action are exempted from the partitioning process under ORS 92.010(7)(a). A deed or instrument conveying land in lieu of foreclosure shall not constitute a foreclosure action.

In the Exclusive Farm Use Zoning District, the following standards shall apply:

- (A) Except as provided in Sections 136.070(B), (C), (D), (E) and (F), the minimum parcel size is 80 acres.
- (B) Nonfarm, Nonresidential Parcels [OAR 660-033-0100(10)]. A parcel which is less than 80 acres may be created for nonfarm, nonresidential uses authorized by this Ordinance, subject to compliance with the procedural and technical requirements of ORS Chapter 92, the Polk County Subdivision and Partitioning Ordinance and the following criteria:
 - (1) A preliminary site plan shall be submitted that depicts the proposed lot boundaries and the location of all existing and proposed buildings, structures and related facilities, to include the on-site septic system and repair areas, water facilities, utility easements, vehicular access, circulation, parking and loading areas;
 - (2) The proposed parcel shall be sized to meet, but shall not exceed, the requirements of the nonfarm use and development as depicted on the preliminary site plan;

- (3) Each parcel shall be provided legal access to a public road by frontage or easement;
 - (4) Prior to filing the partition plat, each parcel shall be evaluated for on-site septic use, or a waiver submitted from a party that has agreed to purchase the parcel, subject to approval of the land partition (Note: The owner may also waive the evaluation, subject to the filing of a restriction on the deed which precludes the placement of a dwelling on the parcel);
 - (5) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
- (C) Parcel for a Nonfarm Single-Family Residence - Not High-Value [OAR 660-033-0100(11)]. A parcel for nonfarm residential use may be created, subject to compliance with the requirements of the Polk County Subdivision and Partitioning Ordinance and the following criteria:
- (1) The proposed nonfarm parcel is intended for the siting of a nonfarm dwelling authorized by this Ordinance;
 - (2) The originating parcel is equal to or larger than the applicable minimum parcel size and the proposed parcel is not less than 20 acres in size;
 - (3) The parent parcel is not stocked to the requirements of ORS 527.610 to 527.770;
 - (4) The parent parcel is composed of at least 95 percent NRCS Class VI through VIII soils;
 - (5) The parcel is composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber; and
 - (6) The proposed nonfarm parcel is disqualified from special farm use tax assessment, as required under ORS 215.236.
 - (7) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
 - (8) A subdivision or series partition, to create non-farm, residential parcels is prohibited. "Series partition" is defined as a series of partitions of land which results in the creation of four or more parcels over a period of more than one calendar year.
- (D) Nonfarm Parcel for Public Parks or Open Space [ORS 215.263(10)]. A parcel for public parks or open space may be created when the land partition is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels subject to the following criteria:
- (1) A parcel created by the land partition that contains a dwelling is large enough to support continued residential use of the parcel.
 - (2) A parcel created pursuant to this subsection that does not contain a dwelling:
 - (a) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - (b) May not be considered in approving or denying an application for siting any other dwelling;

- (c) May not be considered in approving a redesignation or rezoning of forestlands or farmlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
- (3) A parcel created pursuant to this subsection may not be smaller than 25 acres unless the purpose of the land partition is:
 - (a) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or
 - (b) To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.
- (4) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
- (E) Nonfarm Parcel for Historic Property [ORS 215.263(9)(b)]. A parcel for historic property may be created if the historic property would contain a dwelling listed on the Polk County Historic Inventory and on the National Register of Historic Places.
 - (1) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
- (F) Nonfarm Parcel for a Residential Home [ORS 215.263(9)(a)]. A parcel for a residential home as defined in ORS 197.660(2) may be created for a residential home approved under Section 136.050(G) if the dwelling has been approved under Sections 136.050(E) or 136.050(F).
 - (1) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
- (G) Nonfarm Parcel for a Church [ORS 215.263(11)]. A parcel may be created to establish a church including cemeteries in conjunction with the church if they meet the following requirements:
 - (1) The church has been approved under Section 136.040(W);
 - (2) The newly created parcel is not larger than five acres; and
 - (3) The remaining parcel, not including the church, meets the minimum parcel size described in Section 136.070(A) either by itself or after it is consolidated with another parcel or lot.
 - (4) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel. (Note: One year extensions may be requested prior to expiration of the approval.)

136.100. NONCONFORMING USES. The lawful use of any building, structure or land at the time of the enactment of this ordinance may be continued. Alteration of any such use shall be permitted when necessary to comply with local, state or federal regulations pertaining to the use and development of land and the buildings and structures thereon. A nonconforming use is transferable, however, any significant change in, or replacement of, the nonconforming use may require permits under current building and land development codes. Restoration or replacement shall be commenced within one year from the occurrence of any fire, casualty, or natural disaster.

136.120. NON-REMONSTRANCE DEED RESTRICTION. Pursuant to OAR 660-033-0130(30), for any dwelling or residential facility approved under sections 136.040 and 136.050, the landowner for the dwelling shall be required to sign and record a deed restriction binding the landowner and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 to 30.937.

136.140. PROHIBITED USES. It is unlawful to erect, alter or establish in the Exclusive Farm Use Zoning District any building, structure or use not authorized and approved under the standards and procedures in this Ordinance.

136.150. DEVELOPMENT STANDARDS. All uses that occur in this zone are subject to development standards adopted by Polk County.

136.160. PERIOD OF VALIDITY FOR ADMINISTRATIVE REVIEW USES [OAR 660-033-0140(1) through (4)].

- (A) A land use application authorizing a use pursuant to the provisions of Polk County Zoning Ordinance Section 136.040 shall be valid two (2) years from the effective date of the land use decision, except as provided in Section 136.170. An extension shall extend the validity period for one (1) additional year, if:
 - (1) The applicant makes a written request for an extension of the development approval validity period;
 - (2) The written request is submitted to the Polk County Planning Division, on the form provided by the Planning Division, prior to the expiration of the approval period;
 - (3) The applicant states the reasons that prevented the applicant from beginning or continuing development with the approval period;
 - (4) The applicant states the reasons that prevented the applicant from beginning or continuing development during the approval period for reasons for which the applicant was not responsible.
- (B) The Planning Director may authorize additional one-year extensions where the applicable criteria for the decision have not changed. Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

136.170. PERIOD OF VALIDITY FOR NON-FARM, LOT-OF-RECORD, AND REPLACEMENT DWELLING USES [OAR 660-033-0140(5)].

- (A) A land use application authorizing a dwelling pursuant to the provisions of Polk County Zoning Ordinance Sections 136.040(B), (C), (G), (I) and 136.050(E) and (F) shall be valid for four (4) years from the effective date of the land use decision.
- (B) A one time two (2) year extension of the validity period shall be granted upon submission of a written request for an extension prior to the expiration of the approval period. Authorization of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

CHAPTER 138

FARM/FOREST (FF) ZONING DISTRICT

138.010	Purpose
138.015	Definitions
138.020	Farm/Forest Overlay Zone
138.030	Authorized Uses and Development
138.040	Uses Permitted by Right
138.050	Uses Subject to Administrative Review
138.060	Conditional Uses
138.070	Predominant Use Test
138.080	Uses Subject to Administrative Review – Based on Predominate Use
138.090	Conditional Uses – Based on Predominate Use
138.100	General Review Standards
138.105	Expansion and UGB Proximity Standards
138.110	General Siting Standards for Dwellings and Structures
138.120	Fire Siting Standards for Dwellings and Structures
138.130	Land Division Requirements
138.140	Non-Remonstrance Deed Restriction
138.150	Nonconforming Uses
138.160	Prohibited Uses
138.170	Development Standards
138.180	Period of Validity for Administrative Review Uses
138.190	Period of Validity for Specific Residential Uses

138.010 PURPOSE The Farm/Forest (F/F) Zone is designed to provide for the full range of agricultural and forest uses for such lands, while providing for the maximum property tax benefits available (e.g. farm use assessment, timber tax treatment, open space deferral, wildlife habitat, etc.) and conformity with the Farm/Forest objectives and policies of the Polk County Comprehensive Plan.

Upon periodic revision of the Polk County Comprehensive Plan, the lands within the F/F designation shall be reviewed by the County Commissioners as to their continued appropriateness in such a designation or, alternatively rezoning to a more appropriate category.

As with other natural resource zones, there are isolated lands within the F/F Zone which have no actual or potential use for agricultural or forest purposes. In those cases, other non-natural resource uses may be permitted only as provided in this Chapter and in the Polk County Comprehensive Plan. Such uses must not be adverse to accepted agricultural or forest practices. Further, consistent with the diverse character of this zone and recognizing that the actual and potential land use conditions vary from intensive to extensive cultivation and use, the Board of County Commissioners has adopted this zone to deal with myriad potential uses, while recognizing the primary orientation of this zone towards farm and forest uses.

138.015 DEFINITIONS

For the purposes of this Chapter, the following definitions shall apply:

- (A) Auxiliary: As used in Section 138.040, "auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- (B) Definitions contained in ORS 197.015 and the Statewide Planning Goals.
- (C) Cubic Foot Per Acre Per Year [OAR 660-006-0005(3)] means the average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey. [Amended by Ordinance 11-03]
- (D) Cubic Foot Per Tract Per Year [OAR 660-006-0005(4)] means the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey. [Amended by Ordinance 11-03]
- (E) Date of Creation and Existence: When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.
- (F) Forest Operation means any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620(6).
- (G) Relative means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin as defined in ORS 215.283(1)(e)(A).
- (H) Tract means one or more contiguous lots or parcels in the same ownership.

138.020 FARM/FOREST OVERLAY ZONE The uses allowed for a tract subject to the Farm/Forest Overlay Zone shall be the same uses as those permitted in the Farm/Forest Zoning District. Land division standards for a tract subject to the Farm/Forest Overlay Zone are those described in Section 138.130 of the Polk County Zoning Ordinance.

138.030 AUTHORIZED USES AND DEVELOPMENT The following uses, activities and development are authorized in the Farm/Forest Zoning District, subject to review and approval under applicable regulatory standards:

KEY

HV	High-Value Farm Land, defined by OAR 660-033-0020(8)
Other	Other lands, not defined as High-Value
P	Permitted outright
AR	Subject to administrative review and approval
CUP	Subject to review and approval as a conditional use
NP	Use not permitted
NA	Not applicable
**	Use requires a determination of soil classes

RESOURCE USES	AUTHORIZATION	PCZO
Farm Use as defined in ORS 215.203	P	040(A)
Use and Management of Forest Lands	P	040(B)
Farm and Forest Accessory Structures	P	040(C)
Temporary Portable Facilities for Primary Processing of Forest Products	P	040(D)
Temporary on-site structures auxiliary to a particular forest operation; including forest labor camps – no permanent structures.	P	040(E)
Fire Service facilities providing rural fire protection services including Fire Towers and Fire Stations	P	040(F)
Creation, Restoration, and Enhancement of wetlands, fisheries and wildlife habitat	P	040(G)
Soil, Air and Water Conservation Activities	P	040(H)
Irrigation canals, delivery lines and those structures and accessory operation facilities associated with a district as defined in ORS 540.505	P	040(I)
Physical Alterations to the Land Auxiliary to Forest Practices	P	040(J)
Wildlife Habitat Conservation and Management Plan	P	040(K)
Processing Facility for Farm Crops	AR	050(A)
Permanent Facility for Primary Processing of Forest Products	CUP	060(A)
Permanent Logging Equipment Repair and Storage Facility	CUP	060(B)

Exhibit C to Ordinance No. 11-03

Log Scaling and Weigh Stations	CUP	060(C)
Forest Management Research and Experimentation Facilities	CUP	060(D)
Aquaculture	CUP	060(E)
Insect Breeding	CUP	060(F)
Operations for the Extraction and Bottling of Water	CUP	060(G)

COMMERCIAL	AUTHORIZATION	PCZO
On-site Filming and Accessory Activities for 45-days or less (ORS 215.306).	P	040(L)
Winery, as described in ORS 215.452	AR	050(B)
Farm Stand	AR	050(C)
Commercial Activity In Conjunction with Farm Use	CUP	060(H)
Home Occupations	CUP	060(I)
On-site Filming and Accessory Activities for more than 45-days (ORS 215.306).	CUP	060(J)
Dog Kennels**	CUP	060(K)
Landscape Contracting Business	CUP	060(L)

MINERAL AND AGGREGATE OPERATIONS	AUTHORIZATION	PCZO
Exploration and Production of Geothermal, gas, oil, and other associated hydrocarbons, (ORS 517.750)	P	040(M)
Exploration for Mineral and Aggregate as defined by ORS 517.750	P	040(N)
Mining and Processing of Geothermal, (ORS 522.005) Oil and Gas (ORS 520.005) including Mineral and Aggregate Materials, Processing of Aggregate into Asphalt or Portland Cement (ORS 517.750) and Processing of Other Mineral Resources	CUP	060(M)

TRANSPORTATION	AUTHORIZATION	PCZO
Reconstruction or Modification of Public Roads, not including addition of travel lanes, removal of buildings or creation of new parcels.	P	040(O)
Climbing and Passing Lanes within Right-of Way existing on July 1, 1987.	P	040(P)
Temporary Public Road Detours	P	040(Q)
Minor Betterment to Existing Road and Highway Related Facilities,	P	040(R)

Exhibit C to Ordinance No. 11-03

including climbing and passing lanes within right-of-way existing on July 1, 1987.		
Widening of Roads within existing right-of-way	P	040(S)
Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	CUP	060(N)
Expansion of Existing Airport.	CUP	060(O)
Construction of Additional Passing and Travel lanes requiring acquisition of right-of-way, but not resulting in the creation of new parcels.	CUP	060(P)
Personal Use Airports and Helipads	CUP	060(Q)
Reconstruction or Modification of Public Roads, involving the removal of buildings, but not the creation of new parcels.	CUP	060(R)
Improvements to Existing Road and Highway Related Facilities where additional property right-of-way is required.	CUP	060(S)
Transportation Facilities: Roads and Highways; including aids to Navigation and Aviation	CUP	060(T)

UTILITIES AND SOLID WASTE DISPOSAL FACILITIES	AUTHORIZATION	PCZO
Utility Facility Service Lines	P	040(T)
Non-Commercial Wind Energy Systems, Meteorological Towers and Photovoltaic Systems	P	040(U)
Utility Facilities Necessary for Public Service, excepting commercial power generating facilities, transmission towers over 200 feet in height, and a communications tower over 200 feet in height	AR	050(D)
Non-Commercial Wind Energy Systems and Meteorological Towers that Require a Height or Type of Construction Modification	AR	050(E)
Solid Waste Disposal Site under ORS 459.245	CUP	060(U)
Composting Facilities**	CUP	050(F) 060(V)
Communication and Broadcast Towers over 200 feet in height	CUP	060(W)
Commercial Power Generating Facilities	CUP	060(X)
Commercial Wind Power Generating Facilities	CUP	060(Y)
New Electric Transmission Lines with right of way widths of up to 100 feet as specified in ORS 772.210 and Distribution Lines with right-of-way widths of up to 50 feet.	CUP	060(Z)
Drinking Water Facilities (Intake, Treatment, pumping stations, etc.)	CUP	060(AA)
Reservoirs and Water Impoundments	CUP	060(BB)

Exhibit C to Ordinance No. 11-03

Non-Commercial Wind Energy Systems and Meteorological Towers in a UGB	CUP	060(CC)
---	-----	---------

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES	AUTHORIZATION	PCZO
Uninhabitable Structures Accessory to Fish and Wildlife Enhancement	P	040(V)
Private Fee Hunting Operations without any accommodations.	P	040(W)
Caretaker Residence for Parks and Hatcheries	P	040(X)
Firearms Training Facility (ORS 197.770)	P	040(Y)
Model Aircraft Takeoff and Landing Sites	AR	050(G)
Churches and Associated Cemeteries**	AR	050(H)
Destination Resorts pursuant to ORS 197.435 to 197.465 and Statewide Planning Goal 8**	AR	050(H)
Parks, Private, including Playgrounds, Hunting/Fishing Preserves and Campgrounds**	CUP	060(DD)
Parks, Public or Nonprofit, including Playgrounds or Community Centers**	CUP	060(EE)
Private Seasonal Accommodations for Fee Hunting Operations	CUP	060(FF)
Private Seasonal Accommodations for Fee Fishing Operations	CUP	060(GG)
Expansion of an Existing County Fairgrounds	CUP	060(HH)
Golf Courses and accessory uses**	CUP	060(II)
Cemeteries	CUP	060(JJ)
Community Centers	CUP	060(KK)
Living History Museum	CUP	060(LL)
Schools, Public or Private (K-12) that serve the residents of the rural area**	CUP	060(MM)

RESIDENTIAL USES	AUTHORIZATION	PCZO
Replacement Dwelling	AR	050(J)
Replacement of Historic Dwelling	AR	050(K)
Temporary Hardship Dwelling	AR	050(L)
Residential Home (ORS 197.660)	CUP	060(NN)
Room and Board Arrangements	CUP	060(OO)

USES ON TRACTS PREDOMINATELY USED FOR FARM USE AS DEFINED IN 138.070	AUTHORIZATION	PCZO
Farm Dwelling	AR	080(A)(1-5)
Lot of Record Dwelling – Not High Value	AR	080(A)(6)
Lot of Record Dwelling – High Value	AR	080(A)(7)
Family Farm Help Dwelling	AR	080(A)(8)
Accessory Farm Dwelling	AR	080(A)(9)
Dwelling in Conjunction with a Commercial Dairy	AR	080(A)(10)
Relocated Farm Operation Dwelling	AR	080(A)(11)
Nonfarm Dwelling	CUP	090(A)(1)
Nonfarm Dwelling on Nonfarm Parcel	CUP	090(A)(2)

USES ON TRACTS PREDOMINATELY USED FOR FORESTRY AS DEFINED IN 138.070	AUTHORIZATION	PCZO
Small Tract, Forest Land “Lot of Record” Dwelling	AR	080(B)(1)
Large Tract Forest Land Dwelling	AR	080(B)(2)
“Template” Forest Land Dwelling	AR	080(B)(3-4)
Youth Camp	CUP	090(B)(1)

** Use requires a determination of soil classes

138.040 USES PERMITTED BY RIGHT The following uses are permitted, subject to applicable standards set forth in the Polk County Zoning Ordinance and as may otherwise be indicated by federal, state and local permits or regulations:

RESOURCE USES

- (A) Farm Use, as defined in ORS 215.203.
- (B) Use and Management of Forest Lands.
- (C) Farm and Forest Accessory Structures related to the use and management of farm and forest lands.
- (D) Temporary Portable Facilities for Primary Processing of Forest Products.
- (E) Temporary On-Site Structures, auxiliary to a particular forest operation; including forest labor camps, without any permanent structures and limited to the duration of the forest operation requiring the use.
- (F) Fire Service Facilities Providing Rural Fire Protection Services including fire towers and fire stations.

- (G) Wetland Creation, Restoration and Enhancement.
- (H) Soil, Air and Water Conservation Activities.
- (I) Irrigation Canals, delivery lines and those structures and accessory operation facilities associated with a district as defined in ORS 540.505.
- (J) Physical Alterations to the Land Auxiliary to Forest Practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.
- (K) Wildlife Habitat Conservation and Management Plan pursuant to ORS 215.800 to 215.808.

COMMERCIAL

- (L) On-Site Filming and Accessory Activities for 45 days or less pursuant to ORS 215.306.

MINERAL AND AGGREGATE OPERATIONS

- (M) Exploration and Production of Geothermal, Gas, Oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head as defined in ORS Chapters 517 and 520.
- (N) Exploration for Mineral and Aggregate Resources as defined by ORS Chapter 517.570.

TRANSPORTATION

- (O) Reconstruction or Modification of Public Roads and Highways, not including the addition of travel lanes, removal or displacement of buildings or creation of new parcels.
- (P) Climbing and Passing Lanes within the Right-Of-Way existing as of July 1, 1987.
- (Q) Temporary Public Road or Highway Detours that will be abandoned and restored to original condition or use at such time as no longer needed.
- (R) Minor Betterment of Existing Public Road and Highway Related Facilities such as maintenance yards, weigh stations, and rest areas, within right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
- (S) Widening of Roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans including public road and highway projects as described in ORS 215.213(1)(m) through (p) and ORS 215.283(1)(k) through (n).

UTILITIES AND SOLID WASTE DISPOSAL FACILITIES

- (T) Utility Facility Service Lines [OAR 660-033-0130(32)], and facilities or structures that end at a point where the utility service is received by the customer and that are located on one or more of the following:
 - (1) A public right of way; or

- (2) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
 - (3) The property to be served by the utility.
- (U) Wind Energy Systems, Meteorological Towers, and Photovoltaic Systems That are not Commercial Power Generating Facilities, but not including wind energy systems utilizing a tower and meteorological towers that require tower lighting, are located in an adopted urban growth boundary, or that would require modification to the height or type of construction standards described in Section 112.135(C)(1). Wind energy systems utilizing towers and meteorological towers are subject to standards listed in Sections 112.135 and 112.137. Roof-mounted, building-integrated, building-mounted and architectural wind energy systems that extend no more than an additional 5 feet above the highest ridge of the building's roof or 15 feet above the highest eave, whichever is higher, and do not exceed the height limitation of the zone, are subject to the standards listed in Section 112.137. Photovoltaic systems are subject to the standards described in Section 112.138. [Amended by Ordinance 09-06]

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

- (V) Uninhabitable Structures Accessory to Fish and Wildlife Enhancement.
- (W) Private Fee Hunting Operations without any accommodations.
- (X) Caretaker Residence for a Public Park or Public Fish Hatchery.
- (Y) Firearms Training Facility pursuant to ORS 197.770.

138.050 USES SUBJECT TO ADMINISTRATIVE REVIEW The following uses are permitted, subject to review and approval under the prescriptive standards specified herein, the general siting standards for dwellings and structures under Section 138.110, the fire siting standards for dwellings and structures under 138.120, and as may otherwise be indicated by federal, state and local permits or regulations. [Amended by Ordinance 11-03]

RESOURCE USES

- (A) Processing Facility for Farm Crops [(OAR 660-033-0130(28))], or the production of bio-fuel as defined in ORS 315.141, located on a farm operation that provides at least one-fourth of all the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with all applicable siting standards, but the standards shall not be applied in a manner that prohibits the siting of the processing facility. Note: A land division that separates the processing facility from the farm operation is not allowed.

COMMERCIAL

- (B) Winery [OAR 660-033-0120]. A winery, as described in Section 110.595, may be permitted subject to findings that:
 - (1) The related vineyards, as described in Section 110.595, have been planted or that the contract has been executed, as applicable;
 - (2) The winery use will not result in substantial conflicts with farm or forest practices on adjacent lands; and

- (3) The winery use complies with Comprehensive Plan Goal and Policies and other applicable criteria in the Polk County Zoning Ordinance.
 - (4) Pursuant to ORS 215.452, standards imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming and forest practices on adjacent lands:
 - (a) Establishment of a setback, not to exceed 100 feet, from all property lines for the winery and all public gathering places; and
 - (b) Provision of direct local road access, internal circulation, and parking.
- (C) Farm Stand [OAR 660-033-0130(23)]. A farm stand may be approved if:
- (1) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in Oregon, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand, if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and [Amended by Ordinance 11-03]
 - (2) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.
 - (3) As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in Oregon. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items. [Amended by Ordinance 11-03]

UTILITIES AND SOLID WASTE DISPOSAL FACILITIES

- (D) Utility Facilities Necessary for Public Service [OAR 660-033-0130(16)], including wetland waste treatment systems, except commercial facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height.
- (1) A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an Exclusive Farm Use zone due to one or more of the following factors:
 - (a) Technical and engineering feasibility;
 - (b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 - (c) Lack of available urban and non-resource lands;
 - (d) Availability of existing rights of way;
 - (e) Public health and safety; and
 - (f) Other requirements of state and federal agencies.
 - (2) Costs associated with any of the factors listed in subsection (D)(1) of this section may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included

when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

- (3) The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agriculture land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
- (4) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility siting to migrate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.
- (5) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Off-site facilities allowed under this paragraph are subject to OAR 660-033-0130(5). Temporary workforce housing facilities not included in the initial approval may be considered through a subsequent application. Such a request shall have no effect on the original approval. [Amended by Ordinance 11-03]
- (6) In addition to the provisions of subsections (D)(1) to (4) of this section, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.
- (7) The provisions of subsections (D)(1) to (4) of this section do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulations by the Federal Energy Regulatory Commission.
- (8) Communication towers authorized under this section shall comply with the standards listed in Section 112.135. [Amended by Ordinance 11-03]
- (E) Wind Energy Systems Utilizing a Tower and Meteorological Towers Outside of an Adopted Urban Growth Boundary that are not Commercial Power Generating Facilities that would utilize a tower(s) that requires lighting or that requires modification to the height or type of construction standards described in Section 112.135(C)(1), as provided in Sections 112.135 and 112.137. [Amended by Ordinance 09-06]
- (F) Composting Facilities on High-Value Farmland [OAR 660-033-0130(29)(a)], Composting operations and facilities allowed on high-value farmland are limited to those that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, and that meet the performance and permitting requirements of the Department of Environmental Quality (DEQ) under OAR 340-093-0050 and 340-096-0060. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Existing facilities may be expanded on the same tract, subject to other requirements of law. [Amended by Ordinance 11-03]

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

- (G) Model Airplane Takeoff and Landing Sites [OAR 660-033-0130(26)], including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the

building or facility pre-existed the use as a model airplane site. The site shall not include an aggregate surface or hard surface area unless the surface pre-existed the use as a model airplane site. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities.

As used in this paragraph:

- (1) "Model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible, or balloon that is used or is intended to be used for flight and is controlled by radio, lines, or design by a person on the ground. [Amended by Ordinance 10-10]
- (H) Churches and Associated Cemeteries consistent with ORS 215.441 [ORS 215.283(1)(a)]. New churches and associated cemeteries are not authorized on lands classified as high-value. New churches and associated cemeteries on not high-value farmland, or the expansion of existing churches and associated cemeteries on all farmlands, shall be subject to the standards listed in Section 138.105. [Amended by Ordinance 11-03]
- (I) Destination Resort [ORS 215.283(2)(t)], subject to compliance with the requirements of Oregon Statewide Planning Goal 8. (Note: destination resorts are not authorized on lands classified as high-value.)

RESIDENTIAL USES

- (J) Replacement Dwelling [ORS 215.283(1)(p) and OAR 660-033-0130(8)]. A replacement dwelling may be authorized, where the lawfully established single-family dwelling being replaced has:
 - (1) Intact exterior walls and roof structure;
 - (2) Interior plumbing, including kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - (3) Interior wiring for interior lights;
 - (4) A heating system;
 - (5) The dwelling to be replaced shall be:
 - (a) Removed, demolished or converted to an approved nonresidential use, within 3 months of the completion of the replacement dwelling. The replacement dwelling may be placed on any part of the same lot or parcel as the existing dwelling and shall comply with all applicable siting standards. These standards shall not be applied in such a manner as to prohibit the siting of the replacement dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use and the replacement dwelling would be located on the portion of the lot or parcel zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record a deed restriction prohibiting siting of a dwelling on the portion of the lot or parcel not zoned for exclusive farm use. This deed restriction shall be irrevocable unless a statement of release is recorded in the County deed records. The release shall be signed by a representative of the County and shall state that the provisions of this section have been changed to allow the siting of another dwelling. The Planning Director shall maintain a record of the lots or parcels that do not qualify for the siting of a new dwelling under the provisions of this section, including a copy of the deed restrictions and release statements filed under this section; and [Amended by Ordinance 11-03]

- (b) For which the applicant has requested a deferred replacement permit, is removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
- (6) An accessory farm dwelling authorized pursuant to Section 138.080(A)(9)(b)(iii), may only be replaced by a manufactured dwelling.
- (K) Replacement of Historic Dwelling [ORS 215.283(1)(o)]. A dwelling listed on the Polk County Historic Inventory and on the National Register of Historic Places which has been partitioned from the farm tract as provided by ORS 215.263(9)(b), may be replaced on a portion of the farm tract.
- (L) Temporary Hardship Dwelling [OAR 660-033-0130(10)]. One manufactured dwelling, recreational vehicle, or the temporary residential use of an existing building in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or a relative of the resident, provided that:
 - (1) The hardship is certified by a licensed physician;
 - (2) The manufactured home or existing building converted to residential use is connected to the existing sewage disposal system; except when the County Sanitarian finds the existing system to be inadequate and that it cannot be repaired or is not physically available; If the manufactured home will use a public sanitary system, such condition will not be required.
 - (3) The applicant agrees to renew the permit every two years.
 - (4) Within 3 months of the end of the hardship, the manufactured dwelling, recreational vehicle, or building converted to a temporary residential use, shall be removed, demolished, or converted to an approved nonresidential use.
 - (5) The dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
 - (6) The dwelling will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.
 - (7) As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.
 - (8) A temporary residence approved under this section is not eligible for replacement under Section 138.050(J).

138.060 CONDITIONAL USES The following conditional uses may be approved, subject to compliance with the procedures and criteria under Chapter 119, the general siting standards for dwellings and structures under Section 138.110, the fire siting standards for dwellings and structures under 138.120, applicable state and federal regulations, and other specific criteria as may be indicated: [Amended by Ordinance 11-03]

RESOURCE-RELATED USES

- (A) Permanent Facility for the Primary Processing of Forest Products [OAR 660-006-0025(4)(a)], subject to compliance with Sections 138.100(A) and (B). [Amended by Ordinance 11-03]
- (B) Permanent Logging Equipment Repair and Storage [OAR 660-006-0025(4)(b)], subject to compliance with Sections 138.100(A) and (B).
- (C) Log Scaling and Weigh Stations [OAR 660-006-0025(4)(c)], subject to compliance with Sections 138.100(A) and (B).
- (D) Forest Management Research and Experimentation Facilities [OAR 660-006-0025(4)(x)] as defined by ORS 526.215 or where accessory to forest operations, and subject to compliance with Sections 138.100(A) and (B).
- (E) Aquaculture [ORS 215.283(2)(p) and OAR 660-033-0130(27)], including the propagation, cultivation, maintenance and harvesting of aquatic species, subject to compliance with Section 138.100(A). Notice of the application shall be provided to the State Department of Agriculture at least 20 calendar days prior to any administrative action or initial public hearing on the application.
- (F) Insect Breeding [OAR 660-033-0130(27)], including the propagation, cultivation, maintenance and harvesting of insect species, subject to compliance with Section 138.100(A) and the following criteria:
 - (1) Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture.
 - (2) Notice of the application shall be provided to the State Department of Agriculture at least 20 calendar days prior to any administrative action or initial public hearing on the application.
- (G) Operations for the Extraction and Bottling of Water [ORS 215.283(2)(v)], subject to compliance with Section 138.100(A).

COMMERCIAL ACTIVITIES

- (H) Commercial Activity in Conjunction with Farm Use [ORS 215.283(2)(a)], including the processing of farm crops into biofuel not permitted under ORS 215.203(2)(b)(L) or Section 138.050(A) and activities related to the processing, distribution and marketing of farm products, a portion of which are produced by the subject farming operation, but not including the processing of farm crops as described in Section 138.050(A), subject to compliance with Section 138.100(A). [Amended by Ordinance 11-03]
- (I) Home Occupations [OAR 660-033-0130(14)], subject to the general review standards under Section 138.100(A) and the following standards and conditions from ORS 215.448:
 - (1) The home occupation is operated by a resident of the property on which the business is located;
 - (2) No more than five full or part-time persons are employed by the business;
 - (3) The business is conducted within the dwelling or other building(s) normally associated with uses permitted within this zone; and
 - (4) The business will not interfere with existing uses on nearby land or with other permitted uses.

- (J) On-Site Filming and Activities Accessory to On-Site Filming, for more than 45 days as provided for in ORS 215.306, subject to compliance with Section 138.100(A).
- (K) Dog Kennels [ORS 215.283(2)(n)], as defined in Section 110.301, may be authorized on land not classified as high-value farmland, subject to compliance with Section 138.100(A). Existing facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract subject to other requirements of law.
- (L) Landscape Contracting Business [OAR 660-033-0120, Table 1], as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, may be authorized if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use, subject to compliance with Section 138.100(A). [Amended by Ordinance 11-03]

MINERAL AND AGGREGATE OPERATIONS

- (M) The following operations are permitted subject to compliance with ORS 215.298, which describes mining activities in exclusive farm use zones, and with Section 138.100(A):
 - (1) Mining and processing of geothermal resources as defined by ORS 522.005, and oil and gas as defined by ORS 520.005, not otherwise permitted under the Polk County Zoning Ordinance; [ORS 215.283(2)(b)(A)]
 - (2) Mining of aggregate and other mineral and subsurface resources which are included in the County inventory of mineral and aggregate resources when the quantity of material proposed to be mined from the site is estimated to be 2,000,000 tons of aggregate material or more, subject to PCZO Chapters 115 and 174; [ORS 215.283(2)(b)(B)]
 - (3) Mining of aggregate and other mineral and subsurface resources which are included in the County inventory of mineral and aggregate resources when the quantity of material proposed to be mined from the site is estimated to be 2,000,000 tons of aggregate material or less, subject to PCZO Chapter 115 and the following:
 - (a) Not more than 35 percent of the proposed mining area consists of soil:
 - (i) Classified as Class I on Natural Resource and Conservation Service (NRCS) maps available on June 11, 2004; or
 - (ii) Classified as Class II or of a combination of Class II and Class I or Unique soil, on NRCS maps on June 11, 2004, unless average thickness of the aggregate layer within the mining area exceeds 25 feet in depth; or
 - (b) A local land use permit that allows mining on the site was issued prior to April 3, 2003, and the permit is in effect at the time of the significance determination; and
 - (c) The applicant shall propose and Polk County shall determine the post-mining use and provide this use in the Comprehensive Plan and land use regulations.
 - (i) For significant aggregate sites on NRCS Class I, II and Unique farmland, post-mining use shall be limited to farm uses permitted in Sections 138.040, 138.050(A)(C-I) and (K-L), 138.080(A), and fish and wildlife habitat uses, including wetland mitigation banking. Post-mining uses shall be coordinated with the Oregon Department of Geology and Mineral Industries (DOGAMI) regarding the regulation and reclamation of mineral and aggregate sites. [OAR 660-023-0180(4) and (6)]
 - (4) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement more than two miles from a planted vineyard, at least 40 acres in size,

planted as of the date the application for batching and blending is filed; and [ORS 215.283(2)(b)(C)]

- (5) Processing of other mineral resources and other subsurface resources. [ORS 215.283(2)(b)(D)]

TRANSPORTATION

- (N) Temporary Asphalt and Concrete Batch Plants [OAR 660-006-0025(4)(r)] as accessory uses to specific highway projects, subject to compliance with Sections 138.100(A) and (B).
- (O) Expansion of Existing Airports [OAR 660-006-0025(4)(u)], subject to compliance with Section 138.100(A).
- (P) Construction of Additional Passing and Travel Lanes [ORS 215.283(2)(q)], requiring the acquisition of right-of-way, but not resulting in the creation of new parcels, subject to compliance with Section 138.100(A).
- (Q) Personal Use Airports and Helipads [OAR 660-033-0130(7)], including associated hangar, maintenance and service facilities, subject to compliance with Section 138.100(A). A personal-use airport, as used in this section, 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. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.
- (R) Reconstruction or Modification of Public Roads [ORS 215.283(2)(r)], involving the removal or displacement of buildings, but not resulting in the creation of new parcels, subject to compliance with Section 138.100(A).
- (S) Improvements to Existing Public Road and Highway Related Facilities [ORS 215.283(2)(s)], such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required but not resulting in the creation of new parcels, subject to compliance with Section 138.100(A).
- (T) Transportation Facilities [ORS 215.283(3)(b) and OAR 660-012-0065(3)], The following transportation facilities may be established, subject to compliance with Section 138.100(A):
- (1) Accessory transportation improvements for an authorized land use to provide safe and efficient access to the use. Such accessory transportation improvements are subject to the same requirements applicable to the land use to which they are accessory;
 - (2) Channelization;
 - (3) Realignment of roads;
 - (4) Replacement of an intersection with an interchange;
 - (5) Continuous median turn lane;
 - (6) New access roads or collectors consistent with OAR 660-012-0065(3)(g) (i.e., 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 provide adequate emergency access.

- (7) Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road;
- (8) Park and ride lots;
- (9) Railroad mainlines and branchlines;
- (10) Pipelines;
- (11) Navigation channels;
- (12) Replacement of docks and other facilities without significantly increasing the capacity of those facilities;
- (13) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes; and
- (14) Transportation facilities, services and improvements other than those listed in this section 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 acknowledged comprehensive plan or to provide adequate emergency access. [Amended by Ordinance 01-10]

Note: Other Roads, Highways and other Transportation Facilities and Improvements [ORS 215.283(3)] not allowed under this section may be established, subject to the approval of the governing body or its designee, in areas zoned for exclusive farm use subject to:

- (A) Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or
- (B) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.

UTILITIES AND SOLID WASTE DISPOSAL FACILITIES

- (U) *Solid Waste Disposal Site under ORS 459.245 [ORS 215.283(2)(k)]*, subject to compliance with Section 138.100(A). New solid waste disposal sites are not authorized on lands classified as high-value.
- (V) *Composting Facilities on Not High-Value Farmland [OAR 660-033-0130(29)(b)]*, subject to compliance with Section 138.100(A). Composting operations and facilities allowed on land not defined as high-value farmland shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle. [Amended by Ordinance 11-03]
- (W) *Communication and Broadcast Towers over 200 feet in Height [ORS 215.283(2)(m)]*, subject to compliance with Section 138.100(A), Section 112.135, and the following criteria:
 - (1) The location, size, design and functional characteristics of the tower are reasonably compatible with and have a minimum impact on the livability and development of other properties in the area;

- (2) The tower shall be located so as to not interfere with air traffic; and
- (3) The tower will not have a significant adverse effect on identified sensitive fish or wildlife habitat, natural areas, or scenic areas designated on the comprehensive plan;
- (X) Commercial Power Generating Facilities [OAR 660-033-0130(17) and (22)], not including commercial wind power generation facilities listed in subsection (Y) of this section, subject to compliance with Section 138.100(A). On high-value farmland, an exception to the statewide Agricultural Lands Planning Goal is required where the permanent features of the power generating facility removes more than 12 acres from commercial agricultural production. On farmland not classified as high-value, an exception to the statewide Agricultural Lands Planning Goal is required where the permanent features of the power generating facility removes more than 20 acres from commercial agricultural production. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be requested through a subsequent conditional use application. Such a request shall have no effect on the original approval. [Amended by Ordinance 11-03]
- (Y) Commercial Wind Power Generation Facilities [OAR 660-033-0130(37)], wind power generation facilities that are commercial utility facilities for the purpose of generating power for public use by sale as described in OAR 660-033-0130(37), subject to compliance with Section 138.100(A). [Amended by Ordinance 11-03]
- (Z) Transmission and Distribution Lines [OAR 660-006-0025(4)(q)], subject to compliance with Sections 138.100(A) and (B). New Electric Transmission Lines with right-of-way widths of up to 100 feet as specified in ORS 722.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width.
- (AA) Drinking Water Facilities [OAR 660-006-0025(4)(l)], subject to compliance with Sections 138.100(A) and (B). Water intake facilities, related treatment facilities, pumping stations, and distribution lines
- (BB) Reservoirs and Water Impoundments [OAR 660-006-0025(4)(m)], subject to compliance with Sections 138.100(A), (B), and (C).
- (CC) Wind Energy Systems Utilizing a Tower and Meteorological Towers Within an Adopted Urban Growth Boundary Up to 100 Feet in Height that are not Commercial Power Generating Facilities, as provided in Sections 112.135 and 112.137. [Amended by Ordinance 09-06]

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

- (DD) Private Parks, Playgrounds, Hunting and Fishing Preserves and Campgrounds [OAR 660-033-0130(19)], subject to compliance with Section 138.100(A). New facilities are not allowed on lands classified as high-value. New facilities on not high-value farmland within three miles of an urban growth boundary shall be subject to the standards listed in Sections 138.105(A) and (B). Existing facilities on all farmlands may be maintained, enhanced, or expanded subject to Section 138.105. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three (3) miles of an urban growth boundary unless an exception to Statewide Planning Goal 3, pursuant to ORS 197.732 and OAR Chapter 660, Division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site that is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A camping site may be occupied by a tent, travel trailer or recreation vehicle. Separate sewer, water, or electric hook-ups shall not be provided to individual camp sites. Campgrounds authorized under this provision shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six (6) month period. A private campground may provide yurts for overnight camping, however, no more than one-third or a maximum of ten (10) campsites, whichever is smaller, may include a yurt. [Amended by Ordinance 11-03]

As used in this paragraph:

- (1) "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.
- (EE) Parks, Public or Nonprofit, including Playgrounds [OAR 660-033-0130(31)], with public parks to include only the uses specified under OAR 660-034-0035, or OAR 660-034-0040 which ever is applicable, subject to compliance with Sections 138.100(A) and 138.105. A public park may be established consistent with the provisions of ORS 195.120. [Amended by Ordinance 11-03]
- (FF) Private Seasonal Accommodations for Fee Hunting Operations [OAR 660-006-0025(4)(P), 600-006-0029 and 660-006-0035], subject to compliance with Sections 138.100(A) and (B), and the following requirements:
- (1) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - (2) Only minor incidental and accessory retail sales are permitted;
 - (3) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
 - (4) Other conditions, as deemed appropriate.
- (GG) Private Seasonal Accommodations for Fee Fishing Operations [OAR 660-006-0025(4)(W), 600-006-0029 and 660-006-0035], subject to compliance with Sections 138.100(A), (B), and (C), and the following requirements:
- (1) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - (2) Only minor incidental and accessory retail sales are permitted;
 - (3) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;
 - (4) Accommodations must be located within 1/4 mile of fish bearing Class I waters; and
 - (5) A governing body may impose other appropriate conditions
- (HH) Expansion of Existing County Fairgrounds [ORS 215.283(2)(w)], and activities directly related to county fairgrounds governed by county fair boards established pursuant to ORS 565.210, subject to compliance with Section 138.100(A).
- (II) Golf Courses and accessory uses [OAR 660-033-0130(20)]. A new golf course and accessory uses may be approved on a tract of land determined not to be high-value

farmland, as defined in ORS 195.300, consistent with Section 138.100. An existing golf course on all farmlands may be maintained, enhanced, or expanded, up to 36 holes on the same tract, consistent with Section 138.100(A) and OAR 660-033-130(18). In addition, new golf courses or the expansion of existing golf courses that are located within three miles of an urban growth boundary shall be subject to the standards listed in Section 138.105.

As used in this paragraph:

- (1) "Golf Course" means an area of land with highly maintained natural turf laid out for the game of golf with a series of 9 or 18 regulation golf course holes, or a combination 9 and 18 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 is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes.
 - (b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes.
 - (c) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course and conforms to the following:
 - (i) An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course include parking, maintenance buildings, cart storage and repair, practice range or driving range, clubhouse, restrooms, lockers and showers, food and beverage service, pro-shop, a practice or beginners course as part of an 18 hole or larger golf course, or golf tournament.
 - (ii) Accessory uses to a golf course do not include sporting facilities unrelated to golf such as tennis courts, swimming pools, or weight rooms, wholesale or retail operations oriented to the non-golfing public, or housing.
 - (iii) A use is accessory to a golf course only when limited in size and orientation to serve the needs of persons and their guests who patronize the golf course to golf.
 - (iv) Commercial activities such as a pro shop are accessory to a golf course when located in the clubhouse.
 - (v) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Accessory food and beverage service facilities shall not be designated for or include structures for banquets, public gatherings or public entertainment.
- [Amended by Ordinance s10-10 and 11-03]
- (JJ) Cemeteries [OAR 660-006-0025(4)(o)], subject to compliance with Sections 138.100(A) and (B).
- (KK) Community Centers [ORS 215.283(2)(e)], owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community, subject to compliance with Sections 138.100(A) and 138.105. A community center authorized under this section may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility

that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services. [Amended by Ordinance 11-03]

- (LL) Living History Museum [OAR 660-033-0130(21)], related to resource based activities owned and operated by a governmental agency or a local historical society, subject to compliance with Sections 138.100(A) and 138.105. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located with authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. [Amended by Ordinance 11-03]

As used in this paragraph:

- (1) "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.
- (2) "Local historical society" means the local historical society, recognized as such by the county.

- (MM) Schools [ORS 215.283(2)(aa)]. New schools and the expansion of existing schools are subject to compliance with Section 138.100(A) and the following standards:

- (1) New public or private schools, including all buildings essential to the operation of a school, shall be for kindergarten through grade 12 and primarily for residents of the rural area in which the school is located. New schools under this section are not authorized on high-value farm land. New schools that are located within three miles of an urban growth boundary shall comply with the standards listed in Section 138.105(A) and (B).
- (2) Existing schools that were lawfully established prior to January 1, 2009, do not comply with the standards listed in subsection (1) of this section, and that were formerly allowed pursuant to ORS 215.213(1)(a) or ORS 215.283(1)(a) as in effect before January 1, 2010, are non-conforming uses and subject to the standards of Chapter 114. Such schools may be expanded under the standards listed in Chapter 114 and OAR 660-033-0130(18)(b) and (c). Enclosed existing structures within three miles of an urban growth boundary may not be expanded beyond the requirements listed in Section 138.105(A) and (B).
- (3) Existing schools, not including those listed in subsection (2) of this section, may be expanded on the same tract, subject to other requirements of law. Enclosed existing structures within three miles of an urban growth boundary may not be expanded beyond the requirements listed in Section 138.105(A) and (B). [Amended by Ordinances 10-10 and 11-03]

OTHER

- (NN) Residential Home [ORS 215.283(2)(o)], as defined in ORS 197.660, in existing dwellings subject to compliance with Section 138.100(A).
- (OO) Room and Board Arrangements [ORS 215.283(2)(u)], for a maximum of five unrelated persons in existing residences subject to compliance with Section 138.100(A).

138.070 PREDOMINANT USE TEST [(OAR 660-006-0050(2))] The siting of dwellings and certain other land uses within the Farm/Forest Zoning District are based on a determination of the

predominant use of a tract as either farm or forest land. A "tract" is defined as one (1) or more contiguous lots or parcel(s) under the same ownership.

Predominant use is defined as more than 50 percent of the area of the tract. Polk County will review tax assessor records, aerial photos, soils capability data, and existing uses to determine on a case-by-case basis whether a tract was predominantly used for farm or forest purposes as of January 1, 1993.

138.080 USES SUBJECT TO ADMINISTRATIVE REVIEW AND BASED ON THE DETERMINATION OF PREDOMINATE USE OF TRACT IN ACCORDANCE WITH SECTION 138.070 The following uses are permitted, subject to review and approval under the prescriptive standards specified herein, the general siting standards for dwellings and structures under Section 138.110, the fire siting standards for dwellings and structures under 138.120, and as may otherwise be indicated by federal, state and local permits or regulations. [Amended by Ordinance 11-03]

- (A) **FARM LAND TRACT** - Uses subject to administrative review on a tract where the predominate use has been determined to be farm use:

DWELLINGS

- (1) *Dwelling for the Farm Operator on High-Value Farmland [OAR 660-033-0135(4) and (9)]*. A Farm Dwelling may be authorized on a tract of land classified as high-value, where the tract meets the following criteria:
 - (a) The subject tract is currently in farm use and has produced at least \$80,000 gross annual income from the sale of farm products, each of the last 2 years or 3 out of the past 5 years. Only gross income from land owned, not leased or rented shall be counted. When determining gross annual income for livestock operations, the cost of purchased livestock must be deducted from the total gross income attributed to the farm or ranch operation as defined in OAR 660-033-0135(11)(b). Noncontiguous lots or parcels designated for exclusive farm use in Polk County or a contiguous county may be used to meet the gross income requirements. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used unless both dwellings are subsequently authorized by provision of law;
 - (b) The tract is currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing on lands designated for exclusive farm owned by the farm operator or on the farm operation); and
 - (c) The dwelling will be occupied by a person or persons who produced the commodities which provided the income under subsection 1 above.
 - (d) At the time of application for a dwelling that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross income requirements, the property owner shall provide a title report, for those lots or parcels located within a contiguous county, that was generated within 30 days of date the application is submitted.
 - (e) Prior to issuance of construction permits for a dwelling that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross income requirements, the property owner shall provide for the recording of a deed restriction with the Polk County Clerk consistent with that required by OAR 660-033-0135(9) for the properties subject to the application that precludes:

- (i) All future rights to the establishment of a dwelling, except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215;
 - (ii) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
- (2) Small Tract Dwelling on High-Value Farmland [OAR 660-033-0130(3)(d)]. A dwelling may be authorized on a tract of land classified as high-value, where the tract meets the following requirements:
- (a) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner since prior to January 1, 1985 (Note: Present owner may also qualify, if the property was inherited by devise or intestate secession from a person that acquired and had owned continuously the lawfully created parcel since prior to January 1, 1985);
 - (b) The tract is currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing);
 - (c) If the lot or parcel on which the dwelling will be sited was part of a tract existing on November 4, 1993 and no dwelling exists on another lot or parcel that was part of that tract;
 - (d) The dwelling meets all other requirements of the Comprehensive Plan and land use regulations, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat; and
 - (e) Any adjacent lot(s) or parcel(s) owned by the applicant shall be combined with the subject parcel to form a single lot or parcel;
 - (f) The tract where the dwelling would be sited is:
 - (i) Not composed predominately of prime, unique Natural Resource Conservation Service (NRCS) Class I or II soils identified in OAR 660-033-0020(8)(a) or (b);
 - (ii) Composed predominately of high-value (NRCS) Class III and IV soils identified in OAR 660-033-0020(8)(c) or (d); or
 - (iii) Composed predominantly of a combination of high-value NRCS Class III and IV soils identified in OAR 660-033-0020(8)(c) or (d) and prime, unique, NRCS Class I or II soils identified in OAR 660-033-0020(8)(a) or (b);
 - (iv) Twenty-one (21) acres or less in size; and
 - (v) Bordered on at least 67% of its perimeter by tracts less than 21 acres in size and at least 2 such tracts had dwellings on them on Jan. 1, 1993; or,
 - (vi) The tract is not a flag lot and is bordered on at least 25% of its perimeter by tracts less than 21 acres in size and at least four dwellings existed on Jan. 1, 1993, within one-quarter mile of the center of the subject tract. Where the tract abuts an urban growth boundary, up to 2 of the 4 dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or
 - (vii) The tract is a flag lot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within ¼ mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. Where

the tract abuts an urban growth boundary, up to 2 of the 4 dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary. The center of the tract shall be the point where half of the acreage is north, south, east, and west of the point, unless requested by the applicant to use the "geographic center of the flag lot". The geographic center of the flag lot means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flag lot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot. Regardless of the method of determining the center, the center of the subject tract shall be located on the subject tract. [OAR 660-033-0130(3)(d)(D)]

Note:

(1) As used in this subsection, "owner" includes the: wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.

(2) Upon approval, the Planning Director shall notify the County Assessor that the governing body intends to allow the dwelling. [660-033-0130(3)(h)]

(3) An authorization to establish a dwelling pursuant to this subsection is valid for the duration specified in Section 138.190 for the applicant that qualified for the dwelling and for any other person that the qualified applicant transferred the property to after the date of the land use decision. [660-033-0130(3)(i)]

- (3) *Dwelling for the Farm Operator on Other Farmland - Acreage Standard* [OAR 660-033-0135(1)]. A farm dwelling may be authorized on a tract of land not classified as high value, subject to the following standards:

- (a) The parcel on which the dwelling is to be located is at least 160 acres in size;
- (b) The subject tract is currently in farm use;
- (c) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and
- (d) The subject tract is currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing).

- (4) *Dwelling for the Farm Operator on Other Farmland - Income Standard* [OAR 660-033-0135(3), (5) and (6)]. A farm dwelling may be authorized on a tract of land, not classified as high value, subject to the following standards:

- (a) The subject tract is currently employed for farm use and has produced at least \$40,000 in gross annual income from the sale of farm products during each of the past two (2) years or three (3) of the past five (5) years. Only gross income from land owned, not leased or rented shall be counted. When determining gross annual income for livestock operations, the cost of purchased livestock must be deducted from the total gross income attributed to the farm or ranch operation. Noncontiguous lots or parcels designated for exclusive farm use in Polk County or a contiguous county may be used to meet the gross income requirements. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used unless both dwellings are subsequently authorized by provision of law; or

- (b) The subject tract is currently employed for farm use and has produced gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture during each of the past two (2) years or three (3) of the past five (5) years. When determining gross annual income for livestock operations, the cost of purchased livestock must be deducted from the total gross income;
 - (c) The subject tract, and all parcels subject to the application are currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing); and
 - (d) The dwelling will be occupied by a person or persons who produced the commodities during each of the past two (2) years or three (3) of the past five (5) years.
 - (e) At the time of application for a dwelling that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross income requirements, the property owner shall provide a title report, for those lots or parcels located within a contiguous county, that was generated within 30 days of date the application is submitted.
 - (f) Prior to issuance of construction permits for a dwelling that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross income requirements, the property owner shall provide for the recording of a deed restriction with the Polk County Clerk consistent with that required by OAR 660-033-0135(9) for the subject properties that precludes:
 - (g) All future rights to the establishment of a dwelling, except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215;
 - (h) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling;
- (5) Dwelling for the Farm Operator on Other Farmland - Sales Capability Test [OAR 660-033-0135(2)]. A farm dwelling may be authorized on a tract of land, not classified as high-value that is:
- (a) At least as large as the median size of those commercial farm and ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract;
 - (b) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size under subsection 1 above;
 - (c) Currently employed for farm use at a level capable of producing the gross annual sales requirement under subsection 2 above. (Note: If no farm use has been established at the time of application, land use approval shall be subject to full establishment of the farm use, as described under subsection 2 above, prior to issuance of a building permit for the dwelling);
 - (d) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing, or caring for livestock at a commercial scale;
 - (e) At least 10 acres in size; and
 - (f) Currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing).

- (6) Lot-of-Record Dwelling Not High-Value Farmland [(OAR 660-033-0130(3)(a))]. A dwelling may be authorized on a lot-of-record on land not classified as high-value farmland. To qualify as a lot-of-record, the parcel must meet the following criteria:
- (a) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner since prior to January 1, 1985 (Note: The owner may also qualify if the property was inherited by devise or intestate succession from a person that acquired and had owned continuously the lawfully created parcel since prior to January 1, 1985);
 - (b) The tract on which the dwelling will be sited does not include a dwelling (excepting lawfully established seasonal farm worker housing);
 - (c) The lot or parcel on which the dwelling will be sited was part of a tract existing on November 4, 1993 and no dwelling exists on another lot or parcel that was part of that tract;
 - (d) The dwelling meets all other land use regulations, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat; and
 - (e) Any adjacent lot(s) or parcel(s) owned by the applicant shall be combined with the subject lot or parcel to form a single lot or parcel.
 - (f) An authorization to establish a dwelling pursuant to this subsection is valid for the duration specified in Section 138.190 for the applicant that qualified for the dwelling and for any other person that the qualified applicant transferred the property to after the date of the land use decision. [660-033-0130(3)(i)]
 - (g) Upon approval, the Planning Director shall notify the County Assessor that the governing body intends to allow the dwelling. [660-033-0130(3)(h)]

- Note:
- (1) As used in this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.
 - (2) Soil classes, soil ratings or other soil designations used in or made pursuant to this section are those of the Soil Conservation Service in its most recent publication for that class, rating or designation before November 4, 1993. For purposes of approving a land use application under Section 138.080(A)(8), the soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner:
 - (a) Submits a statement of agreement from the Natural Resources Conservation Service of the United States Department of Agriculture that the soil class, soil rating or other soil designation should be adjusted based on new information; or
 - (b) Submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and
 - (c) Submits a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in subparagraph (A) of this paragraph and finds the analysis in the report to be soundly and scientifically based. [ORS 215.710(5)]

- (7) Lot-of-Record Dwelling on High-Value Farmland [OAR 660-033-0130(3)(c)]. A dwelling may be authorized on a tract of land classified as high-value, where the tract meets the following criteria:
- (a) The Polk County Hearings Officer shall determine whether the subject parcel is a lot-of-record, based on the following criteria:
 - (i) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner since prior to January 1, 1985 (Note: Present owner may also qualify, if the property was inherited by devise or intestate secession from a person that acquired and had owned continuously the lawfully created parcel prior to January 1, 1985);
 - (ii) The tract on which the dwelling will be sited is currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing);
 - (iii) If the lot or parcel on which the dwelling will be sited was part of a tract existing on November 4, 1993 no dwelling exists on another lot or parcel that was part of that tract;
 - (iv) The dwelling meets all other land use regulations, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat; and
 - (v) Any adjacent lot(s) or parcel(s) owned by the applicant shall be combined with the subject lot to form a single lot or parcel.
 - (b) The Hearings Officer shall determine that:
 - (i) The parcel cannot practicably be managed for farm use, by itself, or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. This criterion requires evidence that the subject lot or parcel cannot be physically used for farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot or parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad, or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;
 - (ii) The dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use;
 - (iii) The dwelling will not significantly increase the cost of farm or forest practices on surrounding lands devoted to farm and forest use; and
 - (iv) The applicant shall demonstrate that the proposed lot-of-record dwelling will not materially alter the stability of the overall land use pattern in the area.
 - (v) Notice of the public hearing shall be provided to the State Department of Agriculture at least 20 calendar days prior to the public hearing before the hearings officer. Upon approval, the Planning Director shall notify the County Assessor that the governing body intends to allow the dwelling. [660-033-0130(3)(h)]

- (vi) Authorization of a single-family dwelling under the provisions of this subsection may be transferred by a person who has qualified under this subsection to any other person after the effective date of the land use decision. An authorization to establish a dwelling pursuant to this subsection is valid for the duration specified in Section 138.190 for the applicant that qualified for the dwelling and for any other person that the qualified applicant transferred the property to after the date of the land use decision. [660-033-0130(3)(i)]

Note: As used in this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.

- (8) Dwelling for Family Farm Help [OAR 660-033-0130(9)]. A dwelling for family farm help may be authorized, on the same lot or parcel as the dwelling of the farm operator, where the dwelling will be occupied by a relative of the farm operator whose assistance in the management and farm use of the existing commercial farm operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and use of the farm. A farm operator is 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. "Relative" means the farm operator or farm operators' spouse, grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling, niece, nephew, or first cousin of either of the farm operator, or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator.
- (9) Accessory Farm Dwellings [OAR 660-033-0130(24)]. Each accessory dwelling customarily provided in conjunction with farm use is authorized, subject to review and approval under the following criteria:
 - (a) Each dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use, such as planting, harvesting, marketing, or caring for livestock, is or will be required by the farm operator. (Note: The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates the farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing);
 - (b) The accessory dwelling will be located:
 - (i) On the same lot or parcel as the primary farm dwelling; or
 - (ii) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcel in the tract; or
 - (iii) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is re-authorized under these rules; or
 - (iv) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing on the farm or ranch operation registered with the Department of Consumer and Business Services, Oregon

Occupational Safety and Health Division under ORS 658.750. All accessory farm dwellings approved under this subparagraph shall be removed, demolished, or converted to an authorized non-residential use when farm worker housing is no longer required; or

- (v) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(5) or (7), whichever is applicable, and
- (c) There is no other dwelling on lands zoned for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and
- (d) The primary farm dwelling, to which the proposed dwelling would be accessory, meets one of the following:
 - (i) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use and produced in each of the last two years or three of the last five years, the lower of the following:
 - (A) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
 - (B) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
 - (ii) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use and has produced at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;
 - (iii) On land defined as a commercial dairy pursuant to OAR 660-033-0135(11) and the following:
 - (A) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and
 - (B) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and
 - (C) The Oregon Department of Agriculture has approved a permit for a Producer License for the sale of dairy products under ORS 621.072.
- (e) A partition shall not be approved that separates the accessory farm dwelling from the primary farm dwelling, unless a subsequent land use application determines that the accessory farm dwelling and the primary farm dwelling both qualify pursuant to the applicable provisions contained in Sections 138.080(A-E). A parcel may be created consistent with the minimum parcel size for the zone.

- (f) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use.

Note: "Accessory farm dwellings" include all types of residential structures allowed by the applicable state building code.

- (10) *Dwelling in Conjunction with a Commercial Dairy [OAR 660-033-0135(7)]*. A dwelling may be considered customarily provided in conjunction with a dairy farm as defined in OAR 660-033-0135(11) if:
 - (a) The subject tract will be employed as a commercial dairy that owns a sufficient number of producing dairy animals capable of earning the gross annual income from the sale of fluid milk required by:
 - (i) Section 138.080(A) if located on high-value farmland; or
 - (ii) Section 138.080(E) if located on non-high-value farmland, whichever is applicable; and
 - (b) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and
 - (c) The subject tract is vacant (no dwellings, excepting lawfully established seasonal farm worker housing,);
 - (d) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and
 - (e) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
 - (f) The Oregon Department of Agriculture has approved the following:
 - (i) A permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and
 - (ii) A producer license for the sale of dairy products under ORS 621.072.
- (11) *Relocated Farm Operation Dwelling [OAR 660-033-0135(9)]*. A dwelling may be considered customarily provided in conjunction with farm use if:
 - (a) Within the last two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in the last five years or four of the last seven years as required by Section 138.080(A) or (E), whichever is applicable;
 - (b) The subject lot or parcel on which the dwelling will be located is:
 - (i) Currently employed for the farm use, as defined in Section 110.223, that produced in the last two years or three of the last five years the gross farm income required by Section 138.080(A) or (E), whichever is applicable; and
 - (ii) At least the size of the applicable minimum parcel size; and
 - (c) The subject tract is vacant (no dwellings, excepting lawfully established seasonal farm worker housing); and
 - (d) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this section;
 - (e) In determining the gross income required by subsections (a) and (b)(i), of this section:

- (i) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and
- (ii) Only gross income from land owned, not leased or rented, shall be counted.

(B) **FOREST** - Uses subject to administrative review on a tract where the predominate use has been determined to be forest use.

DWELLINGS

- (1) Small Tract, Lot-of-Record Dwelling [OAR 660-006-0027(1)(a)(f)(g)]. A dwelling may be authorized on a lot-of-record. To qualify as a lot-of-record, the parcel must meet the following criteria:
- (a) The parcel was lawfully created and was acquired and owned continuously by the present owner since prior to January 1, 1985. The owner may also qualify if the property was inherited by devise or intestate secession from a person that acquired and had owned continuously the lawfully created parcel since prior to January 1, 1985.
 - (b) Based on soil types, the tract is not capable of annually producing 5,000 cu. ft. of commercial tree species, as recognized under rules adopted under ORS 527.715 for commercial production.
 - (c) The tract is currently vacant;
 - (d) If the lot or parcel on which the dwelling will be sited was part of a tract existing on November 4, 1993 no dwelling exists on another lot or parcel that was part of that tract;
 - (e) The tract is located within 1,500 feet of a public road, as defined by ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock. The road shall not be a Bureau of Land Management road. The road shall not be a U.S. Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the U.S. Forest Service and landowners adjacent to the road, Polk County, or a state agency;
 - (f) The dwelling complies with limitations on density imposed by the Deer and Elk Winter Range; and
 - (g) Where the dwelling is sited on a portion of a tract, the remaining portions under common ownership are consolidated into a single unit of land.
 - (h) Authorization to establish a single-family dwelling under the provisions of this subsection may be transferred by a person who has qualified under this subsection to any other person after the effective date of the decision.
 - (i) Parcels 10 acres or less in size shall not be required to submit a stocking report prior to receiving a permit for the dwelling as authorized by this subsection.

Note: As used in this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.

- (2) Large Tract Forest Land Dwelling [OAR 660-006-0027(2) and (7)]. A dwelling may be authorized on a tract that meets the following criteria:

- (a) The tract is at least 160 acres in size; or,
 - (b) The tract is part of one ownership, at least 200 acres in size that may be composed of separate vacant tracts of designated forest land in Polk County or its adjacent counties. A deed restriction shall be filed for all tracts that are used to meet the acreage requirements of this subsection, pursuant to the following provisions:
 - (i) The applicant shall provide evidence that the covenants, conditions and restrictions form adopted as Exhibit "A" to OAR 660-006 has been recorded with the County Clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.
 - (ii) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
 - (iii) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.
 - (iv) Failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of the property which is subject to the covenants, conditions and restrictions required by this section.
 - (v) The Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the County deed records pursuant to this section and a map or other record depicting tracts which do not qualify for a siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this section shall be readily available to the public in the Planning Division office.
- (3) Small Tract "Template" Dwelling [OAR 660-006-0027(3)]. A dwelling may be authorized on a tract that meets the following criteria:
- (a) The tract is less than 60 acres in size;
 - (b) The tract meets one of the following:
 - (i) The tract is composed of soils that are capable of annually producing more than 85 cu. ft. per acre of wood fiber if:
 - (A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible; and
 - (B) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
 - (c) The tract is composed of soils that are capable of annually producing 50 to 85 cu. ft. per acre of wood fiber if:
 - (i) All or part of at least seven (7) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-

- quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible; and
- (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
- (d) The tract is composed of soils that are capable of annually producing 0 to 49 cu. ft. per acre of wood fiber if:
 - (i) All or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible; and
 - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
 - (e) The tract contains no dwellings on other lots or parcels that make up the tract.
 - (f) The tract is not subject to deed restrictions established under OAR 660-006-0027(6) and Section 138.080(B)(2)(b) of this Ordinance.
 - (g) Parcels 10 acres or less in size shall not be required to submit a stocking report prior to receiving a permit for the dwelling as authorized by this subsection.
 - (h) Lots or parcels within urban growth boundaries shall not be used to satisfy the eligibility requirements under subsections 138.080(B)(4).
- (4) Large Tract "Template" Dwelling [OAR 660-006-0027(5)]. A dwelling may be authorized on a tract that meets the following criteria:
 - (a) The tract is 60 acres or larger in size;
 - (b) The tract meets one of the following:
 - (i) The tract is composed of soils that are capable of annually producing more than 85 cu. ft. per acre of wood fiber if:
 - (ii) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and
 - (iii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
 - (c) The tract is composed of soils that are capable of annually producing 50 to 85 cu. ft. per acre of wood fiber if:
 - (i) All or part of at least seven (7) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and
 - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or

- (d) The tract is composed of soils that are capable of annually producing 0 to 49 cu. ft. per acre of wood fiber if:
 - (i) All or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160 acre centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and
 - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; and,
- (e) If the tract is situated such that the road or stream crosses the tract, at least one (1) of the three (3) required dwellings shall be on the same side of the road or stream as the proposed dwelling, and within the 160-acre rectangle or within 1/4 mile from the edge of the tract where the dwelling will be located, but not outside the length of the rectangle.
- (f) The tract contains no dwellings on other lots or parcels that make up the tract.
- (g) The tract is not subject to deed restrictions established under OAR 660-006-0027(6) and Section 138.080(B)(2)(b) of this Ordinance.
- (h) Lots or parcels within urban growth boundaries shall not be used to satisfy the eligibility requirements under subsections 138.080(B)(4).

138.090 CONDITIONAL USES BASED ON THE DETERMINATION OF PREDOMINANT USE OF TRACT IN ACCORDANCE WITH SECTION 138.070, the following conditional uses may be approved, subject to compliance with the procedures and criteria under Chapter 119, the general siting standards for dwellings and structures under Section 138.110, the fire siting standards for dwellings and structures under 138.120, applicable state and federal regulations, and other specific criteria as may be indicated: [Amended by Ordinance 11-03]

- (A) **FARM LAND TRACT** - Uses permitted as conditional uses on a tract where the predominate use has been determined to be farm use:

DWELLINGS

- (1) **Nonfarm Dwelling - Not High-Value Farmland**, (except as noted) [OAR 660-033-0130(4)(a)]. A nonfarm dwelling may be authorized on a parcel, not classified as high-value farmland, except as noted, subject to the following criteria:
 - (a) The dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use;
 - (b) The dwelling will not significantly increase the cost of farm or forest practices on surrounding lands devoted to farm and forest use;
 - (c) The dwelling will be placed on a lot or parcel created before January 1, 1993;
 - (d) The dwelling will be located on a parcel that is predominately composed of NRCS Class IV through VIII soils that, when irrigated, would not be classified as prime or unique, Class I or II soils (Note: This includes those Class IV soils defined as high-value farmland in OAR 660-033-0020(c));
 - (e) The applicant shall demonstrate that the proposed nonfarm dwelling will not materially alter the stability of the overall land use pattern of the area. To address this standard, the applicant shall prepare a cumulative impact study that:

- (i) Includes at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcels and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall be identified but not be included in the study area;
- (ii) The cumulative impacts study shall identify the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc), and the dwelling development trends since 1993. Determine the potential number of nonfarm / lot-of-record dwellings that could be approved under Subsections 138.080(A)(8) and (10) and 138.090(A)(1). The study shall identify the predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under Section 138.090(A)(2) and Section 138.140(A)(2)(c). Findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph;
- (iii) Describes whether the proposed dwelling in conjunction with the dwellings identified in (ii) above will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area. Determine whether approval of the proposed nonfarm dwelling together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. (Note: The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area).
- (f) The county shall consider the cumulative impact of possible new nonfarm and lot-of-record dwellings together with existing nonfarm dwellings on other lots or parcels in the area when determining whether the proposed nonfarm dwelling will alter the stability of the land use pattern in the area.
- (g) The dwelling complies with other applicable conditions.

Note: The parcel qualifying for a dwelling under this section shall be disqualified for Farm Use Assessment pursuant to ORS 215.236.

- (2) Nonfarm Dwelling on a Nonfarm Parcel - Not High-Value Farmland [OAR 660-033-0130(4)(b)]. A nonfarm dwelling may be authorized on a nonfarm parcel created under Section 138.130(A)(2)(c), subject to the following criteria:
 - (a) The dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use;
 - (b) The dwelling will not significantly increase the cost of farm or forest practices on surrounding lands devoted to farm and forest use;

- (c) The applicant shall demonstrate that the proposed nonfarm dwelling will not materially alter the stability of the overall land use pattern of the area. To address this standard, the applicant shall prepare a cumulative impact study that:
 - (i) Includes at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcels and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall be identified, but not included in the study area;
 - (ii) The cumulative impacts study shall identify the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc), and the dwelling development trends since 1993. Determine the potential number of nonfarm / lot-of-record dwellings that could be approved under Subsections 138.080(A)(8) and (10) and 138.090(A)(1). The study shall identify the predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under Section 138.090(A)(2) and Section 138.140(A)(2)(c). Findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph;
 - (iii) Describes whether the proposed dwelling in conjunction with the dwellings identified in (ii) above will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area. Determine whether approval of the proposed nonfarm dwelling together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. (Note: The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area).
- (d) The county shall consider the cumulative impact of possible new nonfarm and lot-of-record dwellings together with existing nonfarm dwellings on other lots or parcels in the area when determining whether the proposed nonfarm dwelling will alter the stability of the land use pattern in the area.
- (e) The dwelling complies with other applicable conditions.

Note: The parcel qualifying for a dwelling under this section shall be disqualified for Farm Use Assessment pursuant to ORS 215.236.

- (B) **FOREST LAND TRACT** - Uses permitted as conditional uses on a tract where the predominate use has been determined to be forest use.

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

- (1) **Youth Camp** A youth camp may be established pursuant to the standards and limitations in OAR 660-006-0031. Changes to or expansions of youth camps

established prior to June 14, 2000 shall be subject to the provisions of ORS 215.130.
[Amended by Ordinances 01-10 and 11-03]

138.100 GENERAL REVIEW STANDARDS [OAR 660-033-0130(5) and OAR 660-006-0025(5)]. To ensure compatibility with farming and forest activities, the Planning Director or hearings body shall determine that the proposed use meets the following requirements:

- (A) The use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
- (B) The use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel;
- (C) A written statement recorded with the deed or written contract with the county or its equivalent shall be obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules. [Amended by Ordinance 11-03]

138.105 EXPANSION AND UGB PROXIMITY STANDARDS [OAR 660-033-0130(2)].

- (A) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.
- (B) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.
- (C) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule. [Amended by Ordinance 11-03]

138.110 GENERAL SITING STANDARDS FOR DWELLINGS AND STRUCTURES [OAR 660-006-0029]. The following standards apply to all new dwellings and structures: [Amended by Ordinance 11-03]

- (A) All new dwellings and structures authorized under Sections 138.080(B) and 138.090(B)(1) are subject to the siting standards in this Section. Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify a the building site which:
 - (1) Has the least impact on nearby or adjacent lands zoned for forest or agricultural use;
 - (2) Ensures that forest operations and accepted farming practices will not be curtailed or impeded;
 - (3) Minimizes the amount of forest lands used for the building sites, road access and service corridors; and
 - (4) Consistent with the provisions of Section 138.120 minimizes the risk associated with wildfire.
 - (5) Is consistent with other requirements contained in the Comprehensive Plan or implementing ordinances, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat.

- (B) The applicant shall provide evidence consistent with OAR 660-006-0029(A), that the domestic water supply, if any, is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class F stream as defined in the Forest Practices Rule (OAR 629-24-101(3)). If the water supply is unavailable from public sources or sources located entirely on the subject property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.
- (C) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
- (D) Approval of a dwelling on a parcel or tract which is larger than 10 acres in size shall be subject to the following requirements:
 - (1) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in the Department of Forestry administrative rules.
 - (2) The Planning Department shall notify the Polk County Assessor of the above condition at the time the dwelling is approved.
 - (3) The property owner shall submit a stocking survey report to the Polk County Assessor and the Assessor shall verify that the minimum stocking requirements have been met by the time required by the Department of Forestry Rules. The Assessor shall inform the Department of Forestry in cases where the property owner has not submitted a stocking survey or where the survey report indicates that minimum stocking requirements have not been met.
 - (4) Upon notification by the Assessor, the Department of Forestry shall determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department determines that the tract does not meet those requirements, the department shall notify the owner and the Assessor that the land is not being managed as forest land. The Assessor shall then remove the forest land designation pursuant to ORS 321.359 and impose additional tax pursuant to ORS 321.372.

138.120 FIRE SITING STANDARDS FOR DWELLINGS AND STRUCTURES [OAR 660-006-0035]. The following standards apply to all new dwellings and structures: [Amended by Ordinance 11-03]

- (A) If a water supply is available and suitable for fire protection, such as a swimming pool, pond, stream, or lake, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
- (B) Road access to the structure shall meet the County road design standards.
- (C) A primary fuel break shall be constructed on land surrounding the dwelling that is owned and controlled by the owner, no less than 30 feet wide. The primary fuel break could include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall also be removed.
- (D) A secondary fuel break shall also be constructed, on land surrounding the dwelling that is owned or controlled by the owner, of not less than 50 feet outside the primary fuel break.

Dead fuels shall be removed from the fuel break area. It may be advisable to increase the secondary fuel break if the dwelling is located on a slope.

- (E) No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.
- (F) The applicant shall obtain an address from the County, and shall display that number in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less than three inches in height, in a contrasting or visible color and shall comply with all other applicable standards for signs.
- (G) The dwelling shall meet the following requirements:
 - (1) The dwelling has a fire retardant roof.
 - (2) The dwelling will not be sited on a slope of greater than 40 percent.
 - (3) Evidence is provided that the domestic water supply is from a source authorized by the Water Resources Department and not from a Class F stream as designated by the State Board of Forestry.
 - (4) The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract.
 - (5) If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district.
 - (6) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.
- (H) If meeting the requirements of Section 138.120 (G) would be impracticable, alternative means for protecting the dwelling from fire hazards may be considered. The means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions.

138.130 LAND DIVISION REQUIREMENTS [OAR 660-006-055, OAR 660-006-0026, and OAR 660-033-0100]. No land(s) located within the Farm/Forest Zoning District shall be divided without the expressed approval of Polk County under the provisions of Chapter 138 and the Polk County Subdivision and Partition Ordinance. A plat shall be prepared by a registered surveyor to document the land partition. Upon final approval of the plat, the survey shall be recorded by the Polk County Clerk. A deed or instrument conveying land in lieu of foreclosure shall not constitute a foreclosure action.

- (A) Except as provided in Section 138.130(B-J), the minimum parcel size within the Farm/Forest Zoning District shall be 40 acres, and the minimum parcel size within the Farm/Forest Overlay Zone shall be 80 acres; or
- (B) Nonfarm, Nonresidential Parcels [OAR 660-033-0100(10)]. A parcel for nonfarm, nonresidential uses authorized by this Ordinance may be created, subject to compliance with the procedural and technical requirements of ORS Chapter 92, the Polk County Subdivision and Partitioning Ordinance and the following criteria:
 - (1) A preliminary site plan shall be submitted that depicts the proposed lot boundaries and the location of all existing and proposed buildings, structures and related facilities, to include the on-site septic system and repair areas, water facilities, utility easements, vehicular access, circulation, parking and loading areas;
 - (2) The proposed parcel shall be sized to meet, but shall not exceed, the requirements of the nonfarm use and development as depicted on the preliminary site plan;
 - (3) Each parcel shall be provided legal access to a public road by frontage or easement. The minimum frontage or easement width shall be 50 feet;

- (4) Prior to filing the partition plat, each parcel shall be evaluated for on-site septic use, or a waiver submitted from a party that has agreed to purchase the parcel, subject to approval of the land partition. The owner may also waive the evaluation, subject to the filing of a restriction on the deed which precludes the placement of a dwelling on the parcel;
 - (5) A partition plat shall be filed within two (2) years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
- (C) Parcel for a Nonfarm Single-Family Residence - Not High-Value [OAR 660-033-0100(11)]. A parcel for nonfarm residential use may be created, subject to compliance with the requirements of the Polk County Subdivision and Partitioning Ordinance and the following criteria:
- (1) The proposed nonfarm parcel is intended for the siting of a nonfarm dwelling authorized by this Ordinance;
 - (2) The proposed parcel is not less than 20 acres in size;
 - (3) The parent parcel is not stocked to the requirements of ORS 527.610 to 527.770;
 - (4) The parent parcel is composed of at least 95 percent NRCS Class VI through VIII soils;
 - (5) The parcel is composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber; and
 - (6) The proposed nonfarm parcel is disqualified from special farm use tax assessment, as required under ORS 215.236.
 - (7) A subdivision or series partition, to create non-farm, residential parcels is prohibited. "Series partition" is defined as a series of partitions of land which results in the creation of four or more parcels over a period of more than one calendar year.
- (D) Nonfarm Parcel for Public Parks or Open Space [ORS 215.263(10)]. A parcel for public parks or open space may be created when the land partition is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels subject to the following criteria:
- (1) A parcel created by the land partition that contains a dwelling is large enough to support continued residential use of the parcel.
 - (2) A parcel created pursuant to this subsection that does not contain a dwelling:
 - (a) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - (b) May not be considered in approving or denying an application for siting any other dwelling;
 - (c) May not be considered in approving a redesignation or rezoning of forestlands or farmlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
 - (3) A parcel created pursuant to this subsection may not be smaller than 25 acres unless the purpose of the land partition is:
 - (a) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or

- (b) To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.
- (4) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
- (E) Nonfarm Parcel for Historic Property [ORS 215.263(9)(b)]. A parcel for historic property may be created if the historic property would contain a dwelling listed on the Polk County Historic Inventory and on the National Register of Historic Places.
 - (1) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
- (F) Nonfarm Parcel for a Residential Home [ORS 215.263(9)(a)]. A parcel for a residential home as defined in ORS 197.660(2) may be created for a residential home approved under Section 138.060(I) if the dwelling has been approved under Section 138.090(A)(1), or Section 138.090(A)(2). A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
- (G) Nonfarm Parcel for a Church [ORS 215.263(11)]. A parcel may be created to establish a church including cemeteries in conjunction with the church if they meet the following requirements:
 - (1) The church has been approved under Section 138.050(I);
 - (2) The newly created parcel is not larger than five acres; and
 - (3) The remaining parcel, not including the church, meets the minimum parcel size described in Section 138.130(A)(1) OR 138.130(F)(1) either by itself or after it is consolidated with another parcel or lot.
 - (4) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel. (Note: One year extensions may be requested prior to expiration of the approval.)
- (H) Land Divisions Creating Parcels Less Than the Minimum Parcel Size of the Zone, listed in Section 138.130(A) or (B), may only be approved for uses listed in Sections 138.040 (F), (N), (V) and (Z), 138.050(H), 138.060 (A-C), (L), (S), (T), (V), (W), (Y), (Z-BB) and (GG), provided that those uses have been approved pursuant to Section 138.100 of this Ordinance. Such divisions shall create a parcel that is the minimum size necessary for the use. Required building setbacks for these parcels will be determined on a case-by-case basis through the conditional use process and may vary from those required under Section 138.060, 138.090 and Chapter 112 based upon the specific use authorized by the land use decision. The landowner of a parcel created under this subsection shall provide evidence that a restrictive covenant has been recorded with the County Clerk's Office for the subject property. The restrictive covenant shall prohibit the landowner and the landowner's successor's in interest from further dividing the parcel. The restrictive covenant shall be irrevocable unless a statement of release is signed by the Polk County Planning Director indicating that the comprehensive plan designation is no longer applicable to the parcel and that the property is no longer subject to Oregon Statewide Planning Goal 4 (Forest Lands). The restrictive covenant shall also be irrevocable unless the land division is subsequently authorized by law or by change in Goal 4. The property owner shall also record a deed restriction in the office of the Polk County Clerk as required by Section 138.140.

- (I) *A Land Division Creating a Parcel for an Existing Dwelling* subject to the following requirements:
- (1) The parcel shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than ten acres;
 - (2) The dwelling existed prior to June 1, 1995;
 - (3) The remaining parcel, not containing the dwelling, meets the minimum land division standards of the zone, or when consolidated with another parcel, meets the minimum land division standards of the zone;
 - (4) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal; and
 - (5) The tract shall be predominantly in forest use and that portion in forest use qualified for special assessment under a program under ORS chapter 321.
 - (6) The landowner of a parcel created under this subsection shall provide evidence that a restrictive covenant has been recorded with the County Clerk's Office for the subject property. The restrictive covenant shall prohibit the landowner and the landowner's successors in interest from further dividing the parcel. The restrictive covenant shall be irrevocable unless a statement of release is signed by the Polk County Planning Director indicating that the comprehensive plan designation is no longer applicable to the parcel and that the property is no longer subject to Oregon Statewide Planning Goal 4 (Forest Lands). The restrictive covenant shall also be irrevocable unless the land division is subsequently authorized by law or by change in Goal 4. The property owner shall also record a deed restriction in the office of the Polk County Clerk as required by Section 138.140.
 - (7) The landowner of a parcel created under this subsection shall provide evidence that a restrictive covenant on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under subsection (2) of this section.
 - (8) The remainder of the tract shall not qualify for any uses allowed under ORS 215.213 and 215.283 that are not allowed on forestland.
- (J) *A Land Division to Facilitate a Forest Practice*, as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirement of subsection 138.130(A)(1). The applicant shall provide evidence to demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum parcel size for the zone in order to conduct the forest practice. Parcels created pursuant to this subsection:
- (1) Shall not be eligible for siting a new dwelling;
 - (2) Shall not serve as the justification for the siting of a future dwelling on other parcels;
 - (3) Shall not result in a parcel of less than 35 acres, except:
 - (a) Where the purpose of the land division is to facilitate an exchange of lands involving a governmental agency, or
 - (b) Where the purpose of the land division is to allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forestland in Oregon; and
 - (4) If associated with the creation of a parcel where a dwelling is involved, shall not result in a parcel less than the minimum parcel size of the zone.

- (5) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel. (Note: One year extensions may be requested prior to expiration of the approval.)

(K) A Division of a Lot or Parcel that Contains Two or More Dwellings if:

- (1) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
- (2) Each dwelling complies with the criteria for a replacement dwelling under Section 138.050(I);
- (3) Except for one lot or parcel, each lot or parcel created under this section is between two and five acres in size;
- (4) At least one dwelling is located on each lot or parcel created under this section; and
- (5) The landowner of a lot or parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the Polk County Clerk. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the Planning Director indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to Oregon Statewide Planning Goal 4 (Forest Lands). The restrictive covenant shall also be irrevocable unless the land division is subsequently authorized by law or by change in Goal 4. The property owner shall also record a deed restriction in the office of the Polk County Clerk as required by Section 177.120. [Amended by Ordinance 11-03]
- (6) A lot or parcel may not be divided under this section if an existing dwelling on the lot or parcel was approved under:
 - (a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or
 - (b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under Goal 4 (Forest Lands). [Amended by Ordinance 11-03]

138.140 NON-REMONSTRANCE DEED RESTRICTION Pursuant to OAR 660-006-0029 (4)(e), for any dwelling, residential facility, private park, reservoir or water impoundment, home occupation, or private fishing or hunting accommodations approved under sections 138.050, 138.060, 138.080 and 138.090, and partitions approved under subsections 138.130(D) and (H) through (K), the landowner for the property shall be required to sign and record a deed restriction binding the landowner and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 to 30.937. [Amended by Ordinance 11-03]

138.150 NONCONFORMING USES The lawful use of any building, structure or land at the time of the enactment of this ordinance may be continued. Alteration of any such use shall be permitted when necessary to comply with local, state or federal regulations pertaining to the use and development of land and the buildings and structures thereon. A nonconforming use is transferable, however, any significant change in, or replacement of, the nonconforming use may require permits under current building and land development codes.

138.160 PROHIBITED USES It is unlawful to erect, alter or establish in the Farm/Forest Zoning District any building, structure or use not authorized and approved under the standards and procedures in this Ordinance.

138.170 DEVELOPMENT STANDARDS All uses that occur in this zone are subject to development standards adopted by Polk County.

138.180 PERIOD OF VALIDITY FOR ADMINISTRATIVE REVIEW USES [OAR 660-033-0140(1) through (4)]

- (A) A land use application authorizing a use subject to administrative review, except for a land division and those residential uses specified in Section 138.190, shall be valid for two (2) years from the effective date of the land use decision. The land use approval authorizing such use shall be void at the end of the validity period if development action is not initiated in that period. The Planning Director may grant an extension to the validity period for an additional year if:
- (1) The applicant makes a written request for an extension of the development approval period;
 - (2) The written request is submitted to the Planning Division, on the form provided by the Planning Division, prior to the expiration of the approval period;
 - (3) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
 - (4) The Planning Director determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
- (B) The Planning Director may authorize additional one-year extensions where the applicable criteria for the decision have not changed.
- (C) Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision. [Amended by Ordinance 11-03]

Note: A land use decision granted herein does not vest (guarantee) the right of the property owner to use the property as authorized in the land use decision in perpetuity. The property owner is responsible for completing required conditions and establishing and continuing the use in order to retain a vested right. The property owner is advised to consult with an attorney to determine the appropriate actions necessary to obtain and retain rights of use authorized by a land use decision.

138.190 PERIOD OF VALIDITY FOR SPECIFIC RESIDENTIAL USES. [OAR 660-033-0140(5) and (6)]

- (A) A land use application authorizing a dwelling, outside of an urban growth boundary pursuant to the provisions of Sections 138.040(X); 138.050(I); 138.080(A)(2), (6), and (7); 138.080(B)(1) through (4); and 138.090(A)(1) and (2), shall be valid for four (4) years from the effective date of the land use decision. The land use approval authorizing such use shall be void at the end of the validity period if development action is not initiated in that period.
- (B) The Planning Director may grant an extension for two additional years if the applicant makes a written request for an extension of the development approval period. The extension request shall be submitted on the form provided by the Planning Division and shall be submitted to the Planning Division prior to the expiration of the approval period.
- (C) Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision. [Amended by Ordinance 11-03]

Note: A land use decision granted herein does not vest (guarantee) the right of the property owner to use the property as authorized in the land use decision in perpetuity. The property owner

Exhibit C to Ordinance No. 11-03

is responsible for completing required conditions and establishing and continuing the use in order to retain a vested right. The property owner is advised to consult with an attorney to determine the appropriate actions necessary to obtain and retain rights of use authorized by a land use decision.

**Polk County Community Development, Polk County Courthouse, 850 Main Street; Dallas,
OR 97338; (503) 623-9237**

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS Chapter 215 requires
that if you receive this Notice of Decision, it must promptly be forwarded to the purchaser.

**Polk County Community Development Department
Planning Division Staff Report**

APPLICATION FOR:	The applicant is proposing to establish a second dwelling on their property that would be used for family farm help. The subject property contains approximately 85 acres, and is located within the Exclusive Farm Use (EFU) Zoning District.
APPLICANTS:	Chris and Jenice Lawson
OWNERS:	Terry and Cindy Noreen
FILE NUMBER:	FD 11-02
LOCATION:	8470 Oak Grove Road, Rickreall, Oregon (T6S, R4W, Section 15, Tax Lots 101 and 301)
REVIEW AND DECISION CRITERIA:	Polk County Zoning Ordinance Sections: 112.430(A), 136.040(H), 136.120.
STAFF CONTACT:	Jason McNeil: (503) 623-9237; Fax (503) 623-6009

I. PROJECT AND PROPERTY DESCRIPTION

REQUEST: The applicant is proposing to establish a second dwelling on their property that would be used for family farm help. The subject property contains approximately 85 acres, and is located within the Exclusive Farm Use (EFU) Zoning District (See Attachment A).

The application was received and was deemed complete on May 2, 2011.

PARCEL SIZE: 85 acres

COMPREHENSIVE PLAN AND ZONING DESIGNATIONS:

Location:	Comprehensive Plan Designation	Zoning Designation
Subject Property	Agriculture	Exclusive Farm Use
Property North	Agriculture	Exclusive Farm Use
Property East	Agriculture	Exclusive Farm Use
Property South	Agriculture	Exclusive Farm Use
Property West	Agriculture	Exclusive Farm Use

PROPERTY DESCRIPTION: 8470 Oak Grove Road, Rickreall, Oregon (T6S, R4W, Section 15, Tax Lots 101 and 301). The subject property was lawfully created on December 10, 1973, as shown by the recording of a warranty deed in the Polk County Book of Record 52, page 115, consistent with Polk County Subdivision and Partition Ordinance (PCSO) Section 91.950(a). The property is currently described in a deed recorded in Polk County Book of Record 268, Page 1219 recorded May 24, 1993. According to Polk County Assessor records, the subject property contains one dwelling and three accessory structures. The existing dwelling was constructed in 1915, prior to zoning or building permits.

In 2000, the applicant was approved by Polk County for an accessory farm dwelling for family farm help under Polk County Planning authorization FD 00-06. That approval was never exercised and the authorization became void one year from the effective date of the approval.

Based on a review of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) panel number 41053C0125F, dated December 19, 2006, a portion of the subject property is located within the 100 year floodplain. The proposed dwelling location would be outside

the identified flood hazard area. Any structural or non-structural development within the identified floodplain would be subject to the requirements of the Floodplain Overlay Zone found in PCZO Chapter 178. Floodplain development standards would be required to be met for any fill, grading, excavation, or construction that occurs in the floodplain. Based on a review of the Polk County Significant Resource Areas Map, the subject property does not contain significant resources. There are significant wetlands located in the southwest corner of the subject property, as shown on the Amity Quadrangle of the National Wetlands Inventory. Based on a review of the applicant's plot plan, the proposed dwelling would be located outside of the wetland setback area. Any future non-structural development activity that is identified as a conflicting use in PCZO 182.070 within a wetland setback area would require a management plan filed with the Polk County Planning Division. As described in PCZO 182.050(B)(2); the size of the riparian setback ranges between 25 and 100 feet based on the type and size of the wetland. Such development may also require state or federal permits. If a management plan is required, the applicant shall coordinate the plan with DSL and other appropriate state and federal agencies. The Department of State Lands (DSL) can be contacted at (503-378-3805). Structural development shall be prohibited within the riparian setback area. Within the riparian setback area, all trees and at least 50 percent of the understory shall be retained, excluding the exceptions authorized pursuant to PCZO Section 182.050(B)(1)(a-e). The property owner is responsible for obtaining any necessary state and federal permits prior to commencing development.

There are no identified historic sites or Willamette River Greenway areas on the subject property.

Based on Natural Resources Conservation Service (NRCS) soil data, the subject parcel is composed of soils that are not classified as high-value in administrative rule.

ACCESS AND SERVICES:

Access: The subject property takes access from easement that connects to Oak Grove Road, a principle arterial as defined in Polk County Transportation Systems Plan, Figure 3.

Services: A sewage disposal (septic) system would serve the proposed family farm help dwelling. The subject property is located within the Perrydale Water District.

School: Amity School District 45J

Fire: Amity Rural Fire Protection District

Police: Polk County Sheriff

II. COMMENTS RECEIVED

Environmental Health: Tax Lot 301: One dwelling, no hard file, Septic Major Repair Permit to install 360 feet of drainline (September 1991).
Tax Lot 101: No dwelling, no hard file, no septic record.
If connecting the proposed dwelling to the existing septic system, apply for a Septic Authorization Notice. If installing a new septic system for the proposed dwelling, apply for a Septic Site Evaluation to determine soil suitability for a new septic system. Provide potable water to proposed dwelling.

No other comments were received as of the writing of this staff report.

III. REVIEW AND DECISION CRITERIA

The authorization for a Family Farm Help Dwelling within the Exclusive Farm Use (EFU) Zoning District is provided under PCZO 136.040(H), subject to administrative review. Sections 111.240 and 111.250 of the PCZO authorize the Planning Director to conduct such review and render a decision in this matter. Staff findings and analysis are as follows:

- 1) A dwelling for family farm help may be authorized, on the same lot or parcel as the dwelling of the farm operator, where the dwelling will be occupied by a relative of the farm operator whose assistance in the management and farm use of the existing commercial farm operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and use of the farm. A farm operator is 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. As defined in ORS 215.283 (e)(B), relative means grandparent, parent, child, brother or sister of the farm operator, or the farm operator's spouse, whose assistance in the management of the farm use is or will be required. [PCZO 136.040(H)]

Staff Findings: The intent and purpose of the family farm help dwelling provision is to permit a second dwelling for a family member who is needed to help the farm operator in the operation of a commercial farm. The dwelling must be inhabited by a person who can be defined as a "relative" of the farm operator, and who performs farm management or farm use tasks. The applicants are requesting a second dwelling so that daughter and son-in-law may reside on the subject property and assist in duties on the farm. The subject property contains approximately 85 acres and contains a primary farm dwelling that is occupied by the applicants. The proposed family farm help dwelling would be located on the same parcel. See Attachment A.

The applicants state that they (Terry and Cindra Noreen) have owned their farm since 1993 and are the owners/farm operators of their farm operation. The applicants indicate that their farm operation consists of growing and selling grass seed and wheat. The applicants state that in the past they have raised cattle as part of the farm operation, however, the livestock was sold off in 2009 and 2010. In the future, the applicant intends to raise cattle in the future, provided they have additional assistance in managing the farm operation and the raising of livestock.

Based on the information in the application, the farm operators are Terry and Cindy Noreen. They make all decisions regarding crop planting and selling, farm improvement construction and maintenance, and farm expenditures. If approved, the farm operators would need to continue to play the predominant role in the management and use of the farm.

In determining if the applicant's farm operation is commercial, it is necessary to first determine if the uses involved fall under the definition of "farm use" in state law. Farm use is defined in ORS 215.203(2)(a) as follows:

As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3). (Emphasis added)

Applying the above definition, growing and selling grass seed and wheat is considered farm use. The Land Use Board of Appeals in *Harland v. Polk County*, LUBA No. 2002-149, provides guidance as to what constitutes a "commercial farm operation." In *Harland v. Polk County*, LUBA

indicates that the \$10,000 annual gross sales standard from OAR 660-033-0135 could be used as guidance to determining if a farm operation is a commercial farm operation. Also in *Harland*, LUBA states that another guide to determine if a farm is commercial is to determine if the farm is a "commercial agricultural enterprise," as that term is used in OAR 660-033-0020(2). That definition reads:

'Commercial Agricultural Enterprise' consists of farm operations that will:

- (A) Contribute in a substantial way to the area's existing agricultural economy; and
- (B) Help maintain agricultural processors and established farm markets.

The applicant submitted an IRS Schedule F Form for the years 2009 and 2010, showing \$102,027 and \$58,627 in gross farm income, respectively. The applicant also submitted a written statement that breaks down the income for income produced from field crops on the subject property. The applicant produced \$13,173 income from grass seed for 2009 and \$27,027 income from wheat for 2010 on the farm operation. The applicant states that the additional farm income shown on the Schedule F Forms from 2009 and 2010 was from the sale of cattle on the subject property. At this time, there are no cattle present on the subject property. However, the applicant states that they can no longer raise cattle on the subject property without additional help. The applicant intends to continue raising cattle as part of the farm operation, with the assistance of their daughter and son-in-law, if this application is approved. The applicant further states that full-time help is needed on the farm operation for assistance with maintenance and repairs to farm structures, equipment and fencing; care for livestock raised on the farm, planting and maintaining the 60 acres of field crops, including spraying and removal of weeds; erosion control for a creek that bisects the property; loading and unloading of farm supplies and equipment; and trimming and upkeep of the five-acre woodlot on the subject property.

The above sales information indicates that the gross sales from applicant's farm operation ranged from approximately \$102,027 to \$58,627. The gross sales exceed \$10,000 annually, the income standard for a commercial farm operation indicated in the *Harland* ruling. This supports the conclusion that the farm operation is a substantial contributor to the area's existing agricultural economy and helps maintain established farm markets. Based on the above findings, staff concludes that the applicant manages an existing commercial farm operation.

In order to assure future compliance with this criterion, staff recommends that a condition of approval require the property owner to sign and record a restrictive covenant. The covenant shall state that the family farm help dwelling is for a relative of the farm operator whose assistance in the management of the farm use is required by the farm operator as specified in PCZO 136.040(H). In the event that the family farm help dwelling ceases to be used as described herein, or upon sale of the subject property, the owner shall remove the dwelling from the property or decommission the dwelling from residential use to an approved onsite use within ninety (90) days. (Attachment B-1). The property owner shall submit the original documents to the Polk County Clerk's Office for recording in the deed history of the subject property. The applicant shall pay the applicable recording fees. The property owner shall submit a copy of the recorded restrictive covenant to the Planning Division for inclusion in the record prior to the issuance of building permits.

With the above condition, the application meets this criterion.

- 2) NON-REMONSTRANCE DEED RESTRICTION.** Pursuant to OAR 660-33-130 (30), for any dwelling or residential facility approved under sections 136.040 and 136.050, the landowner for the dwelling shall be required to sign and record a deed restriction binding the landowner and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 to 30.937. [PCZO 136.120]

Findings: As part of the conditions of approval the applicants would be required to sign and record a non-remonstrance deed restriction, prohibiting them from pursuing a claim for relief or cause of

action alleging injury from farm or forest practices (Attachment B-2). The property owner shall submit the original documents to the Polk County Clerks Office for recording in the deed history of the subject property [the applicant shall pay the applicable recording fees]. The property owner shall submit a copy of the recorded deed restriction to the Planning Division for inclusion in the record for FD 11-02 prior to the issuance of building permits.

IV. CONCLUSION

Based on the Review and Decision Criteria above, staff finds that the proposed development is consistent with the applicable review and decision criteria for a family farm help dwelling. Development requirements will be enforced when the applicant files for building permits on the subject property. The following conditions have been identified as required for completion of this application:

1. The accessory family farm help dwelling shall be established on the same parcel as the dwelling of the primary farm operator on the 85 acre farming operation as presented in the application and shown on Attachment A.
2. Prior to the issuance of building permits, the property owner shall sign a restrictive covenant to be recorded in deed records (Attachment B-1). The covenant shall state that the family farm help dwelling is for a relative of the farm operator whose assistance in the management of the farm use is required by the farm operator as specified in PCZO 136.040(H). In the event that the family farm help dwelling ceases to be used as described herein, or upon sale of the subject property, the owner shall remove the dwelling from the property or decommission the dwelling from residential use to an approved onsite use within ninety (90) days. The property owner shall provide a legal description of the subject property with the restrictive covenant, and shall submit the original documents to the Polk County Clerk's Office for recording in the deed history of the subject property. The property owner shall pay the applicable recording fees. The property owner shall submit a copy of the recorded restrictive covenant to the Planning Division for inclusion in the record.
3. Prior to establishment of the dwelling on the subject property, the property owner shall obtain all necessary permits from the Building and Environmental Health Divisions, and Public Works Department prior to release of building permits. These permits may include, but are not limited to the following: building, manufactured home placement, electrical and plumbing permits from the Polk County Building Division; septic installation permits from the Polk County Environmental Health Division; and an access permit from the Public Works Department.
4. Prior to issuance of permits for a the proposed family farm help dwelling, the property owners shall sign and record a non-remonstrance deed restriction recognizing allowed farm and forestry uses on area properties (Attachment B-2). The property owners shall submit the original documents to the Polk County Clerk for recording in the deed history of the subject property [the applicant shall pay the applicable recording fees]. The property owners shall submit a copy of the recorded deed restriction to the Planning Division for inclusion in the record FD 08-04.
5. The proposed dwelling and any new structures shall comply with the yard setback standards in the Exclusive Farm Use zone as specified in PCZO 112.430(A). Setbacks shall be as follows: front - 30 feet, side - 20 feet, and rear - 20 feet.

CHAPTER 177

TIMBER CONSERVATION (TC) ZONING DISTRICT

177.010.	Purpose
177.020.	Definitions
177.025.	Authorized Uses and Development
177.030.	Uses Permitted by Right
177.035.	Uses Subject to Administrative Review
177.040.	Conditional Uses
177.050.	General Review Standards [OAR 660-006-0025(5)]
177.060.	Land Division Requirements [OAR 660-006-0026]
177.070.	Standards for Dwellings
177.080.	General Siting Standards for Dwellings and Structures [OAR 660-006-0029]
177.090.	Fire Siting Standards for Dwellings and Structures [OAR 660-006-0035]
177.120.	Non-Remonstrance Deed Restriction
177.130.	Prohibited Uses
177.150.	Construction Financing
177.160.	Nonconforming Uses
177.170.	Height
177.190.	Development Standards
177.210.	Period of Validity for Residential Uses
177.220.	Period of Validity for non-Residential Uses

177.010. PURPOSE. The Timber Conservation (TC) Zoning District is intended to:

- (A) Conserve, protect, and encourage the management of forest lands for continued timber production, harvesting and related uses;
- (B) Conserve and protect watersheds, soil, fish and wildlife habitats and other such uses associated with forests;
- (C) Provide for orderly development through planned development of both public and private recreational uses as appropriate and not in conflict with the primary intent of the zone for timber management;
- (D) Recognize that the forest lands within the County are necessary for the continuous production of renewable natural resources in the form of forest crops and as such, are beneficial to the economy of the County and to the welfare of its people;
- (E) Provide a compatible zone for those areas inventoried and designated as Forest Lands in the Polk County Comprehensive Plan; and
- (F) Implement the Goals and Policies of the Polk County Comprehensive Plan.

177.020. DEFINITIONS. For the purposes of this Chapter, the following definitions shall apply:

- (A) *Auxiliary.* As used in Section 177.030, "auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- (B) Definitions contained in ORS 197.015 and the Statewide Planning Goals.
- (C) *Cubic Foot Per Acre Per Year* means the average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey. [Amended by Ordinance 11-03]
- (D) *Cubic Foot Per Tract Per Year* means the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey. [Amended by Ordinance 11-03]
- (E) *Date of Creation and Existence.* When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.
- (F) *Forest Operation* means any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620(6).
- (G) *Relative* means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin. [ORS 215.283(1)(e)(A)]
- (H) *Tract* means one or more contiguous lots or parcels in the same ownership.

177.025. AUTHORIZED USES AND DEVELOPMENT

The following uses, activities and development are authorized in the Timber Conservation (TC) Zoning District, subject to review and approval under applicable regulatory standards:

<u>Key</u>	
P	Permitted outright
AR	Subject to administrative review and approval
CUP	Subject to review and approval as a conditional use

RESOURCE USES	AUTHORIZATION
Forest Operations and Practices	P
Physical Alterations of the Land Auxiliary to Forest Practices	P
Farm Use as defined in ORS 215.203	P
Soil, Air and Water Conservation Activities	P
Creation, restoration, and enhancement of wetlands, fisheries, and wildlife habitat	P
RESOURCE-RELATED USES AND DEVELOPMENT	AUTHORIZATION
Temporary Structures Auxiliary to Forest Practices	P
Temporary Portable Facilities for Primary Processing	P
Towers and Fire Stations for forest fire protection	P
Irrigation Water Intake and Distribution Facilities	P
Temporary Forest Labor Camps - No Permanent Structures	P
Permanent Facility for Primary Processing	CUP
Permanent Equipment Repair and Storage Facility	CUP
Log Scaling and Weigh Stations	CUP
Forest Research and Experimentation Facilities	CUP
SINGLE-FAMILY RESIDENCES	AUTHORIZATION
Forest land "Lot of Record" Dwelling	AR
Large Tract Forest land Dwelling	AR
"Template" Forest land Dwelling	AR
Temporary Dwelling for Medical Hardship	AR
Caretaker Residence for Parks and Hatcheries	P
Replacement Dwelling	AR
COMMERCIAL	AUTHORIZATION
Home Occupation, per ORS 215.448	CUP
Destination resorts pursuant to ORS 197.435 to 197.465 and Statewide Planning Goal 8	P

MINERAL AND AGGREGATE OPERATIONS	AUTHORIZATION
Exploration for Mineral and Aggregate	P
Exploration & Production of Geothermal, Gas and Oil	P
Mining and Processing of Subsurface Resources	CUP
TRANSPORTATION	AUTHORIZATION
Aids to Navigation and Aviation	CUP
Temporary Asphalt and Concrete Batch Plants	CUP
Expansion of Existing Airport	CUP
Transportation improvements on rural lands allowed by OAR 660-012-0065	CUP

Widening of Roads Within Existing Right-of-way	P
UTILITIES AND SOLID WASTE DISPOSAL FACILITIES	AUTHORIZATION
Power Generating Facilities	CUP
Communication Towers and Facilities	CUP
Drinking Water Facilities (Intake, Treatment, pumping stations, etc.)	CUP
Reservoirs and Water Impoundments	CUP
Solid Waste Disposal Site under ORS 459.049.	P
Solid Waste Disposal Site under ORS 459.245.	CUP
Local Distribution Lines (e.g. electric, telephone, natural gas) and accessory equipment	P
New Electric Transmission Lines with right of way widths of up to 100 feet as specified in ORS 772.210	CUP
New Distribution Lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) in Right-of-way 50 feet or less in width	CUP
Non-commercial wind energy systems, meteorological towers and photovoltaic systems	P
Non-commercial wind energy systems and meteorological towers that need a height or type of construction modification	AR
Non-commercial wind energy systems and meteorological towers in a UGB	CUP
PARKS/PUBLIC/QUASI-PUBLIC FACILITIES	AUTHORIZATION
Private Parks and Campgrounds	CUP
Public Parks including only those uses specified under OAR 660-034-0035	CUP
Rural Fire Protection District Stations	CUP
Firearms Training Facility	CUP
Cemeteries	CUP
Hunting/Fishing Operations w/o Accommodations	P
Hunting/Fishing Operations with Accommodations	CUP
Structures Accessory to Fish and Wildlife Enhancement	P
Youth Camp	CUP

177.030. USES PERMITTED BY RIGHT. No building, structure, or premise shall be used, arranged, or designed to be used, erected, structurally altered or enlarged, except for one or more of the following uses.

- (A) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.
- (B) Farm use, as defined in ORS 215.203.
- (C) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.
- (D) Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.

- (E) Uses and activities to conserve soil, air, and water quality and to provide for and manage wildlife and fisheries resources, including, but not limited to creation, restoration, and enhancement of wetlands, fisheries, and wildlife habitat.
- (F) Additional local distribution lines within existing public rights-of-way (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g., electric distribution transformers, meter cabinets, terminal boxes, pedestals), and which provide service hookups, including water service hookups.
- (G) Temporary portable facility for the primary processing of forest products. The facility shall be removed at the conclusion of the forest operation requiring its use.
- (H) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head as defined in ORS Chapters 517 and 520.
- (I) Exploration for mineral and aggregate resources as defined in ORS Chapter 517.
- (J) Towers and fire stations for forest fire protection.
- (K) Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- (L) Disposal site for solid waste that has been ordered established by the Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation. Such site designation shall require owner consent.
- (M) Temporary forest labor camps, without any permanent structures, limited to the duration of the forest operation requiring the use.
- (N) Uninhabitable structures accessory to fish and wildlife enhancement.
- (O) Private fee hunting or fee fishing operations without any accommodations.
- (P) Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans including public road and highway projects as described in ORS 215.213(1)(m) through (p) and ORS 215.283(1)(k) through (n).
- (Q) Destination resorts pursuant to ORS 197.435 to 197.465 and upon compliance with Statewide Planning Goal 8.
- (R) Caretaker residence for a public park or public fish hatchery.
- (S) Wind energy systems, meteorological towers, and photovoltaic systems that are not commercial power generating facilities, but not including wind energy systems utilizing a tower and meteorological towers that require tower lighting, are located in an adopted urban growth boundary, or that would require modification to the height or type of construction standards described in Section 112.135(C)(1). Wind energy systems utilizing towers and meteorological towers are subject to standards listed in Sections 112.135 and 112.137. Roof-mounted, building-integrated, building-mounted and architectural wind energy systems that extend no more than an additional 5 feet above the highest ridge of the building's roof or 15 feet above the highest eave, whichever is higher, and do not exceed the height limitation of the zone, are subject to the standards listed in Section 112.137. Photovoltaic systems are subject to the standards described in Section 112.138. [Amended by Ordinance 09-06]

177.035. USES SUBJECT TO ADMINISTRATIVE REVIEW. The following uses are permitted, subject to review and approval under the prescriptive standards specified herein, the dwelling standards under 177.070, the general siting standards for dwellings and structures under Section 177.080, the fire siting standards for dwellings and structures under 177.090, and as may otherwise be indicated by federal, state and local permits or regulations. [Amended by Ordinance 11-03]

- (A) Single-family dwelling, as authorized under Section 177.070 of this ordinance and such accessory buildings and uses as are normally associated with a single-family dwelling.

- (B) One manufactured dwelling or the temporary residential use of an existing building in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. As used in this section, "hardship" means a medical hardship or hardships for the care of an aged or infirm person or persons. The application shall be subject to:
- (1) The general review standards in Sections 177.050(A), (B), (C) and (D),
 - (2) The hardship is certified by a licensed physician;
 - (3) The applicant agrees to renew the permit every two years.
 - (4) Conditions being imposed that require:
 - (a) The manufactured dwelling or existing building converted to residential use is connected to the existing sewage disposal system, unless the Community Development Department finds the existing system to be inadequate and that it cannot be repaired or is not physically available. If the manufactured home will use a public sanitary system, such condition will not be required. Establishment of a separate sewage disposal system does not vest a right to retain the temporary dwelling after the conclusion of the hardship.
 - (b) Within 3 months of the end of the hardship, the manufactured dwelling or building converted to a temporary residential use, shall be removed, demolished, or converted to an approved nonresidential use.
 - (c) A temporary residence approved under this section is not eligible for replacement under Section 177.035(C).
- (C) Alteration, restoration, or replacement of a lawfully established dwelling which has:
- (1) Intact exterior walls and roof structure;
 - (2) Interior plumbing, including kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - (3) Interior wiring for interior lights;
 - (4) A heating system; and
 - (5) The dwelling to be replaced must be removed, demolished or converted to an approved non-residential use, within 3 months of the completion of the replacement dwelling.
- (D) Wind energy systems utilizing a tower and meteorological towers outside of an adopted urban growth boundary that are not commercial power generating facilities that would utilize a tower(s) that requires lighting or that requires modification to the height or type of construction standards described in Section 112.135(C)(1), as provided in Sections 112.135 and 112.137. [Amended by Ordinance 09-06]

177.040. CONDITIONAL USES. The following conditional uses may be allowed subject to compliance with the procedures and criteria under Chapter 119, the general siting standards for dwellings and structures under 177.080, the fire siting standards for dwellings and structures under 177.090, applicable state and federal regulations, and other specific criteria as may be indicated. [Amended by Ordinance 11-03]

- (A) Home occupations, subject to the general review standards under Sections 177.050(A), (B), (C), and (D), and compliance with the following standards and conditions from ORS 215.448:
- (1) The home occupation is operated by a resident of the property on which the business is located;
 - (2) No more than five full or part-time persons are employed by the business;
 - (3) The business is conducted within the dwelling or other buildings normally associated with the uses permitted in the zone in which the property is located;

- (4) The business will not interfere with existing uses on nearby land or with other permitted uses.
- (B) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under 177.030(H) (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517, subject to compliance with Sections 177.050(A), (B), and (D).
- (C) Permanent facility for the primary processing of forest products, subject to compliance with Sections 177.050(A), (B), and (D).
- (D) Permanent logging equipment repair and storage, subject to compliance with Sections 177.050(A), (B), and (D).
- (E) Log scaling and weigh stations, subject to compliance with Sections 177.050(A), (B), and (D).
- (F) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation. Such site designation shall require owner consent, subject to compliance with Sections 177.050(A), (B), and (D).
- (G) Private Parks and campgrounds, subject to compliance with Sections 177.050(A), (B), (C) and (D). Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three (3) miles of an urban growth boundary unless an exception to Statewide Planning Goal 4 is approved, pursuant to ORS 197.732 and OAR Chapter 660, Division 4. For the purpose of this title, a campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site that is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A camping site may be occupied by a tent, travel trailer, yurt, or recreational vehicle. Separate sewer, water, or electric service hookups shall not be provided to individual campsites, except that electrical service may be provided to yurts allowed by this subsection. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Campgrounds authorized by this title shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six (6) month period.)
Note: As used in this Section, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up, or internal cooking appliance.
- (H) Public parks including only those uses specified under OAR 660-034-0035, or OAR 660-034-0040, whichever is applicable, subject to compliance with Sections 177.050(A), (B), and (D).
- (I) Television, microwave and radio communication facilities and transmission towers, as provided in Section 112.135, subject to compliance with Sections 177.050(A), (B), and (D).
- (J) Fire stations for rural fire protection, subject to compliance with Sections 177.050(A), (B), and (D).
- (K) Commercial power generating facilities, subject to compliance with Sections 177.050(A), (B), and (D). An exception to the statewide Forest Lands Planning Goal is required where

development of the power generating facility removes more than 10 acres from use as a commercial forest operation.

- (L) Aids to navigation and aviation, subject to compliance with Sections 177.050(A), (B), and (D).
- (M) Water intake facilities, related treatment facilities, pumping stations, and distribution lines, subject to compliance with Sections 177.050(A), (B), and (D).
- (N) Reservoirs and water impoundments, subject to compliance with Sections 177.050(A), (B), (C), and (D).
- (O) Firearms training facility, subject to compliance with Sections 177.050(A), (B), and (D).
- (P) Cemeteries, subject to compliance with Sections 177.050(A), (B), and (D).
- (Q) Private seasonal accommodations for fee hunting operations, subject to compliance with Sections 177.050(A), (B), and (D) and the following requirements:
 - (1) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - (2) Only minor incidental and accessory retail sales are permitted;
 - (3) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
 - (4) Other conditions, as deemed appropriate.
- (R) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 722.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width. New electric transmission or distribution lines authorized under this section are subject to compliance with Sections 177.050(A), (B), and (D).
- (S) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects, subject to compliance with Sections 177.050(A), (B), and (D).
- (T) Expansion of existing airports, subject to compliance with Sections 177.050(A), (B), and (D).
- (U) The following transportation improvements may be established, subject to compliance with Sections 177.050(A), (B), and (D):
 - (1) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
 - (2) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
 - (3) Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
 - (4) Accessory transportation improvements for an authorized land use to provide safe and efficient access to the use. Such accessory transportation improvements are subject to the same requirements applicable to the land use to which they are accessory;
 - (5) Channelization;
 - (6) Realignment of roads;
 - (7) Replacement of an intersection with an interchange;
 - (8) Continuous median turn lane;
 - (9) New access roads or collectors consistent with OAR 660-012-0065(3)(g) (i.e., 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 provide adequate emergency access.

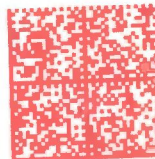
- (10) Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road;
 - (11) Park and ride lots;
 - (12) Railroad mainlines and branchlines;
 - (13) Pipelines;
 - (14) Navigation channels;
 - (15) Replacement of docks and other facilities without significantly increasing the capacity of those facilities;
 - (16) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes; and
 - (17) Transportation facilities, services and improvements other than those listed in this section 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 acknowledged comprehensive plan or to provide adequate emergency access.
- (V) Private accommodations for fishing occupied on a temporary basis, subject to compliance with Sections 177.050(A), (B), (C), and (D), and the following requirements:
- (1) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - (2) Only minor incidental and accessory retail sales are permitted;
 - (3) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;
 - (4) Accommodations must be located within 1/4 mile of fish bearing Class I waters; and
 - (5) A governing body may impose other appropriate conditions.
- (W) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations, subject to compliance with Sections 177.050(A), (B), and (D).
- (X) Youth camp. A youth camp may be established pursuant to the standards and limitations in OAR 660-006-0031. Changes to or expansions of youth camps established prior to June 14, 2000 shall be subject to the provisions of ORS 215.130. [Amended by Ordinances 01-10 and 11-03]
- (Y) Wind energy systems utilizing a tower and meteorological towers within an adopted urban growth boundary up to 100 feet in height that are not commercial power generating facilities, as provided in Sections 112.135 and 112.137. [Amended by Ordinance 09-06]

177.050. GENERAL REVIEW STANDARDS [OAR 660-006-0025(5)]. To ensure compatibility with farming and forest activities, the Planning Director or hearings body shall determine that the proposed use meets the following requirements:

- (A) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;
- (B) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel;
- (C) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in Subsections 177.035(B) and 177.040(A), (G), (N), and (V).

ADDRESS SERVICE
REQUESTED

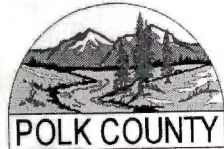
Priority Mail
ComBasPrice



UNITED STATES POSTAGE
PITNEY BOWES
02 1M
0004275627 MAY 31 2011
\$ 04.97⁰
MAILED FROM ZIP CODE 97338

Polk County Community Development

Polk County Courthouse
850 Main Street
Dallas, Oregon 97338



TO:

DLCD
Plan Amendment Specialist
635 Capitol ST NE, Suite 150
Salem, OR 97301

DEPT OF

JUN 01 2011

LAND CONSERVATION
AND DEVELOPMENT