



Oregon

Theodore R. Kubongski, 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

8/14/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: Polk County Plan Amendment
DLCDC File Number 004-07

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*

DLCDC ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, August 26, 2009

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 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Jerry Sorte, Polk County
Doug White, DLCD Community Services Specialist

Gary Fish, DLCD Regional Representative

<paa> YA

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

AUG 07 2009

LAND CONSERVATION AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **POLK COUNTY**

Local file number: **LA 07-03**

Date of Adoption: **8/5/2009**

Date Mailed: **8/5/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 4/1/2004

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".

Amendment of Polk County's Farm Forest Zoning District to allow specific non-residential uses regardless of how the property was used as of January 1, 1993. In general this amendment allows the combined non-residential uses of both the Exclusive Farm Use Zone and the Timber Conservation Zone in the Farm Forest Zoning District.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 004-07 (16347) [15664]

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

Local Contact: **Dana M. Gibson**

Phone: (503) 623-9237 Extension: 1455

Address: **850 Main Street**

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

City: **Dallas, OR**

Zip: **97338-**

E-mail Address: **gibson.dana@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, or by emailing **larry.french@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 **larry.french@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 Amendment, LA 07-03)
9 Adopting Amendments to Polk County Zoning)
10 Ordinance, Chapter 138, Farm Forest Zoning District)
11

12 **ORDINANCE NO. 09-04**
13

14 **WHEREAS**, the Polk County Zoning Ordinance Chapter 138, the Farm Forest Zone is
15 a mixed use zone and is currently more restrictive than State law by requiring a determination
16 of "predominate use" for all uses within the zone; and
17

18 **WHEREAS**, the Polk County Board of Commissioners recognized the need to update
19 Chapter 138 to provide consistency with State Law; and
20

21 **WHEREAS**, the Polk County Planning Commission conducted a duly noticed public
22 hearing on June 2, 2009, and made a recommendation that the Board of Commissioners adopt
23 the text amendments as proposed by staff; and
24

25 **WHEREAS**, the Board of Commissioners conducted a duly noticed public hearing on
26 July 22, 2009; and
27

28 **WHEREAS**, the Board of Commissioners provided for the opportunity for the
29 submission of testimony and evidence regarding the proposed text amendments from interested
30 citizens and considered all evidence and testimony in the record; and
31

32 **WHEREAS**, the Board of Commissioners, on July 22, 2009, publicly deliberated and
33 adopted the attached documents; now, therefore:
34

35 **THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:**
36

37 Sec. 1 That Polk County adopts the Findings in favor of the text amendments to the
38 Polk County Zoning Ordinance as identified in the Staff Report and as shown in Attachment
39 "A" to the Staff Report.
40

41 Sec. 2 That Polk County amends Polk County Zoning Ordinance Chapter 138 as
42 shown in "Exhibit A."
43

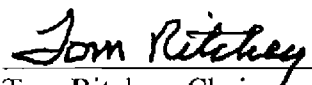
44 Sec. 3 That Polk County determines that an emergency related to the economic
45 welfare of the citizens of Polk County is declared and this ordinance is effective immediately
46 upon passage.

091159

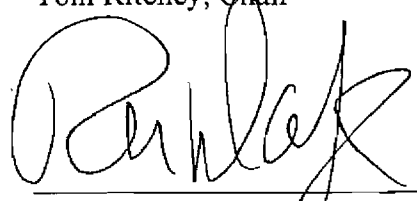
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48

Dated this 5th day of August 2009, at Dallas, Oregon.

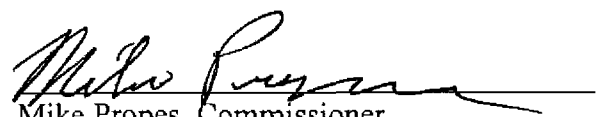
POLK COUNTY BOARD OF COMMISSIONERS



Tom Ritchey, Chair



Ron Dodge, Commissioner



Mike Propes, Commissioner

Approved as to Form:



David Doyle
County Counsel

09-160

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
138.110	Siting of Dwellings and Structures on Forest Parcels
138.120	Fire Siting Standards for Dwellings and Structures on Forest Parcels
138.130	Land Division Requirements
138.140	Non-Remonstrance Deed Restriction
138.150	Nonconforming Uses
138.160	Prohibited Uses
138.170	Development Standards

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 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). Where NRCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.
- (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. Where NRCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.
- (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 660-33-020(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)

091163

Permanent Facility for Primary Processing of Forest Products	CUP	060(A)
Permanent Logging Equipment Repair and Storage Facility	CUP	060(B)
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)
Breeding, Kenneling, and Training of Greyhounds for Racing**	P	040(M)
Winery, as described in ORS 215.452	AR	050(B)
Farm Stands	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)

MINERAL AND AGGREGATE OPERATIONS	AUTHORIZATION	PCZO
Exploration and Production of Geothermal, gas, oil, and other associated hydrocarbons, (ORS 517.750)	P	040(N)
Exploration for Mineral and Aggregate as defined by ORS 517.750	P	040(O)
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(L)

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(P)
Climbing and Passing Lanes within Right-of Way existing on July 1, 1987.	P	040(Q)

091154

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

UTILITIES AND SOLID WASTE DISPOSAL FACILITIES	AUTHORIZATION	PCZO
Utility Facility Service Lines	P	040(U)
Mandated Solid Waste Disposal Site under ORS 459.049	P	040(V)
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)
Solid Waste Disposal Site under ORS 459.245	CUP	060(T)
Composting Facilities	CUP	060(U)
Communication and Broadcast Towers over 200 feet in height	CUP	060(V)
Commercial Power Generating Facilities	CUP	060(W)
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(X)
Drinking Water Facilities (Intake, Treatment, pumping stations, etc.)	CUP	060(Y)
Reservoirs and Water Impoundments	CUP	060(Z)

091165

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES	AUTHORIZATION	PCZO
Uninhabitable Structures Accessory to Fish and Wildlife Enhancement	P	040(W)
Private Fee Hunting Operations without any accommodations.	P	040(X)
Caretaker Residence for Parks and Hatcheries	P	040(Y)
Firearms Training Facility (ORS 197.770)	P	040(Z)
Model Aircraft Takeoff and Landing Sites	AR	050(E)
Schools, Public or Private**	AR	050(F)
Churches and Associated Cemeteries**	AR	050(G)
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(AA)
Parks, Public or Nonprofit, including Playgrounds or Community Centers**	CUP	060(BB)
Private Seasonal Accommodations for Fee Hunting Operations	CUP	060(CC)
Private Seasonal Accommodations for Fee Fishing Operations	CUP	060(DD)
Expansion of an Existing County Fairgrounds	CUP	060(EE)
Golf Courses and accessory uses**	CUP	060(FF)
Cemeteries	CUP	060(GG)
Community Centers	CUP	060(HH)
Living History Museum	CUP	060(II)

** Use requires a determination of soil classes

RESIDENTIAL USES	AUTHORIZATION	PCZO
Replacement Dwelling	AR	050(I)
Replacement of Historic Dwelling	AR	050(J)
Temporary Hardship Dwelling	AR	050(K)
Residential Homes (ORS 197.660)	CUP	060(JJ)
Room and Board Arrangements	CUP	060(KK)

091166

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)

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.

091167

- (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.
- (M) Breeding, Kenneling, and Training of Greyhounds for Racing**
**On soil determined to be not predominately high-value.

MINERAL AND AGGREGATE OPERATIONS

- (N) 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.
- (O) Exploration for Mineral and Aggregate Resources as defined by ORS Chapter 517.570.

TRANSPORTATION

- (P) 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.
- (Q) Climbing and Passing Lanes within the Right-Of-Way existing as of July 1, 1987.
- (R) Temporary Public Road or Highway Detours that will be abandoned and restored to original condition or use at such time as no longer needed.
- (S) 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.
- (T) 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

- (U) Utility Facility Service Lines, 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

09168

- (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. [OAR 660-033-0130(32)]
- (V) Solid Waste Disposal Site [ORS 215.283(2)(k)], that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities, or buildings necessary for its operation.

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

- (W) Uninhabitable Structures Accessory to Fish and Wildlife Enhancement.
- (X) Private Fee Hunting Operations without any accommodations.
- (Y) Caretaker Residence for a Public Park or Public Fish Hatchery.
- (Z) 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 and as may otherwise be indicated by federal, state and local permits or regulations.

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 the local agricultural area, 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 the local agricultural area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.

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 (R)(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

091170

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) In addition to the provisions of subsections (R)(1) to (4) of this rule, 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.
- (6) The provisions of subsections R(1) to (4) of this rule do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulations by the Federal Energy Regulatory Commission.

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

- (E) Model Airplane Takeoff and Landing Sites [OAR 660-033-0130(26)], including such buildings or facilities as may reasonably be necessary. Buildings or utilities 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.

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.
- (F) Schools [ORS 215.283(1)(a)], public or private, including all buildings essential to the operation of a school. (Note: New schools are not authorized on lands classified as high-value. Existing facilities on all farmlands may be maintained, enhanced, or expanded on the same tract. An exception to the applicable Statewide Planning Goals is required when the school would be located within three miles of an urban growth boundary.)
 - (G) Churches and Associated Cemeteries [ORS 215.283(1)(b)]. (Note: New churches and associated cemeteries are not authorized on lands classified as high-value. Existing facilities on all farmlands may be maintained, enhanced, or expanded on the same tract. An exception to the applicable Statewide Planning Goals is required when the church or cemetery would be located within three miles of an urban growth boundary.)
 - (H) 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

- (I) Replacement Dwelling [ORS 215.283(1)(s) and OAR 660-033-0130(8)(a)(b)(c)]. 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) In the case of replacement:

091171

- (a) The dwelling to be replaced must be removed, demolished or converted to an approved nonresidential use, within 3 months of the completion of the replacement dwelling; or
 - (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) 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. 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.
- (7) An accessory farm dwelling authorized pursuant to OAR 660-033-0130(24)(a)(B)(iii), may only be replaced by a manufactured dwelling.
- (J) 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.
- (K) Temporary Hardship Dwelling [OAR 660-33-130(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.

091172

- (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(I).

138.060 CONDITIONAL USES The following conditional uses may be approved, subject to compliance with the procedures and criteria under Chapter 119, general review standards under Section 138.100, applicable state and federal regulations, and other specific criteria as may be indicated:

RESOURCE-RELATED USES

- (A) Permanent Facility for the Primary Processing of Forest Products [OAR 660-006-0025(4)(5)]. A facility for the primary processing of forest products is authorized, subject to compliance with Section 138.100, 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). 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) Permanent Logging Equipment Repair and Storage.
- (C) Log Scaling and Weigh Stations.
- (D) Forest Management Research and Experimentation Facilities as defined by ORS 526.215 or where accessory to forest operations.
- (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.
 - (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.
- (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 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.

091173

COMMERCIAL ACTIVITIES

- (H) Commercial Activity in Conjunction with Farm Use [ORS 215.283(2)(a)], including 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.
- (I) Home Occupations [OAR 660-033-0130(14)], subject to the general review standards under Section 138.100 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.
- (K) Dog Kennels [ORS 215.283(2)(n)], as defined by PCZO 110.301, may be authorized on land not classified as high-value farmland, subject to compliance with Section 138.100. (Note: Existing facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract subject to other requirements of law.)

MINERAL AND AGGREGATE OPERATIONS

- (L) 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:
- (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 PCZO Chapter 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

- (M) Temporary Asphalt and Concrete Batch Plants as accessory uses to specific highway projects.
- (N) Expansion of Existing Airports.
- (O) 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.
- (P) 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 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) 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.
- (R) 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.
- (S) Transportation Facilities [ORS 215.283(3)(b)], The following transportation facilities may be established:

091175

- (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, dated November 14, 2001.]**

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

UTILITIES AND SOLID WASTE DISPOSAL FACILITIES

- (T) Solid Waste Disposal Site under ORS 459.245 [ORS 215.283(2)(k)], subject to compliance with Section 138.100.. (Note: New solid waste disposal sites are not authorized on lands classified as high-value.)
- (U) Composting Facilities [OAR 660-033-0130(29)], on land not classified as high-value farmland, as defined by OAR 340-096-0024(1), (2), or (3), subject to compliance with Section 138.100. Buildings and facilities used in conjunction with the composting operation

091176

shall only be those required for 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. (Note: New composting facilities are not authorized on lands classified as high-value. Existing facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract). Composting facilities are a conditional use when:

- (1) The primary purpose of obtaining a profit in money from the farm use of the land is from composting, or
 - (2) The product or by-products are raised on lands other than farm land used for the primary purpose of obtaining a profit in money from the farm use of the land
- (V) Communication and Broadcast Towers over 200 feet in Height [ORS 215.283(2)(m)], subject to compliance with Section 138.100, 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;
- (W) Commercial Power Generating Facilities [OAR 660-033-0130(17)], subject to compliance with Section 138.100. (Note: On high-value farmland, an exception to the statewide Agricultural Lands Planning Goal is required where development 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 development of the power generating facility removes more than 20 acres from commercial agricultural production).
- (X) 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.
- (Y) Drinking Water Facilities [OAR 660-006-0025(4)(l)]. Water intake facilities, related treatment facilities, pumping stations, and distribution lines
- (Z) Reservoirs and Water Impoundments [OAR 660-006-0025(4)(m)].

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

- (AA) Private Parks, Playgrounds, Hunting and Fishing Preserves and Campgrounds [OAR 660-033-0130(19)], subject to compliance with Section 138.100. (Note: New facilities are not allowed on lands classified as high-value. Existing facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract. 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

091177

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.

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.
- (BB) 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 Section 138.100. A public park may be established consistent with the provisions of ORS 195.120.
- (CC) Private Seasonal Accommodations for Fee Hunting Operations [OAR 660-006-0025(4)(P), 600-060-0029 and 660-006-0035], subject to 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.
- (DD) Private Seasonal Accommodations for Fee Fishing Operations [OAR 660-006-0025(4)(W), 600-060-0029 and 660-006-0035], subject to 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
- (EE) 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.
- (FF) 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 not classified as high-value, 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 and OAR 660-33-130 (18).

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

091178

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.

(GG) Cemeteries [OAR 660-006-0025(4)(o)].

(HH) 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.

(II) 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. 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.

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.

091179

OTHER

- (JJ) Residential Homes [ORS 215.283(2)(c)], as defined in ORS 197.660, in existing dwellings subject to compliance with Section 138.100.
- (KK) 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.

138.070 PREDOMINANT USE TEST *[(OAR 660-06-050 (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 and as may otherwise be indicated by federal, state and local permits or regulations.

- (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(7) 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. (Note: 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.) [OAR 660-033-0135(7)(d)];
 - (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

091160

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 660-33-020(8)(c) or (d) and prime, unique, NRCS Class I or II soils identified in OAR 660-033-0020(8)(a) or (b);
 - (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,

091181

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 PCZO 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(5) and (9)]*. 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 (Note: 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.) [OAR 660-033-0135(7)(d)]; 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 (Note: 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);

081153

- (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 PCZO 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 PCZO 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

090184

- (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 PCZO 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 Dwelling [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

091186

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 (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) 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
 - (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 (Note: 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

091187

- (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 dwelling" includes all types of residential structures allowed by the applicable state building code.

- (10) Dwelling in Conjunction with a Commercial Dairy [OAR 660-033-0135(10)]. 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) PCZO Section 138.080(A) if located on high-value farmland; or
 - (ii) PCZO 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(12)]. 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 PCZO 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 PCZO 110.223, that produced in the last two years or three of the last five years the gross farm income required by PCZO 138.080(A) or (E), whichever is applicable; and
 - (ii) At least the size of the applicable minimum parcel size; and

091188

- (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 paragraph (1) of this subsection;
- (e) In determining the gross income required by subsections (1) and (2)(a), of this subsection:
 - (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 LAND TRACT** - Uses Subject to Administrative Review on a tract where the predominate use has been determined to be forest use. All dwellings and permanent structures authorized under this section shall meet the standards listed in Sections 138.080 (Dwelling Standards), 138.110 (Siting Standards), 138.120 (Fire Siting Standards), and Chapter 112 (Development Standards).

DWELLINGS

- (1) *Small Tract, Lot-of-Record Dwelling [OAR 660-06-027(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.

Note: 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.

091189

- (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(1)(c) and (6)]. 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 660-06 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(1)(d)]. 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 (Note: 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 (Note: 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 (Note: 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 660-06-027 (6) and Section 138.080 (B)(3)(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(2)]. 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

091191

- (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 660-06-027 (6) and Section 138.080(B)(3)(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, general review standards under Section 138.100, applicable state and federal regulations, and other specific criteria as may be indicated:

- (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;

091192

- (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 660-33-020 (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 PCZO 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 PCZO 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 (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).
- (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.

087193

- (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 PCZO 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 PCZO 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 (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).
 - (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.

09/19/04

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 Subject to Administrative Review on a tract where the predominate use has been determined to be forest use. All dwellings and permanent structures authorized under this section shall meet the standards listed in Sections 138.080 (Dwelling Standards), 138.110 (Siting Standards), 138.120 (Fire Siting Standards), and Chapter 112 (Development Standards).

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. [Amended by Ordinance #01-10, dated November 14, 2001]

138.100 GENERAL REVIEW STANDARDS [OAR 660-33-130 (5) and OAR 660-06-025 (5)]. The following standards apply to the authorized uses referenced by this section.

- (A) To ensure compatibility with farming and forest activities, the Planning Director or hearings body shall determine that a use authorized by Sections 138.050(K), 138.060, 138.080 or 138.090 meets the following requirements:
- (1) 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.

138.110 SITING OF FOREST DWELLINGS AND STRUCTURES ON FOREST PARCELS [OAR 660-06-029]. Based on the determination of predominant use of a tract in accordance with Section 138.070, the siting standards for uses authorized under 138.080(B) and 138.090(B)(1) Are subject to the siting standards as follows:

- (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

097195

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 FOREST DWELLINGS AND

STRUCTURES ON FOREST PARCELS [OAR 660-06-035]. Based on the determination of predominant use of a tract in accordance with Section 138.070, the fire siting standards for uses authorized under 138.080(B) and 138.090(B)(1) are subject to the fire siting standards as follows:

- (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.

097196

- (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 660-06-055, OAR 660-06-026, and OAR 660-33-100]. 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 660-33-100 (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 (Note: 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 (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);

001197

- (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 660-33-100(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).

091198

- (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 PCZO 138.060(I) if the dwelling has been approved under PCZO 138.090(A)(1), or PCZO 138.090(A)(2).
- (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 PCZO 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 PCZO 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 Statewide 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;

091199

- (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 Statewide 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 section 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.)

091200

(K) *A Division of a Lot or Parcel that Contains Two 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 ORS 215.213(1)(u) or 215.283(1)(t);
- (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 section provides evidence that a restriction prohibiting the landowner and the land owner's successors in interest from further dividing the lot or parcel has been recorded with the county clerk of the county in which the lot or parcel is located. A restriction imposed under this section shall be irrevocable unless a statement of release is signed by the county planning director of the county in which the lot or parcel is located 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 statewide goal 4 (Forest Lands) or unless the land division is subsequently authorized by law or by a change in statewide goal 4 (Forest Land).

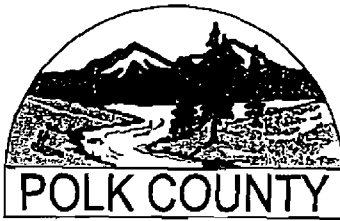
138.140 NON-REMONSTRANCE DEED RESTRICTION Pursuant to OAR 660-006-0029 (4)(e), for any dwelling, residential facility, private park, reservoir or water impoundment, home occupation, or private fishing or hunting accommodations approved under sections 138.050, 138.060, 138.080 and 138.090, and partitions approved under subsections 138.130(F), (G), and (H), 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.

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.

091201



POLK COUNTY

COMMUNITY DEVELOPMENT

POLK COUNTY COURTHOUSE ★ DALLAS, OREGON 97338
503-623-9237 ★ FAX 503-623-6009

AUSTIN M^CGUIGAN
Director

MEMORANDUM

TO: Polk County Board of Commissioners

FROM: Polk County Community Development, Planning Division
Dana M. Gibson / Assistant Planner

DATE: July 15, 2009

SUBJECT: Board of Commissioners Public Hearing on text amendments to the Polk County Zoning Ordinance Chapter 138 "Farm/Forest (FF) Zone"; file Legislative Amendment 07-03; July 22, 2009; 9:00 A.M.; Polk County Courthouse Conference Room.

ISSUE:

The purpose of this public hearing is for the Board of Commissioners to receive public testimony, deliberate and make a final local decision on text amendments to the Farm/Forest (FF) zone to bring the ordinance in line with state law. In the Staff Report section of this memorandum, staff has evaluated the text of both the Exclusive Farm Use (EFU) and Timber Conservation (TC) zones, Oregon Revised Statute and Oregon Administrative Rule to determine the necessary amendments to the Farm Forest Zoning Ordinance text.

RECOMMENDATION:

Staff recommends that the Board of Commissioners conduct a public hearing, receive public testimony, deliberate and make a final local decision on the Planning Commission's recommendation to amend the text of the Farm/Forest (FF) zone. Staff recommends that the Board of Commissioners consider, and modify if necessary, the proposed text amendments to the Polk County Zoning Ordinance. A draft of the proposed text amendments is included as Attachment A.

STAFF REPORT:

Legislative Amendment 07-03 would amend the Polk County Zoning Ordinance to bring the Farm/Forest (FF) zone in line with state law. The applicable review and decision criteria are listed in Polk County Zoning Ordinance Section 115.060.

I. BACKGROUND

Polk County is currently more restrictive than state law by requiring a predominate use determination for all land use applications within the Farm/Forest (FF) zone. As described in PCZO 138.020, predominate use is defined as more than fifty (50) percent of the area of the tract. In making these determinations, Polk County reviews tax assessor records, aerial photos, owner statement, soils capability data, and existing uses to determine, on a case-by-case basis, whether a tract was predominately used for farm or forest purposes as of January 1, 1993. Authorized uses and development standards for each tract are based on this determination. Tracts that were used predominately for agriculture on January 1, 1993 would be eligible for establishment of uses permitted in the Exclusive Farm Use (EFU) Zone, Chapter 136. Tracts that were used predominately for forestry on January 1, 1993 would be eligible for establishment of uses permitted in the Timber Conservation (TC) Zone, Chapter 177.

The current FF zone structure was an efficient means of packaging mandatory legislative changes into the ordinance in 1994. At that time it was easy to implement and had little impact on a property owners ability to effectively manage their property for either agriculture or forestry as the zone intends because most transitions between resource uses do not occur on regular basis. However, as time goes on and we get further away from the January 1, 1993 date, it becomes more difficult for property owners to provide evidence to the county in order to determine what the predominate use of their property was in 1993. In addition, the ordinance limits the resource uses of properties within this mixed-use zone. For instance, a property that was predominately used for forestry January 1, 1993 can only apply for uses authorized through the TC zone, Chapter 177. The intent of the state requirements for a determination of predominate use on January 1, 1993 is to manage the manner in which dwellings are established, not to limit the range of allowed uses. The text amendments to Chapter 138 would provide more flexibility to the citizens of Polk County, providing more opportunity for resource uses within the zone, while updating our ordinance to be consistent with state law.

In 2004, Polk County went through the legislative amendment process to update both the EFU and TC zones. As a result of these amendments, the text of both chapters was found to be consistent with the goals and policies of the Polk County Comprehensive Plan (PCCP). As part of this proposed legislative amendment, staff reviewed the authorized uses within the EFU and TC zones and compared them to those uses authorized by Oregon Revised Statute and Oregon Administrative Rule. Staff found there have been a few changes at the state level since Polk County's EFU and TC Zoning Ordinances were last acknowledged. These changes include the addition of bio-fuel production (Processing Facility for Farm Crops), an expanded definition of farm crops and livestock for farm stands that now includes "processed crops and livestock" and a "deferred replacement dwelling". These changes have been incorporated into the amended text.

Two copies of the draft text amendments were provided with notification to the Oregon Department of Land Conservation and Development on April 1, 2004, pursuant to Oregon Revised Statute 197.610 and Oregon Administrative Rule 660, Division 18.

Planning Division staff provided notification of the June 2, 2009 Planning Commission public hearing for file LA 07-03 for publication on April 29, 2009; and the July 22, 2009 Board of Commissioners public hearing for file LA 07-03 for publication on June 24, 2009, to the Dallas Itemizer-Observer Newspaper. Notification of this legislative proceeding has been fulfilled pursuant to Polk County Zoning Ordinance (PCZO) Section 111.370. Pursuant to PCZO 115.040, the Planning Commission shall conduct a public hearing and submit a recommendation to the Board of Commissioners. The Planning Commission held a public hearing on June 2, 2009 at 7:00 p.m., and made a recommendation that the Board of Commissioners adopt the text amendments as proposed by staff, to Polk County Zoning Ordinance Chapter 138, the Farm / Forest Zone.

II. COMMENTS RECEIVED

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

II. CRITERIA FOR LEGISLATIVE PLAN AMENDMENTS

A legislative plan amendment may be approved provided that the request is based on substantive information providing a factual basis to support the change. In amending the Comprehensive Plan, Polk County shall demonstrate:

- (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)]

Findings: The drafted zoning ordinance amendments to the FF Zoning District would authorize the uses that are authorized under Oregon Administrative Rule 660, Division 6 and Oregon Revised Statute, Chapter 215. By requiring a predominate use determination for all uses within the FF Zoning District, Polk County has been more restrictive than state law. These changes to the PCZO are to provide consistency with state law that requires a determination as to how a tract was predominately managed on January 1, 1993 when authorizing dwellings and other selected uses, and not all uses within the zone as the Farm/Forest (FF) Zoning District currently requires.

The proposed text amendment would provide a more streamlined process for citizens and the county when a property owner makes an application to establish a new use on a tract located within the FF Zoning District. Currently, when a property owner makes an application to the county for a particular use, they often must spend considerable time to determine how their tract was predominately managed on January 1, 1993, as many current property owners did not own their property at that time. They typically spend time reviewing aerial photographs, Planning records and Assessor records for data on historic land uses and special assessment. When the FF zone was adopted, the predominate and current use of a property would generally have been the same. As time goes on, it becomes more and more difficult for people to provide evidence to support how their property was used on a particular date in the past. The property may not be in the same ownership and the available records may not be conclusive as to how the property was predominately managed on January 1, 1993.

How a tract is utilized for resource production may have also changed as a result of changing markets or landowner preference, making it impossible in some instances for a property owner to establish a use that complements their current resource use or uses in the surrounding area. For instance, under the current FF zoning, a property that was predominately used for forestry on January 1, 1993 would not be allowed to apply for a winery. Based on the predominate use of the property all uses would be subject to Chapter 177, Timber Conservation (TC) zone which does not allow for the establishment of a winery. And, a property that was predominately used for farming January 1, 1993 would not be allowed to apply for a permanent facility for the primary processing of forest products. Based on the predominate use of the property all uses would be subject to Chapter 136, Exclusive Farm Use (EFU) zone which would only allow for a temporary facility for the primary processing of a forest product.

The intent of the state requirements for a determination of predominate use on January 1, 1993 is to manage the manner in which dwellings are established, not to limit the range of allowed uses. Goal 3 requires that "agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700. Goal 4 states "to conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture." By amending Chapter 138 to be inline with state law and not more restrictive, will allow the full range of resource uses within this mixed use zone. Staff finds that the proposed text amendments to Chapter 138 comply with Goals 3 and 4. There are no other Oregon Revised Statutes, Statewide Planning Goals, or Administrative Rules that are applicable to the drafted text amendments. The drafted text amendments would not require an exception to any Oregon Statewide Planning Goal.

(B) Conformance with the Comprehensive Plan (PCCP) goals, policies and intent, and any plan map amendment criteria in the plan; [PCZO 115.060(B)]

The following Polk County Comprehensive Plan, goals, policies and intent, have been identified as relevant to the drafted text amendments:

- (1) 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 Element C, Forest Lands Policy 1.4]
- (2) Polk County will permit new dwellings and structures on designated forest lands consistent with Oregon Revised Statutes Chapter 215 and Oregon Administrative Rules Chapter 660, Division 6. [PCCP Element C, Forest Lands Policy 1.5]
- (3) Polk County shall provide the opportunity to establish single-family dwellings on designated forest lands that comply with lot-of-record provisions established under state law consistent with Oregon Revised Statutes, Chapter 215, and Oregon Administrative Rules, Chapter 660, Division 6. [PCCP Element C, Forest Lands Policy 1.6]
- (5) 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 Element A, Agricultural Lands Policy 1.1]
- (6) Polk County will place lands designated as agriculture on the Comprehensive Plan Map consistent with Oregon Revised Statutes Chapter 215 and Oregon Administrative Rules Chapter 660, Division 33 in an exclusive farm use zoning district. [PCCP Element A, Agricultural Lands Policy 1.2]
- (7) Polk County will apply standards to high-value farmland areas consistent with Oregon Revised Statutes Chapter 215 and Oregon Administrative Rules Chapter 660, Division 33. [PCCP Element A, Agricultural Lands Policy 1.3]
- (8) 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 Element A, Agricultural Lands Policy 1.4]
- (9) Polk County will discourage the development of nonfarm uses in agricultural areas. [PCCP Element A, Agricultural Lands Policy 1.5]
- (10) Polk County will permit farm-related and non-farm residential use in agricultural areas consistent with Oregon Revised Statutes Chapter 215 and Oregon Administrative Rules Chapter 660, Division 33. [PCCP Element A, Agricultural Lands Policy 1.6]
- (11) Polk County shall provide the opportunity to establish single-family dwellings on designated agricultural lands that comply with lot-of-record provisions established under state law, consistent with Oregon Revised Statutes, Chapter 215, and Oregon

Administrative Rules, Chapter 660, Division 33. [PCCP Element A, Agricultural Lands Policy 1.7]

- (12) **Polk County will review all requests for the division of land in agricultural areas and will permit only those which meet the following criteria:**
 - a. **For farm parcels, the minimum parcel size is that acknowledged for Polk County by the Land Conservation and Development Commission (LCDC) on April 22, 1988 (88-ACK-347), consistent with Oregon Revised Statutes, Chapter 215.**
 - b. **For non-farm parcels, the proposed division is consistent with Oregon Revised Statutes Chapter 215 and Oregon Administrative Rules Chapter 660, Division 33 and complies with all applicable requirements of the zoning and partitioning ordinances. [PCCP Element A, Agricultural Lands Policy 1.8]**
- (13) **Polk County will permit the extension of public services or utilities into agricultural areas only when such services or utilities are appropriately sized and necessary for agriculture, farm uses, or permitted nonfarm uses. [PCCP Element A, Agricultural Lands Policy 1.9]**
- (14) **Polk County will cooperate with state and federal agencies and irrigators/farmers to increase the amount of irrigation available to County farmers. [PCCP Element A, Agricultural Lands Policy 1.10]**
- (15) **Polk County will coordinate with Area Advisory Committees to ensure timely opportunities for AAC participation and comment in the development, review, adoption and implementation of land use decisions and actions in Polk County. [PCCP Element A, Citizen Involvement, Policy 1.8]**

(D) Uses Authorized in Agriculture/Forest Zones [OAR 660-006-0050]

- (1) **Governing bodies may establish agriculture/forest zones in accordance with both Goals 3 and 4, and OAR Chapter 660, Divisions 6 and 33.**
- (2) **Uses authorized in Exclusive Farm Use Zones in ORS Chapter 215, and in OAR 660-006-0025 and 660-006-0027, subject to the requirements of the applicable section, may be allowed in any agriculture/forest zone. The county shall apply either OAR Chapter 660, Division 6 or 33 standards for siting a dwelling in an agriculture/forest zone based on the predominant use of the tract on January 1, 1993.**
- (3) **Dwellings and related structures authorized under section (2), where the predominant use is forestry, shall be subject to the requirements of OAR 660-006-0029 and 660-006-0035.**

Findings: The drafted text amendments would update the Polk County Zoning Ordinance Farm/Forest (FF) Zoning District to be consistent with state law. The changes would implement uses, land divisions requirements, and processes that are allowed under Oregon Revised Statute and Oregon Administrative Rule, as specified by the Comprehensive Plan goals, policies and intent, identified above.

In 2004, Polk County went through the legislative amendment process to update both the Exclusive Farm Use (EFU) (LA 04-04) and Timber Conservation (TC) (LA 04-03) zones. As a result of these amendments, the text of both chapters was found to be consistent with the goals and policies of the Polk County Comprehensive Plan (PCCP). The proposed text amendments would combine the uses as permitted through both the EFU and TC zones. When an authorization for a specific use differed between the EFU and TC zones, staff incorporated the less restrictive of the two into the amended text for Chapter 138. There are a few uses that have been amended and are proposed for the FF zone as part of this legislative amendment. Polk County identified these as State Statutory and Administrative Rule changes that require local implementation. Oregon Administrative Rule 660-033-130(28) now allows for the production of bio-fuel as part of a "processing facility for farm crops." Oregon Administrative Rule 660-

033-0130(8)(b)(ii) now provides for a “deferred replacement dwelling.” And, Oregon Administrative Rule 660-033-0130(23) has expanded the definition of “farm stand” to include “both fresh and processed farm crops and livestock grown on the farm operation.” These updates have been incorporated in the amended text.

Based on DLCD’s acknowledgement of the previous text amendments to both the EFU and TC zones (LA 04-04 and LA 04-03), and the incorporation of the State Statutory and Administrative Rule changes that require local implementation, the proposed text amendments would comply with the above identified Comprehensive Plan goals and policies. No other Comprehensive Plan policies or goals have been identified to be relevant to this proposal.

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

Findings: As time goes on and we get further from January 1, 1993, Chapter 138 becomes more and more difficult to implement and for citizens to utilize. The proposed changes to the Polk County Zoning Ordinance (PCZO) would amend the text to bring the ordinance in line with state law and allow for more flexibility for resource managers within this mixed-use zone. The proposed amendment is intended to improve the management of resource lands within the FF Zoning District, allow a more streamlined process, and provide consistency with Oregon Revised Statute and Administrative Rule.

Staff concludes that the proposed text amendments to Chapter 138 of the PCZO, that combines the uses of both the EFU and TC zones, and implements predominant use determination provisions consistent with Oregon Revised Statute and Oregon Administrative Rule, is consistent with the goals and policies of the PCCP. As such, the proposed PCZO amendments 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: The identified amendments would not change any of the uses permitted within an urban growth boundary. Therefore, the proposed amendments would not be limited or prohibited by any current intergovernmental agreements.

II. CONCLUSION

Based on the findings above, staff concludes that the text amendments to PCZO Chapter 138, Farm/Forest (FF), would comply with all of the applicable review and decision criteria for a legislative amendment.

BOARD OF COMMISSIONERS ACTION:

After opening the public hearing and receiving testimony, the Board of Commissioners’ options include the following:

- (1) Move to recommend that the Board of Commissioners approve Legislative Amendment 07-03, which consists of:
 - (a) Text amendments to the Polk County Zoning Ordinance, Chapter 138 Farm/Forest (FF) zone as presented in Attachment A; or
 - (b) As further amended by the Board of Commissioners (state revisions).
- (2) Continue the public hearing:
 - (a) To a time certain, or
 - (b) Indefinitely, or

(3) Close the public hearing and take no action on the proposed amendments.

ATTACHMENTS:

A. Draft Changes to Polk County Zoning Ordinance, Chapter 138, Farm/Forest (FF) Zoning District to bring the County's ordinance in line with state law.

CHAPTER 138

FARM/FOREST (FF) ZONING DISTRICT

138.010	Purpose
138.015	Definitions
138.020	Predominant Use Test
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	General Review Standards
138.090	Siting of Dwellings and Structures on Forest Parcels Uses Subject to Administrative Review – Based on Predominate Use
138.090	Fire Siting Standards for Dwellings and Structures on Forest Parcels Conditional Uses – Based on Predominate Use
138.100	Land Division Requirements General Review Standards
138.110	Construction Financing Siting of Dwellings and Structures on Forest Parcels
138.120	Fire Siting Standards for Dwellings and Structures on Forest Parcels Nonconforming Uses
138.130	Land Division Requirements Height
138.140	Non-Remonstrance Deed Restriction
138.150	Nonconforming Uses Prohibited Uses
138.160	Development Standards 138.160 Prohibited Uses
138.170	Development Standards

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 Pursuant to Section 138.020, for a tract where the predominant use as of January 1, 1993 is determined to be farm use, terms related to farm land tracts 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.

Pursuant to Section 138.020, for a tract where the predominant use as of January 1, 1993 is determined to be forest use, the following definitions shall apply:

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 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). Where NRCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.
- (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. Where NRCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

- (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.

Formatted: Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 7 + Alignment: Left + Aligned at: 0" + Tab after: 0.25" + Indent at: 0.25"

138.020 FARM/FOREST OVERLAY ZONE The uses allowed for a tract subject to the Farm Forest Overlay Zone shall be based on the determination of the predominant use of a tract, the same uses as those permitted in the Farm/Forest Zoning District as described in Section 138.070, the uses authorized in the Farm Forest Overlay Zone shall be those uses described in Section 138.080 through 138.100.

Land division standards for a tract subject to the Farm Forest Overlay Zone shall be based on the predominant use of the tract. Division standards for farm tracts are those described in Section 136.070 of the Polk County Zoning Ordinance. Land division standards for forest tracts are those described in Section 138.130 of the Polk County Zoning Ordinance. All other for a tract subject to the Farm Forest Overlay Zone.

138.030 AUTHORIZED USES AND DEVELOPMENT. Based on the determination of predominant use of a tract in accordance with Section 138.020, The following uses, activities and development are authorized in the Farm/Forest Zoning District, subject to review and approval under applicable regulatory standards:

Farm Land Tract Authorized Uses

Key

- HV High-Value Farm Land, defined by OAR 660-33-020 (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

Formatted: Space After: 2 pt

Formatted: Space After: 2 pt

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	P	040(D)

Products				Formatted: Space Before: 5 pt, After: 5 pt
<u>Temporary on-site structures auxiliary to a particular forest operation; including forest labor camps – no permanent structures.</u>	P	040(E)		Formatted: Space Before: 5 pt, After: 5 pt
<u>Fire Service facilities providing rural fire protection services including Fire Towers and Fire Stations</u>	P	040(F)		Formatted: Space Before: 5 pt, After: 5 pt
<u>Creation, Restoration, and Enhancement of wetlands, fisheries and wildlife habitat</u>	P	040(G)		Formatted: Space Before: 5 pt, After: 5 pt
<u>Soil, Air and Water Conservation Activities</u>	P	040(H)		Formatted: Space Before: 5 pt, After: 5 pt
<u>Irrigation canals, delivery lines and those structures and accessory operation facilities associated with a district as defined in ORS 540.505</u>	P	040(I)		Formatted: Space Before: 5 pt, After: 5 pt
<u>Physical Alterations to the Land Auxiliary to Forest Practices</u>	P	040(J)		Formatted: Space Before: 5 pt, After: 5 pt
<u>Wildlife Habitat Conservation and Management Plan</u>	P	040(K)		Formatted: Space Before: 5 pt, After: 5 pt
<u>Processing Facility for Farm Crops</u>	AR	050(A)		Formatted: Space Before: 5 pt, After: 5 pt
<u>Permanent Facility for Primary Processing of Forest Products</u>	CUP	060(A)		Formatted: Line spacing: Exactly 10 pt
<u>Permanent Logging Equipment Repair and Storage Facility</u>	CUP	060(B)		Formatted: Space Before: 5 pt, After: 5 pt
<u>Log Scaling and Weigh Stations</u>	CUP	060(C)		Formatted: Space Before: 5 pt, After: 4 pt
<u>Forest Management Research and Experimentation Facilities</u>	CUP	060(D)		Formatted Table
<u>Aquaculture</u>	CUP	060(E)		Formatted: Space Before: 5 pt, After: 5 pt
<u>Insect Breeding</u>	CUP	060(F)		Formatted: Space Before: 5 pt, After: 4 pt
<u>Operations for the Extraction and Bottling of Water</u>	CUP	060(G)		Formatted: Space Before: 5 pt, After: 5 pt
COMMERCIAL	AUTHORIZATION	PCZO		Formatted: Space Before: 5 pt, After: 4 pt
<u>On-site Filming and Accessory Activities for 45-days or less (ORS 215.306).</u>	P	040(L)		Formatted: Space Before: 5 pt, After: 5 pt
<u>Breeding, Kenneling, and Training of Greyhounds for Racing**</u>	P	040(M)		Formatted: Space Before: 5 pt, After: 4 pt
<u>Winery, as described in ORS 215.452</u>	AR	050(B)		Formatted: Space Before: 5 pt, After: 5 pt
<u>Farm Stands</u>	AR	050(C)		Formatted: Space Before: 5 pt, After: 4 pt
<u>Commercial Activity In Conjunction with Farm Use</u>	CUP	060(H)		Formatted: Space Before: 5 pt, After: 5 pt
<u>Home Occupations</u>	CUP	060(I)		Formatted: Space Before: 5 pt, After: 4 pt
<u>On-site Filming and Accessory Activities for more than 45-days (ORS 215.306).</u>	CUP	060(J)		Formatted: Space Before: 5 pt, After: 5 pt
<u>Dog Kennels**</u>	CUP	060(K)		Formatted: Space Before: 5 pt, After: 4 pt
				Formatted ... [1]
				Formatted ... [2]

MINERAL AND AGGREGATE OPERATIONS	AUTHORIZATION	PCZO	Formatted: Space After: 4 pt
Exploration and Production of Geothermal, gas, oil, and other associated hydrocarbons, (ORS 517.750)	P	040(PN)	Formatted: Font: Not Italic
Exploration for Mineral and Aggregate as defined by ORS 517.750	P	040(O)	Formatted Table
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(L)	Formatted: Space Before: 5 pt, After: 5 pt
			Formatted: Space Before: 5 pt, After: 4 pt
			Formatted: Line spacing: Exactly 9 pt
			Formatted Table
			Formatted: Space Before: 5 pt, After: 5 pt
			Formatted: Indent: Left: 0", First line: 0", Space Before: 5 pt, After: 4 pt
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(P)	Formatted: Space Before: 5 pt, After: 5 pt
Climbing and Passing Lanes within Right-of Way existing on July 1, 1987.	P	040(Q)	Formatted: Space Before: 5 pt, After: 4 pt
Temporary Public Road Detours	P	040(R)	Formatted: Space Before: 5 pt, After: 5 pt
Minor Betterment to Existing Road and Highway Related Facilities, including climbing and passing lanes within right-of-way existing on July 1, 1987.	P	040(S)	Formatted: Space Before: 5 pt, After: 4 pt
Widening of Roads within existing right-of-way	P	040(T)	Formatted: Space Before: 5 pt, After: 5 pt
Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	CUP	060(M)	Formatted ... [3]
Expansion of Existing Airport.	CUP	060(N)	Formatted ... [4]
Construction of Passing and Travel lanes requiring acquisition of right-of-way, but not resulting in the creation of new parcels.	CUP	060(Q)	Formatted ... [5]
Personal Use Airports and Helipads	CUP	060(R)	Formatted ... [6]
Reconstruction or Modification of Public Roads, involving the removal of buildings, but not the creation of new parcels.	CUP	060(S)	Formatted ... [7]
Improvements to Existing Road and Highway Related Facilities where additional property right-of-way is required.	CUP	060(T)	Formatted ... [8]
Transportation Facilities: Roads and Highways; including aids to Navigation and Aviation	CUP	060(U)	Formatted ... [9]
			Formatted ... [10]
			Formatted ... [11]
			Formatted ... [12]
			Formatted ... [13]
			Formatted ... [14]
			Formatted ... [15]
			Formatted ... [16]
			Formatted ... [17]
			Formatted ... [18]
			Formatted ... [19]
UTILITIES AND SOLID WASTE DISPOSAL FACILITIES	AUTHORIZATION	PCZO	
Utility Facility Service Lines	P	040(U)	Formatted ... [20]
Mandated Solid Waste Disposal Site under ORS 459.049	P	040(V)	Formatted ... [21]
Utility Facilities Necessary for Public Service, excepting commercial power generating facilities, transmission towers over 200 feet in height.	AR	050(D)	Formatted ... [22]
			Formatted ... [23]
			Formatted ... [24]
			Formatted ... [25]

and a communications tower over 200 feet in height			Formatted ... [27]
Solid Waste Disposal Site under QRS 459.245	CUP	060(B)	Formatted ... [28]
Composting Facilities	CUP	060(C)	Formatted ... [29]
Transmission Tower over 200 feet in height	CUP	060(V)	Formatted ... [30]
Commercial Power Generating Facilities	CUP	060(W)	Formatted ... [31]
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(X)	Formatted ... [32]
Drinking Water Facilities (Intake, Treatment, pumping stations, etc.)	CUP	060(Y)	Formatted ... [33]
Reservoirs and Water Impoundments	CUP	060(Z)	Formatted ... [34]
			Formatted ... [35]
			Formatted ... [36]
			Formatted ... [37]
			Formatted ... [38]
			Formatted ... [39]
			Formatted ... [40]
			Formatted ... [41]
			Formatted ... [42]
			Formatted ... [43]
			Formatted ... [44]
			Formatted ... [45]

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES	AUTHORIZATION	PCZO	
Uninhabitable Structures Accessory to Fish and Wildlife Enhancement	P	040(W)	Formatted ... [46]
Private fee hunting operations without any accommodations.	P	040(X)	Formatted ... [47]
Caretaker Residence for Parks and Hatcheries	P	040(Y)	Formatted ... [48]
Firearms Training Facility	P	040(Z)	Formatted ... [49]
Model Aircraft Takeoff and Landing Sites	AR	050(E)	Formatted ... [50]
Schools, public or private**	AR	050(F)	Formatted ... [51]
Churches and Associated Cemeteries**	AR	050(G)	Formatted ... [52]
Destination Resorts pursuant to ORS 197.435 to 197.465 and Statewide Planning Goal 8**	AR	050(H)	Formatted ... [53]
Parks, private, including playgrounds, hunting/fishing preserves and campgrounds**	CUP	060(AA)	Formatted Table ... [54]
Parks, public or nonprofit, including playgrounds or community centers**	CUP	060(BB)	Formatted ... [55]
Private Seasonal Accommodations for Fee Hunting Operations	CUP	060(CC)	Formatted ... [56]
Private Seasonal Accommodations for Fee Fishing Operations	CUP	060(DD)	Formatted ... [57]
Expansion of an Existing County Fairgrounds	CUP	060(EE)	Formatted Table ... [58]
Golf Courses and accessory uses**	CUP	060(FF)	Formatted ... [59]
Cemeteries	CUP	060(GG)	Formatted ... [60]
Community Centers	CUP	060(HH)	Formatted ... [61]
Living History Museum	CUP	060(II)	Formatted ... [62]
			Formatted ... [63]
			Formatted ... [64]
			Formatted ... [65]
			Formatted ... [66]
			Formatted ... [67]
			Formatted ... [68]
			Formatted ... [69]
			Formatted ... [70]
			Formatted ... [71]
			Formatted ... [72]
			Formatted ... [73]
			Formatted ... [74]
			Formatted ... [75]

** Use requires a determination of soil classes

RESIDENTIAL USES	AUTHORIZATION	PCZO	Formatted: Condensed by 0.15 pt
Replacement Dwelling	AR	050(I)	Formatted: Space Before: 5 pt, After: 4 pt
Replacement of Historic Dwelling	AR	050(J)	Formatted: Space Before: 5 pt, After: 4 pt
Temporary Hardship Dwelling	AR	050(K)	Formatted: Space Before: 5 pt, After: 4 pt
Residential Homes (ORS 197.660)	CUP	060(JJ)	Formatted: Space Before: 5 pt, After: 4 pt
Room and Board Arrangements	CUP	060(KK)	Formatted: Space Before: 5 pt, After: 4 pt

USES ON TRACTS PREDOMINATELY USED FOR FARM USE AS DEFINED IN 138.070	AUTHORIZATION	PCZO	Formatted: Condensed by 0.15 pt Formatted Table
Farm Dwelling	AR	080(A)(1-5)	Formatted: Space Before: 5 pt, After: 4 pt
Lot of Record Dwelling – Not High Value	AR	080(A)(6)	Formatted: Space Before: 5 pt, After: 4 pt
Lot of Record Dwelling – High Value	AR	080(A)(7)	Formatted: Space Before: 5 pt, After: 4 pt
Family Farm Help Dwelling	AR	080(A)(8)	Formatted: Space Before: 5 pt, After: 4 pt
Accessory Farm Dwelling	AR	080(A)(9)	Formatted: Space Before: 5 pt, After: 4 pt
Seasonal Farm Worker Housing (ORS 197.675)	AR	080(A)(10)	Formatted: Space Before: 5 pt, After: 4 pt
Dwelling in Conjunction with a Commercial Dairy	AR	080(A)(11)	Formatted: Space Before: 5 pt, After: 4 pt
Relocated Farm Operation Dwelling	AR	080(A)(12)	Formatted: Space Before: 5 pt, After: 4 pt
Nonfarm Dwelling	CUP	090(A)(1)	Formatted: Space Before: 5 pt, After: 4 pt
Nonfarm Dwelling on Nonfarm Parcel	CUP	090(A)(2)	Formatted: Space Before: 5 pt, After: 4 pt

USES ON TRACTS PREDOMINATELY USED FOR FORESTRY AS DEFINED IN 138.070	AUTHORIZATION	PCZO	Formatted: Space Before: 5 pt, After: 4 pt Formatted Table
Small Tract, Forest Land "Lot of Record" Dwelling	AR	080(B)(1)	Formatted: Space Before: 5 pt, After: 4 pt
Large Tract Forest Land Dwelling	AR	080(B)(2)	Formatted: Space Before: 5 pt, After: 4 pt
"Template" Forest Land Dwelling	AR	080(B)(3-4)	Formatted: Space Before: 5 pt, After: 4 pt
Youth Camp	CUP	090(B)(1)	Formatted: Space Before: 5 pt, After: 4 pt

RESOURCE-RELATED USES AND DEVELOPMENT	AUTHORIZATION	Formatted: Line spacing: Exactly 10 pt
Temporary Structures Auxiliary to Forest Practices	P	
Distribution Lines in Existing Rights of Way	P	

Portable Facilities for Primary Processing	P
Fire Towers and Stations	P
Irrigation Water Intake and Distribution Facilities	P
Temporary Labor Camps—No Permanent Structures	P
Permanent Facility for Primary Processing	CUP
Permanent Equipment Repair and Storage Facility	CUP
Log Sealing and Weigh Stations	CUP
Research and Experimentation Facilities	CUP
Temporary Labor Camp—Permanent Structures	CUP
SINGLE-FAMILY RESIDENCES	AUTHORIZATION
Forest land 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	AR
Replacement Dwelling	AR
COMMERCIAL	AUTHORIZATION
Home Occupation, per ORS 215.448	CUP
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
Public Road and Highway Projects	CUP
Widening of Roads Within Existing Right of way	P
UTILITIES AND SOLID WASTE DISPOSAL FACILITIES	AUTHORIZATION
Power-Generating Facilities	CUP

Communications Tower and Facilities	CUP
Drinking Water Facility (Intake, Treatment, 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
New Distribution Lines in Right of way 100 ft. or less in width	CUP
PARKS/PUBLIC/QUASI-PUBLIC FACILITIES	AUTHORIZATION
Parks and Campgrounds	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

138.040. USES PERMITTED BY RIGHT. Based on the determination of predominant use of a tract in accordance with Section 138.020, 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 Land Tract – Uses Permitted by Right

Uses permitted by right on a tract which is predominantly in farm use are those uses allowed in the Exclusive Farm Use (EFU) Zoning District, described in Section 136.030 of the Polk County Zoning Ordinance.

(B) Forest Land Tract – Uses Permitted by Right

Uses permitted by right on a tract which is predominantly in forest use are those uses allowed in the Timber Conservation (TC) Zoning District, described in Section 177.030 of the Polk County Zoning Ordinance.

138.040 USES PERMITTED BY RIGHT. Based on the determination of predominant use of a tract in accordance with Section 138.020, 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.
- (M) Breeding, Kenneling, and Training of Greyhounds for Racing**
**on soil determined to be not predominately high-value.

MINERAL AND AGGREGATE OPERATIONS

- (N) 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.
- (O) Exploration for Mineral and Aggregate Resources as defined by ORS Chapter 517.570.

TRANSPORTATION

- (P) 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.
- (Q) Climbing and Passing Lanes within the Right-Of-Way existing as of July 1, 1987.
- (R) Temporary Public Road or Highway Detours that will be abandoned and restored to original condition or use at such time as no longer needed.
- (S) 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.

- (T) 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

- (U) Utility Facility Service Lines, 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. [OAR 660-033-0130(32)]
- (V) Solid Waste Disposal Site [ORS 215.283(2)(k)], that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities, or buildings necessary for its operation.

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

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

~~(A) Farm Land Tract – Uses Permitted by Right~~

~~Uses permitted by right on a tract which is predominantly in farm use are those uses allowed in the Exclusive Farm Use (EFU) Zoning District, described in Section 136.030 of the Polk County Zoning Ordinance.~~

~~(B) Forest Land Tract – Uses Permitted by Right~~

~~Uses permitted by right on a tract which is predominantly in forest use are those uses allowed in the Timber Conservation (TC) Zoning District, described in Section 177.030 of the Polk County Zoning Ordinance.~~

~~138.050. USES SUBJECT TO ADMINISTRATIVE REVIEW. Based on the determination of predominant use of tract in accordance with Section 138.020, 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 permits or regulations.~~

~~(A) Farm Land Tract – Uses Subject to Administrative Review~~

~~Uses permitted subject to administrative review on a tract which is predominantly in farm use are those uses allowed in the Exclusive Farm Use (EFU) Zoning District, described in Section 136.040 of the Polk County Zoning Ordinance.~~

~~(B) Forest Land Tract – Uses Subject to Administrative Review~~

~~Uses permitted subject to administrative review on a tract which is predominantly in forest use are those uses allowed in the Timber Conservation (TC) Zoning District, described in Section 177.035 of the Polk County Zoning Ordinance.~~

138.050 USES SUBJECT TO ADMINISTRATIVE REVIEW. ~~Based on the determination of predominant use of tract in accordance with Section 138.020,~~ 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 permits or regulations.

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.

Comment [g1]: New language from OAR.

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 the local agricultural area, 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 the local agricultural area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.

Comment [g2]: New language from OAR.

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 (R)(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 mitigate 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) In addition to the provisions of subsections (R)(1) to (4) of this rule, 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.
 - (6) The provisions of subsections R (1) to (4) of this rule do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulations by the Federal Energy Regulatory Commission.

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

- (E) Model Airplane Takeoff and Landing Sites [OAR 660:033-0130(26)], including such buildings or facilities as may reasonably be necessary. Buildings or utilities 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.

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.
- (F) Schools [ORS 215.283(1)(a)], public or private, including all buildings essential to the operation of a school. (Note: New schools are not authorized on lands classified as high-value. Existing facilities on all farmlands may be maintained, enhanced, or expanded on the same tract. An exception to the applicable Statewide Planning Goals is required when the school would be located within three miles of an urban growth boundary.)
- (G) Churches and Associated Cemeteries [ORS 215.283(1)(b)]. (Note: New churches and associated cemeteries are not authorized on lands classified as high-value. Existing facilities on all farmlands may be maintained, enhanced, or expanded on the same tract. An exception to the applicable Statewide Planning Goals is required when the church or cemetery would be located within three miles of an urban growth boundary.)
- (H) Destination Resort [ORS 215.283(2)(f)], 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

- (I) Replacement Dwelling [ORS 215.283 (1)(u) and OAR 660-033-0130(8)(a)(b)(c)]. 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) In the case of replacement:
 - (a) The dwelling to be replaced must be removed, demolished or converted to an approved nonresidential use, within 3 months of the completion of the replacement dwelling; or
 - (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) 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

Comment [g3]: Language from OAR/ORS that wasn't in last EPU update.

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. 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.

Comment [g4]: From OAR

(7) An accessory farm dwelling authorized pursuant to OAR 660-033-0130(24)(a)(B)(iii), may only be replaced by a manufactured dwelling.

(J) 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.

(K) Temporary Hardship Dwelling [OAR 660-33-130 (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(I).

~~(A) Farm Land Tract - Uses Subject to Administrative Review~~

~~Uses permitted subject to administrative review on a tract which is predominantly in farm use are those uses allowed in the Exclusive Farm Use (EFU) Zoning District, described in Section 136.040 of the Polk County Zoning Ordinance.~~

~~(B) Forest Land Tract - Uses Subject to Administrative Review~~

Uses permitted subject to administrative review on a tract which is predominantly in forest use are those uses allowed in the Timber Conservation (TC) Zoning District, described in Section 177.035 of the Polk County Zoning Ordinance.

~~138.060. CONDITIONAL USES. Based on the determination of predominant use of tract in accordance with Section 138.020, the following conditional uses may be approved, subject to compliance with the procedures and criteria under Chapter 119, general review standards under Section 138.070, applicable state and federal regulations, and other specific criteria as may be indicated:~~

~~(A) Farm Land Tract Conditional Uses~~

~~Uses permitted as conditional uses on a tract which is predominantly in farm use are those uses allowed in the Exclusive Farm Use (EFU) Zoning District, described in Section 136.050 of the Polk County Zoning Ordinance.~~

~~(B) Forest Land Tract Conditional Uses~~

~~Uses permitted as conditional uses on a tract which is predominantly in forest use are those uses allowed in the Timber Conservation (TC) Zoning District, described in Section 177.040 of the Polk County Zoning Ordinance.~~

~~138.060. CONDITIONAL USES. Based on the determination of predominant use of tract in accordance with Section 138.020, The following conditional uses may be approved, subject to compliance with the procedures and criteria under Chapter 119, general review standards under Section 138.100, applicable state and federal regulations, and other specific criteria as may be indicated:~~

RESOURCE-RELATED USES

~~(A) Permanent Facility for the Primary Processing of Forest Products [OAR 660-033-0130(6)]. A facility for the primary processing of forest products is authorized, subject to compliance with Section 138.100, 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) Permanent Logging Equipment Repair and Storage.~~

~~(C) Log Scaling and Weigh Stations.~~

~~(D) Forest Management Research and Experimentation Facilities as defined by ORS 526.215 or where accessory to forest operations.~~

~~(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.~~

~~(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.~~

- (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 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.

COMMERCIAL ACTIVITIES

- (H) Commercial Activity in Conjunction with Farm Use [ORS 215.283(2)(a)], including 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.
- (I) Home Occupations [OAR 660-033-0130(14)], subject to the general review standards under Section 138.100 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.
- (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 138.100. (Note: Existing facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract subject to other requirements of law.)

MINERAL AND AGGREGATE OPERATIONS

- (L) 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:
- (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 PCZO Chapter 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

- (M) Temporary Asphalt and Concrete Batch Plants as accessory uses to specific highway projects.
- (N) Expansion of Existing Airports.
- (O) Construction of Additional Passing and Travel Lanes [ORS 215.283(2)(g)], requiring the acquisition of right-of-way, but not resulting in the creation of new parcels, subject to compliance with Section 138.100.
- (P) 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 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) 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.
- (R) 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.
- (S) Transportation Facilities [ORS 215.283(3)(b)]. The following transportation facilities may be established:
- (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, dated November 14, 2001.]

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

Comment [g5]: From ORS

- (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

UTILITIES AND SOLID WASTE DISPOSAL FACILITIES

- (T) Solid Waste Disposal Site under ORS 459.245 [ORS 215.283(2)(k)], subject to compliance with Section 138.100.. (Note: New solid waste disposal sites are not authorized on lands classified as high-value.)
- (U) Composting facilities [OAR 660-033-0130(29)], on land not classified as high-value farmland, as defined by OAR 340-096-0024(1), (2), or (3), subject to compliance with Section 138.100. Buildings and facilities used in conjunction with the composting operation shall only be those required for 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. (Note: New composting facilities are not authorized on lands classified as high-value. Existing facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract). Composting facilities are a conditional use when:
- (1) The primary purpose of obtaining a profit in money from the farm use of the land is from composting, or
 - (2) The product or by-products are raised on lands other than farm land used for the primary purpose of obtaining a profit in money from the farm use of the land
- (V) Communication and Broadcast Towers over 200 feet in Height [ORS 215.283(2)(m)], subject to compliance with Section 138.100, 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;
- (W) Commercial Power Generating Facilities [OAR 660-033-0130(17)], subject to compliance with Section 138.100. (Note: On high-value farmland, an exception to the statewide Agricultural Lands Planning Goal is required where development 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 development of the power generating facility removes more than 20 acres from commercial agricultural production).
- (X) 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.
- (Y) Drinking Water Facilities [OAR 660-006-0025(4)(l)] Water intake facilities, related treatment facilities, pumping stations, and distribution lines
- (Z) Reservoirs and Water Impoundments [OAR 660-006-0025(4)(m)]

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

(AA) Private Parks, Playgrounds, Hunting and Fishing Preserves and Campgrounds [OAR 660-033-0130(19)], subject to compliance with Section 138.100. (Note: New facilities are not allowed on lands classified as high-value. Existing facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract. 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.

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.
- (BB) 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 Section 138.100. A public park may be established consistent with the provisions of ORS 195.120.
- (CC) Private Seasonal Accommodations for Fee Hunting Operations [OAR 660-006-0025(4)(P), 600-060-0029 and 660-006-0035], subject to 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.
- (DD) Private Seasonal Accommodations for Fee Fishing Operations [OAR 660-006-0025(4)(W), 600-060-0029 and 660-006-0035] subject to 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

(EE) 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.

(FF) 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 not classified as high-value, 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 and OAR 660-33-130 (18).

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.

- (GG) Cemeteries [OAR 660-006-0025(4)(o)].
- (HH) 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.
- (II) 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. 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.

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.

OTHER

- (JJ) Residential Homes [ORS 215.283(2)(o)], as defined in ORS 197.660, in existing dwellings subject to compliance with Section 138.100.
- (KK) 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.

~~138.070. GENERAL REVIEW STANDARDS [OAR 660-33-130 (5) and OAR 660-06-025 (5)]. Based on the determination of predominant use of a tract in accordance with Section 138.020, the following standards apply to the authorized uses referenced by this section.~~

~~(A) Farm Land Tract General Review Standards~~

~~To ensure compatibility with farming and forestry activities, the Planning Director or Hearings Officer shall determine that a use authorized by Section 138.050 (A) meets the following requirements:~~

- ~~(1) 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~~
- ~~(2) The proposed use will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.~~

~~(B) Forest Land Tract General Review Standards~~

~~To ensure compatibility with farming and forest activities, the Planning Director or hearings body shall determine that a use authorized by Section 138.050 (B) meets the following requirements:~~

- ~~(1) 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;~~
- ~~(2) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel;~~

- (3) ~~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 OAR 660-06-025 (4)(e), (f), (r), (s) and (v); and~~
- (4) ~~All 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.~~

138.070 PREDOMINANT USE TEST [(OAR 660-06-050 (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. SITING OF DWELLINGS AND STRUCTURES ON FOREST PARCELS [OAR 660-06-029]. Based on the determination of predominant use of a tract in accordance with Section 138.020, the siting standards for dwellings and structures as described in Section 177.080 of the Polk County zoning Ordinance shall apply to all new dwellings or permanent structures on a forest land tract.

138.090. FIRE SITING STANDARDS FOR DWELLINGS AND STRUCTURES ON FOREST PARCELS [OAR 660-06-035]. Based on the determination of predominant use of a tract in accordance with Section 138.020, the fire siting standards for dwellings and structures as described in Section 177.090 of the Polk County zoning Ordinance shall apply to all new dwellings or permanent structures on a forest land tract.

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 and as may otherwise be indicated by federal, state and local permits or regulations.

- (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(7) 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. (Note: 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.) [OAR 660-033-0135(7)(d)];

- (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 660-33-020(8)(c) or (d) and prime, unique, NRCS Class I or II soils identified in OAR 660-033-0020(8)(a) or (b);
 - (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)]

- 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 PCZO 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(5) and (9)]. 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 (Note: 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.) [OAR 660-033-0135(7)(d)]; 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 (Note: 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 PCZO 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)]

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 PCZO 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 PCZO 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' 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.
- (9) *Accessory Farm Dwelling* [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 (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) 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

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

- (10) Dwelling in Conjunction with a Commercial Dairy [OAR 660-033-0135(10)] 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) PCZO Section 138.080(A) if located on high-value farmland; or
 - (ii) PCZO 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(12)] 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 PCZO 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 PCZO 110.223, that produced in the last two years or three of the last five years the gross farm income required by PCZO 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 paragraph (1) of this subsection;
- (e) In determining the gross income required by subsections (1) and (2)(a), of this subsection:
 - (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 LAND TRACT - Uses Subject to Administrative Review on a tract where the predominate use has been determined to be forest use. All dwellings and permanent structures authorized under this section shall meet the standards listed in Sections 138.080 (Dwelling Standards), 138.110 (Siting Standards), 138.120 (Fire Siting Standards), and Chapter 112 (Development Standards).

DWELLINGS

- (1) Small Tract, Lot-of-Record Dwelling [OAR 660-06-027 (1) (a), (f), and (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 succession 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.
Note: 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(1)(c) and (6)]. 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 660-06 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(1)(d)]. 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 (Note: 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 (Note: 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 (Note: 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 660-06-027 (6) and Section 138.080 (B)(3)(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(2)]. 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 660-06-027 (6) and Section 138.080(B)(3)(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, general review standards under Section 138.100, applicable state and federal regulations, and other specific criteria as may be indicated:

- (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 660-33-020 (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 PCZO 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 PCZO 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 (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).

- (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 PCZO 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 PCZO 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 (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).

- (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 Subject to Administrative Review on a tract where the predominate use has been determined to be forest use. All dwellings and permanent structures authorized under this section shall meet the standards listed in Sections 138.080 (Dwelling Standards), 138.110 (Siting Standards), 138.120 (Fire Siting Standards), and Chapter 112 (Development Standards).

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. [Amended by Ordinance #01-10, dated November 14, 2001]

138.100 GENERAL REVIEW STANDARDS [OAR 660-33-130 (5) and OAR 660-06-025

(5)] Based on the determination of predominant use of a tract in accordance with Section 138.020, the following standards apply to the authorized uses referenced by this section.

(A) ~~(A) Farm Land Tract - General Review Standards~~

To ensure compatibility with farming and forestry activities, the Planning Director or Hearings Officer shall determine that a use authorized by Section 138.050 (A) meets the following requirements:

- (1) ~~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~~
- (2) ~~The proposed use will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.~~

(B) ~~Forest Land Tract - General Review Standards~~

To ensure compatibility with farming and forest activities, the Planning Director or hearings body shall determine that a use authorized by Sections 138.050(K), 138.060, 138.080 or 138.090 meets the following requirements:

- (1) 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.
- ~~(2) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel;~~
- ~~(3) 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 OAR 660-06-025 (4)(e), (f), (r), (s) and (v); and~~
- ~~(4) All 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.~~

138.110 SITING OF FOREST DWELLINGS AND STRUCTURES ON FOREST PARCELS [OAR 660-06-029]. Based on the determination of predominant use of a tract in accordance with Section 138.070, the siting standards for uses authorized under 138.080(B) and 138.090(B)(1) dwellings and structures as described in Section 177.080 of the Polk County zoning Ordinance shall apply to all new dwellings or permanent structures on a forest land tract. Are subject to the siting standards as follows:

- (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 FOREST DWELLINGS AND STRUCTURES ON FOREST PARCELS [OAR 660-06-035] Based on the determination of predominant use of a tract in accordance with Section 138.070, the fire siting standards for dwellings and uses authorized under 138.080(B) and 138.090(B)(1) structures as described in Section 177.090 of the Polk County zoning Ordinance shall apply to all new dwellings or permanent structures on a forest land tract are subject to the fire siting standards as follows:

- (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.

138.100. LAND DIVISION REQUIREMENTS [OAR 660-06-055, OAR 660-06-026, and OAR 660-33-100]. 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. Parcels resulting from a foreclosure action are exempted from the partitioning process. A deed or instrument conveying land in lieu of foreclosure shall not constitute a foreclosure action.

Based on the determination of predominant use of a tract in accordance with Section 138.020, the following land division requirements shall apply:

~~(A) Farm Tract Land Division Requirements~~

- ~~(1) (a) The minimum parcel size shall be 40 acres;~~
- ~~(b) Nonfarm, Nonresidential Parcels [OAR 660-33-100 (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:~~
 - ~~(i) 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;~~

- (ii) ~~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;~~
- (iii) ~~Each parcel shall be provided legal access to a public road by frontage or easement (Note: The minimum frontage or easement width shall be 50 feet);~~
- (iv) ~~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);~~
- (v) ~~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 660-33-100 (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:~~
 - (i) ~~The proposed nonfarm parcel is intended for the siting of a nonfarm dwelling authorized by this Ordinance;~~
 - (ii) ~~The proposed parcel is not less than 20 acres in size;~~
 - (iv) ~~The parent parcel is not stocked to the requirements of ORS 527.610 to 527.770;~~
 - (v) ~~The parent parcel is composed of at least 95 percent NRCS Class VI through VIII soils;~~
 - (vi) ~~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~~
 - (vii) ~~The proposed nonfarm parcel is disqualified from special farm use tax assessment, as required under ORS 215.236.~~
 - (viii) ~~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.~~

~~(B) Forest Tract Land Division Requirements [660-06-026]~~

- (1) ~~The minimum lot size is 40 acres; or~~
- (2) ~~Land divisions creating parcels less than 40 acres in size may only be approved for uses listed in Sections 177.030 (H) and (L) and 177.040 (C) through (P), provided that those uses have been approved pursuant to Section 138.070 (B) 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 138.150 based upon the specific use authorized by the Conditional Use Permit.~~

138.130 LAND DIVISION REQUIREMENTS [OAR 660-06-055, OAR 660-06-026, and OAR 660-33-100] 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. ~~Parcels resulting from a foreclosure action are exempted from the partitioning process.~~ A deed or instrument conveying land in lieu of foreclosure shall not constitute a foreclosure action.

~~Based on the determination of predominant use of a tract in accordance with Section 138.020, the following land division requirements shall apply:~~

~~(A) Farm Forest Land Division Requirements~~

~~(A) Except as provided in Section 138.130(AB-J)(2-10), 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 660-33-100 (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 (Note: 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 (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 (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 660-33-100 (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 stockcd 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) ~~(B)~~ 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 PCZO 138.060(I) if the dwelling has been approved under PCZO 138.090(A)(1), or PCZO 138.090(A)(2).
- (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 PCZO 138.050(D);

- (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 PCZO 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 Statewide 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 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 Statewide 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.

(8)

- (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.
- (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).

(K) A Division of a Lot or Parcel that Contains Two 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 ORS 215.213(1)(u) or 215.283(1)(t);
- (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 section provides evidence that a restriction prohibiting the landowner and the land owner's successors in interest from further dividing the lot or parcel has been recorded with the county clerk of the county in which the lot or parcel is located. A restriction imposed under this section shall be irrevocable unless a statement of release is signed by the county planning director of the county in which the lot or parcel is located 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 statewide goal 4 (Forest Lands) or unless the land division is subsequently authorized by law or by a change in statewide goal 4 (Forest Land);

~~(I) Tract Land Division Requirements [660-06-026]~~

(1) ~~The minimum lot size is acres; or~~

(2) ~~Land divisions creating parcels less than acres in size may only be approved for uses listed in Sections () and () and (), provided that those uses have been approved pursuant to Section 138.() 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 138.150 based upon the specific use authorized by the Conditional Use Permit.~~
138.110. CONSTRUCTION FINANCING. ~~When a lender requires a portion of a property be used for collateral for construction financing for housing or agricultural improvements, the property owner shall submit an Affidavit of Partition for Collateral to the Planning Director. Copies of this affidavit are available from the Planning Division. The property owner shall certify that he/she understands that the financing agreement does not create separate parcels and that, except in the event of foreclosure, neither parcel may be sold or otherwise separated from the other.~~

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(F), (G), and (H), 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.

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 transferrable, however, any significant change in, or replacement of, the nonconforming use may require permits under current building and land development codes.

138.130 HEIGHT ~~There shall be a height limitation of 100 feet for all building and structures in the Farm/Forest Zoning District, except for those lands subject to the Airport Overlay zone or any structure which has received a conditional approval which limits the height of said structure.~~

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.

ADDRESS SERVICE
REQUESTED



02 1M
0004275527
\$ 04.95⁰⁰
AUG 05 2009
MAILED FROM ZIP CODE 97338

POLK COUNTY COMMUNITY DEVELOPMENT

Polk County Courthouse
850 Main Street
Dallas, Oregon 97338

TO:

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