



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

05/11/2012

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

FROM: Plan Amendment Program Specialist

SUBJECT: Marion County Plan Amendment  
DLCD File Number 004-11

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

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, May 24, 2012

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

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

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

Cc: Joe Fennimore, Marion County  
Jon Jinings, DLCD Community Services Specialist  
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> YA



FORM 2

DLCD

# Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person  electronic  mailed

DATE  
STAMP

DEPT OF  
MAY 04 2012  
LAND CONSERVATION  
AND DEVELOPMENT  
For Office Use Only

Jurisdiction: **Marion County**

Local file number: **LA11-001**

Date of Adoption: **5/2/2012**

Date Mailed: **5/2/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 12/7/2011

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Proposed revisions to the Rural Zone Code Chapter 17 of the Marion County Code incorporating new legislation, policies, corrections, chapter reorganization and minor updates and clarification of regulations

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:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
<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"/>	<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...

35-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. 004-11 (19098) [17026]

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

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Local Contact: <b>Joe Fennimore</b>	Phone: (503) 588-5038	Extension:
Address: <b>5155 Silverton Rd NE</b>	Fax Number: <b>503-589-3284</b>	
City: <b>Salem</b>	Zip: <b>97305-</b>	E-mail Address: <b>gfennimore@co.marion.or.us</b>

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### **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615 ).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845 ).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615 ).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 30, 2011

**BEFORE THE BOARD OF COMMISSIONERS  
FOR MARION COUNTY, OREGON**

In the Matter of an Ordinance Amending Marion )  
County Code, Title 17 (Rural Zone Code) by )  
Amending Provisions and Declaring an Emergency )

AN ADMINISTRATIVE ORDINANCE

ORDINANCE NO. 1321e

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS  
FOLLOWS:

SECTION I. Purpose

This ordinance is enacted pursuant to the authority granted to general law counties in the State of Oregon by ORS Chapters 203, 197 and 215 to implement the County Comprehensive Plan by amending the Marion County Code provisions related to rural zoning.

SECTION II. Authorization

The Marion County Board of Commissioners initiated legislative amendments to the Marion County Rural Zone Code by Resolution 11-30R, dated November 9, 2011. The Marion County Planning Commission held a public hearing on January 24, 2012, and the Board of Commissioners held a public hearing on April 11, 2012 to consider the amendments, for which proper notice and advertisement were given. All persons present during the public hearing were given the opportunity to speak or present written statements.

SECTION III. Evidence and Conclusion

The amendments of the Marion County Rural Zone Code made hereunder are based on consideration and analysis of the operation of present zoning regulations and provisions of ORS Chapters 197 and 215 and the State Land Use Goals and related Oregon Administrative Rules. Due consideration was given to testimony in the hearing. The Board finds that the revisions to the Rural Zone Code are in compliance with State Land Use Goals, the applicable policies in the Marion County Comprehensive Plan, and with ORS 197 and ORS 215.

SECTION IV. Amendments

Title 17 MCC (Marion County Rural Zone Code) is amended as set forth in Exhibit A, attached hereto and incorporated herein.

SECTION V. Severability and Savings Clause


Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance, or any policy, provision, finding, statement, conclusion, or designation to a particular land use or area of land, or any other portion, segment or element of this ordinance or of the amendments adopted hereunder, be declared invalid for any reason, that declaration shall not affect the validity of any provision of this ordinance or of any other Marion County Code provisions amended herein.


SECTION VI. Effective Date

This ordinance being necessary to protect the public health, safety and welfare, an emergency is declared to exist and this ordinance shall be come effective upon its passage.

SIGNED and FINALIZED this 2nd day of May,  
2012, at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS

  
Chair

  
Recording Secretary

**JUDICIAL NOTICE**

Oregon Revised Statutes, Chapter 197.830, provides that land use decisions may be reviewed by the Land Use Board of Appeals by filing a notice of intent to appeal within 21 days from the date this Ordinance becomes final.

## EXHIBIT A

### DELETIONS IN STRIKEOUT ADDITIONS IN BOLD AND UNDERLINED

#### CHAPTER 17.120 SPECIFIC CONDITIONAL USES

##### Article I. Specific Conditional Uses

Section	Title	Page
17.120.010	Mobile Home Parks	1
17.120.020	Duplex on a Corner Lot	4
17.120.030	Boat, Camper, and Trailer Storage Area or Lot	4
17.120.040	Temporary Use of Mobile Homes or Recreational Vehicle During Certain Hardship Conditions	4
17.120.050	Custom Cabinet Shop and Sales Firm	5
17.120.075	Conditional Home Occupations	6
17.120.080	Wireless Communication Facilities	6
<u>17.120.090</u>	<u>Agri-tourism Events</u>	

**17.120.090 AGRITOURISM EVENTS AND ACTIVITIES. Agri-tourism and other commercial events or activities in conjunction with a farming operation shall meet the following use criteria and development standards. An applicant may be approved under subsection A or B and subsection C:**

**A. A farming operation may conduct a single event on a tract in a calendar year subject to the following:**

- 1. The event or activity shall be incidental and subordinate to the existing farm use on the tract; and**
- 2. The duration of the event or activity shall not exceed 72 hours; and**
- 3. The maximum attendance at the event or activity shall not exceed 500 people; and**
- 4. The maximum number of motor vehicles parked at the site for the event or activity shall not exceed 250; and**
- 5. The event or activity shall occur outdoors, in temporary structures, or existing permitted structures subject to fire life safety requirements. Temporary structures shall be removed at end of the event; and**
- 6. The event or activity shall cause no alteration to land including, but not limited to, grading, filling or paving.**

**B. A farming operation may conduct up to six events or activities in a calendar year subject to the following:**

- 1. The events or activities shall be incidental and subordinate to the existing farm use on the tract; and**
- 2. The duration of each event or activity shall not exceed 72 hours; and**
- 3. The events or activities shall not involve the construction or use of new permanent structures; and**

4. The events or activities shall not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern of the area; and
5. The event or activity shall cause no alteration to land including, but not limited to, grading, filling or paving.
6. Any approval shall be valid for two years and may be renewed subject to a review that the use continues to meet all applicable criteria and standards.

C. A farming operation may conduct events more frequently or for a longer duration than provided for in (A) and (B) subject to the following:

1. The events or activities shall be incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area; and
2. The events or activities shall not involve the construction or use of new permanent structure; and
3. The events or activities shall not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern of the area; and
4. The event or activity shall cause no alteration to land including, but not limited to, grading, filling or paving; and
5. The lot or parcel that the event or activity takes place on shall comply with the minimum lot size of that zone; and
6. The events or activities do not exceed 18 events in a calendar year; and
7. Any approval shall be valid for two years and may be renewed for an additional two years subject to a review that the use continues to meet all applicable criteria and standards. After four years, the applicant must reapply for a permit and the county shall provide public notice and opportunity for public comment and limit review to approved activities and events, conformance with conditions and approval criteria and standards.

D. The events or activities shall in (A), (B), or (C) shall comply with conditions established for:

1. The types of events and activities authorized including the number of events or activities, duration of events or activities, attendance of events or activities, and hours of operation of events or activities, and
2. The location of existing and proposed temporary structures used in conjunction with the events or activities. Temporary structures must be removed at end of the event or activity, and;
3. Location of access, egress, and parking facilities; and
4. Traffic management including project number of anticipated vehicles, and
5. Sanitation and solid waste.
6. Notice of public hearing or any decision approving events under the provisions of this section shall be mailed to all owners of property, any portion of which is within 1,500 feet of the subject property.

E. Any approval for events or activities under subsection (A) or (B) is for the applicant only and does not apply to the land.

F. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use.

- G. Wineries approved for uses under this section are prohibited from qualifying for uses under Chapter 17.125.030 of the MCC.

**CHAPTER 17.120  
SPECIFIC CONDITIONAL USES  
Article II. Solid Waste Disposal Sites**

Section	Title	Page
17.120.310	Purpose and Scope	1
17.120.315	Definitions	2
17.120.320	Conditional Uses	2
17.120.325	Minimum Standards	2
17.120.330	Application for Conditional Use Permit	3
17.120.340	Procedures	4
17.120.345	Issuance of Permits	4
17.120.350	Amendment to Conditional Use Permit	4
17.120.355	Coordination with Solid Waste Disposal Committee and Other Regulator Agencies	5
17.120.360	Standards for Solid Waste Disposal Site Rehabilitation and Restoration	5
17.120.365	Suspension or Revocation of Solid Waste Disposal Site Permit	5
17.120.370	Failure to Maintain Site or Conditions	6
17.120.380	Required Agreements and Liens	6

**17.120.330 APPLICATION FOR CONDITIONAL USE PERMIT.** Application by the landowner shall be made to the commission or hearings officer on forms furnished by the planning division. Each application shall be accompanied by:

- A. An accurate plot plan showing exterior boundaries of the property on which the disposal site is to be located and the location of any existing or proposed structures, roads, proposed operating areas or other improvements, and the topography of the proposed site;
- ~~B. A certified list of property owners in the affected area in the same manner as is set forth in MCC 17.123.050;~~
- BC.** A plan for rehabilitation and use of the site after the disposal has been terminated for a use permitted within the zone in which the land is located. Such a plan shall be prepared at a scale of not less than one inch equals 400 feet with topographic contours, an interval of which shall not be less than 25 feet. In its discretion, the commission or hearings officer may require a map or plan showing greater detail to determine compliance with this title and standards established by the commission or hearings officer;
- CD.** A copy of the application to the governing body of Marion County for a franchise pursuant to Chapter 8.05 MCC, Solid Waste Management, if the site is to be owned or to be operated by a person other than a governmental agency;
- DE.** An agreement required by MCC 17.120.380;



CHAPTER 17.125  
LIMITED USES

Section	Title	Page
17.125.005	Purpose	1
17.125.010	Temporary Use of Mobile Home During Construction	1
17.125.020	Subdivision or Planned Development Pre-cutting and Assembly Facility	1
<b>17.125.030</b>	<b>Winery</b>	
17.125.050	Mobile Home on a Lot in the RS Zone	2
17.125.060	Fuel Oil Distribution Firms	2
17.125.070	Mobile Home Towing Service Office	3
17.125.080	Retail Building Materials Sales Firm	3
17.125.100	Limited Home Occupation	3
17.125.110	Wireless Communication Facilities Attached	4
17.125.120	Wireless Communication Facilities	5

**17.125.030 WINERY. A winery subject to the following:**

**A. A winery may be established in the EFU, SA or FT zones subject to the following criteria:**

- 1. A winery with a maximum annual production of less than 50,000 gallons shall:**
  - a. Own an on-site vineyard of at least 15 acres;**
  - b. Own a contiguous vineyard of at least 15 acres;**
  - c. Have a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or**
  - d. Obtain grapes from any combination of (1), (2), or (3); or.**
- 2. A winery with a maximum annual production of at least 50,000 gallons shall:**
  - a. Own an on-site vineyard of at least 40 acres;**
  - b. Own a contiguous vineyard of at least 40 acres;**
  - c. Have a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery; or**
  - d. Obtain grapes from any combination of (1), (2), or (3); or.**
- 3. The winery complies with the following:**
  - a. The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is a vineyard;**
  - b. The winery owns at least 80 additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described in paragraph (a) of this subsection; and**
  - c. The winery has produced annually, at the same or a different location, at least 150,000 gallons of wine in at least three of the five calendar years before the winery is established under this section.**
- 4. Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards have been planted or that the contract has been executed, as applicable.**
- 5. The winery shall not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.**

6. Adequate fire protection and other rural services are, or will be, available when the use is established.

B. A winery described in either (A)(1) or (A)(2) may:

1. Market and sell wine produced in conjunction with the winery, including the following activities: wine tours; wine tastings in a tasting room or other location at the winery; wine clubs; and similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery;
2. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages served by a limited service restaurant, as defined in ORS 624.010; and
3. Provide services, including private events, such as facility rentals and celebratory gatherings, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:
  - a. Are directly related to the sale or promotion of wine produced in conjunction with the winery;
  - b. Are incidental to the retail sale of wine on-site; and
  - c. Are limited to 25 days or fewer in a calendar year.

[HB 3280 (2011) sunsets the provisions in (B)(3) on January 1, 2014.]

4. The gross income of the winery from the sale of incidental items pursuant to subsection (B)(2) of this section and services provided pursuant to subsection (B)(3) may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. Beginning on January 1, 2013, a winery approved under this section shall submit a written statement for the previous tax year, prepared by a certified public accountant, certifying compliance with the standards in this subsection.

[HB 3280 (2011) sunsets the provisions in (B)(4) on January 1, 2014.]

C. A winery described in (A)(3) may:

1. Market and sell wine produced in conjunction with the winery, including the following activities: wine tours; wine tastings in a tasting room or other location at the winery; wine clubs; and similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery;
2. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages served by a limited service restaurant, as defined in ORS 624.010, wine not produced in conjunction with the winery and gifts; and
3. Provide services, including private events, such as facility rentals and celebratory gatherings, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:
  - a. Are directly related to the sale or promotion of wine produced in conjunction with the winery;
  - b. Are incidental to the retail sale of wine on-site; and

- c. Are limited to 25 days or fewer in a calendar year.
  4. The gross income of the winery from the sale of incidental items pursuant to subsection (C)(2) of this section and services provided pursuant to subsection (C)(3) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. Beginning on January 1, 2013, a winery approved under this section shall submit a written statement for the previous tax year, prepared by a certified public accountant, certifying compliance with the standards in this subsection.
  5. Sell or deliver items or provide services not described in subsection (C)(2), (3) or (4) of this section under the criteria for a commercial activity in conjunction with farm use in the applicable zone.
  6. Operate a restaurant, as defined in ORS 624.010, for 25 days or fewer in a calendar year in which food is prepared for consumption on the premises of the winery.
- D. In addition to the uses listed in subsection (C), a winery described in (A)(3) may operate a restaurant that is open to the public for more than 25 days in a calendar year or provides for private events occurring on more than 25 days in a calendar year, shall, in addition to other criteria in this code, be subject to the following criteria:
1. The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use. Land devoted to farm or forest use does not include farm or forest use on lots or parcels upon which a non-farm or non-forest dwelling has been approved and established, in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.
  2. The use is incidental and subordinate to the retail sale of wine produced in conjunction with the winery; and
  3. The use does not materially alter the stability of the land use pattern in the area.
  4. A person may not have a substantial ownership interest in more than one winery operating a restaurant under this section.
  5. Any approval under this subsection for private events, including facility rentals and celebratory gatherings shall be reviewed at least once every five years to determine whether the permit may be renewed.
- E. In addition to the criteria and standards above, any winery established under this code shall demonstrate compliance with the following standards:
1. The winery shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.
  2. The winery and all public gathering places shall be setback at least 100 feet from all property lines.
  3. The winery shall establish a direct road access and a plan for internal circulation.
- F. Wineries approved for events or uses under this section are prohibited from qualifying for uses under Chapter 17.120.090 of the MCC.

**CHAPTER 17.126  
PERMITTED USES GENERALLY**

Section	Title	Page
17.126.010	Uses Permitted in all Zones	1
17.126.020	Permitted Secondary and Accessory Structures and Uses	1
17.126.030	Permitted Temporary Uses	4
17.126.040	Recreational Vehicle Space	4
<b><u>17.126.050</u></b>	<b><u>Co-location Of Additional Antennas .</u></b>	

**17.126.020 PERMITTED SECONDARY AND ACCESSORY STRUCTURES AND USES.** The following secondary and accessory uses and structures shall be permitted on a lot or parcel with a primary use and are subject to the limitations and requirements in Chapters 17.110, 17.112, 17.113, 17.114, 17.116, 17.117, 17.118, 17.120, 17.121 MCC, and the requirements in any applicable overlay zone:

- A. The following accessory structures and uses are permitted on a lot in any zone in conjunction with a permitted dwelling unit or mobile home:
1. Decks and patios (open, covered, or enclosed);
  2. Storage building for: firewood, equipment used in conjunction with dwelling and yard maintenance; personal property (except vehicles) not in conjunction with any commercial or industrial business other than a home occupation;
  3. Vegetable gardens, orchards and crop cultivation for personal use, including greenhouses. No sale of produce is permitted.
  4. Sauna;
  5. Hobby shop;
  6. Shelter for pets;
  7. Fallout shelters;
  8. Swimming pools and hot tubs;
  9. Guest facilities not in a primary dwelling unit provided:
    - a. Only one guest facility is allowed per contiguous property ownership; and
    - b. Total combined maximum floor area shall not exceed 600 square feet, including all levels and basement floor areas; and
    - c. No stove top, range, or conventional oven is allowed; and
    - d. All water, sewer, electricity and natural gas services for the guest facility shall be extended from the primary dwelling services; no separate meters for the guest facility shall be allowed; and
    - e. The guest facility shall be located within 100 feet of the primary use dwelling on the same property measured from the closest portion of each structure; and
    - f. The guest facility shall use the same septic system as the primary use dwelling, except when a separate system is required by the building inspection division due to site constraints, or failure of the existing system, or where the size or condition of the existing system precludes its use, additional drain lines may be added to an existing system, when appropriate; and
    - g. The guest facility shall not be occupied as a dwelling unit; and
    - h. The guest facility shall not have an address.

10. Rooming or boarding of up to two persons in a dwelling unit;
  11. Pets, provided a conditional use permit is required in the RS and AR zones if there are more than 10 mammals over four months old. No birds or furbearing animals, other than pets, and no live stock, poultry, or beekeeping are permitted in RS zones.
  12. One recreational vehicle space subject to the requirements in MCC 17.126.040;
  13. Additional kitchens in a dwelling unit provided all kitchens in the dwelling unit are used by only one family and subject to the recording of a covenant restricting the use to a single family dwelling;
  14. Offering to sell five or less vehicles owned by the occupants of the dwelling unit in any calendar year;
  15. Garages and carports for covered vehicle parking;
  16. Child foster home;
  17. Residential home\* (see MCC 17.110.190(C))
  18. Sleeping quarters for domestic employees of the resident of the dwelling unit or mobile home;
  19. Bed and breakfast establishments in AR zones provided they do not include more than four lodging rooms and may employ no more than two persons ("person" includes volunteers, non-resident employee, partner or any other person).
  20. Ham radio facilities.
- B. Fences are a permitted accessory or secondary use in all zones subject to the requirements in Chapter 17:117 MCC.
- C. Transit stop shelters and school bus stop shelters are a permitted secondary use in all zones. Shelters shall not be located within a required vision clearance area.
- D. Parking of vehicles in a structure or outdoors is a permitted accessory use in conjunction with a dwelling in any zone provided:
1. The vehicles are owned by the occupant of the lot or domestic employees of the occupant; and
  2. Vehicles parked outdoors in a residential zone may be parked in a space within the front yard meeting the requirements for required parking in Chapter 17.118 MCC; or, they may be parked elsewhere on the lot where accessory buildings are permitted provided the parking area is screened by a six foot high sight-obscuring fence, wall or hedge if the vehicle is parked within 100 feet of another lot in a residential zone. On a lot in the RS zone not more than three vehicles shall be parked within require yards adjacent to streets; and
  3. Vehicles parked on a lot or parcel shall be for the personal use of the occupants of the dwelling and the personal use of employees of an approved conditional use home occupation.
    - a. One vehicle used in conjunction with a home occupation and one vehicle used in other employment may be parked on the lot.
    - b. In the RS zone, any vehicle that is rated at more than one ton capacity shall be parked in an enclosed structure.
- E. Portable classrooms and dormitories for students are a permitted accessory use in conjunction with elementary and secondary schools (as defined in Chapter 17.110 MCC).
- F. Except in SA, EFU, FT and TC zones, a parsonage in conjunction with a religious organization.
- G. Parking of vehicles in a structure or outdoors is a permitted accessory or secondary use in the CC, C, IUC, ID and I zones provided:

1. The vehicles are owned by the occupant of the lot;
2. If vehicles are stored outdoors, the parking area shall be an all-weather surface, and be enclosed by a six foot high sight-obscuring fence, wall, hedge or berm; and
3. If vehicles are parked outdoors, the vehicles shall be operational, and used in conjunction with the primary use of the lot. If more than five vehicles are parked outdoors on the lot the parking area shall be screened by a six foot high sight-obscuring fence, wall or hedge if located within 100 feet of a lot in a residential zone and from streets.

H. Drop stations are permitted in CC, C, IUC, and I zones.

I. Retail sales or offices in a building in conjunction with a use in an industrial zone provided:

1. The floor area of the retail sales or offices shall not be more than 30 percent of the floor area of the industrial use;
2. The development requirements are met for the accessory use as if it was a primary use; and
3. The accessory use shall be located on the same lot as the primary use and the building shall be owned or leased by the industrial business owner.

J. Except in SA, EFU, FT and TC zones, accessory and secondary uses not otherwise permitted may be allowed as a conditional use provided the use is consistent with the definition of accessory or secondary and is compatible with the purpose of the zone and land uses on adjacent lots.

K. Private Energy Generating Facilities (such as wind turbines, solar power panels, fuel cells, and hydro power facilities) are permitted in all zones as an accessory use provided:

1. The applicant shall provide a copy of a net metering agreement with a nameplate rating that restricts the electrical power generation capacity to private electrical power on the property.
2. The property owner shall not receive any monetary compensation or credit for annually accumulated excess electrical power.
3. Any excess energy shall be transferred under provisions listed in OAR 860-039-0060.
4. Wind turbine towers shall be the factory default color.

**L. In addition to the use permitted in (K), a solar photovoltaic energy system or solar thermal energy system is permitted on residential and commercial structures provided:**

- 1. The installation of the system will not increase the footprint of the structure or peak height of the portion of the roof on which the system is installed; and,**
- 2. The system will be mounted so that the plane of the system is parallel to the slope of the roof; and,**
- 3. Installations on historic buildings or landmarks, on buildings in a historic district, on conversation landmarks, or on buildings located in an area designated as a significant scenic resource shall be constructed of material designated as either anti-reflective or less than eleven percent reflective.**

**17.126.050 Co-location Of Additional Antennas . The co-location of additional antennas and the addition of cabinets and other facility equipment to an existing wireless communication facility is permitted in the EFU, SA, TC, FT, I, ID and P zones provided:**

**A. The existing tower previously received land use approval or is permitted outright; and**

**B. The additional antennas do not increase the height of the tower beyond the approved height; and**

- C. The co-location is consistent with conditions of approval applied to the exiting facility.

**CHAPTER 17.128  
AR ACREAGE RESIDENTIAL ZONE**

**17.128.020 PERMITTED USES.** Within an AR (acreage residential) zone no building, structure or premises shall be used or arranged except for the following purposes:

- A. Single family dwelling.
- B. Farm use, including the sale of produce that is raised on the premises.
- C. Planned developments.
- D. Playgrounds and parks operated by governmental agencies.
- E. Public and private utility facility and public buildings such as fire stations, sheriff and police substations.
- F. Creation, restoration, or enhancement of wetlands as defined in ORS 197.
- G. Limited home occupations (see limited use, MCC 17.125.100).
- H. Wireless communication facilities attached subject to MCC 17.125.110 and pursuant to 17.115.110. (see limited use, MCC 17.125.110).
- I. Religious organizations and expansions of existing religious organizations where the religious organization or the expanded religious organization will be less than 20,000 square feet in total area.
- J. Replacement of a lawfully established dwelling, subject to the special siting standards in MCC 17.128.050(B), when the dwelling:
  - 1. Is a manufactured dwelling, mobile home, or manufactured home, the replaced dwelling shall be removed or demolished within 90 days of the occupancy of the replacement dwelling.
  - 2. Is a site built dwelling, the replaced dwelling shall be removed, demolished or converted to an allowable non-residential use within 90 days of the occupancy of the replacement dwelling.

**CHAPTER 17.131  
RS (SINGLE-FAMILY RESIDENTIAL) ZONE**

**17.131.010 USE.** Within an RS (single-family residential) zone no building, structure or premises shall be used, arranged or designed to be used, erected, structurally altered, or enlarged except for one or more of the following uses:

- A. Single family dwelling;
- B. Playgrounds, parks;
- C. Public buildings and structures, such as libraries or fire stations;
- D. Public utility structures and buildings such as pump stations and reservoirs, electric substations, when they comply with all yard and setback requirements;
- E. Limited home occupations (see limited use, MCC 17.125.100);
- F. Subdivision or planned development pre-cutting and assembly facility (see limited use, MCC 17.125.020);
- G. Subdivision or planned development sales office or development office (see limited use, MCC 17.125.030).
- H. Mobile home (see limited use, MCC 17.125.050).
- I. Wireless communication facilities attached subject to MCC 17.125.110 and pursuant to 17.115.110. (see limited use, MCC 17.125.110).

**CHAPTER 17.134  
RM (MULTIFAMILY RESIDENTIAL) ZONE**

**17.134.010 USE.** Within any RM (multifamily residential), zone no building, structure, or premises shall be used, arranged or designed to be used, erected, structurally altered or enlarged, except for one or more of the following uses:

- A. Detached single family dwelling on a lot.
- B. Duplex, multiple family dwelling.
- C. Combination of permitted attached or detached dwellings on a lot.
- D. Child care home or facility.
- E. Group care home.
- F. Residential home or facility.
- G. Nursing home.
- H. Rooming house.
- I. Religious organization.
- J. Membership organization.
- K. Any apartment or boarding house housing more than 25 families may have therein a newsstand, barber shop, beauty parlor, food shop, and dining rooms when conducted and entered only from within the building.
- L. Beauty shop, where no assistants are employed;
- M. A private garage or parking area for not more than three motor vehicles for each dwelling unit on the same lot with or within the dwelling to which it is accessory and in which garage no business or industry is conducted;
- N. Radio and TV facilities without antennae and support structures;
- O. Playgrounds, parks;
- P. Public buildings and structures, such as libraries or fire stations;
- Q. Public utility structures and buildings such as pump stations and reservoirs, electric substations, when they comply with all yard and setback requirements;
- R. Subdivision or planned development pre-cutting and assembly facility (see limited use, MCC 17.125.020);
- S. Subdivision or planned development sales office or development office (see limited use, MCC 17.125.030).
- T. Mobile home (see limited use, MCC 17.125.050).
- U. Limited home occupations, (see limited use, MCC 17.125.100);
- V. Wireless communication facilities attached (see limited use, **subject to MCC 17.125.110 and pursuant to 17.115.110.** (see limited use, MCC 17.125.110).

**CHAPTER 17.136  
EXCLUSIVE FARM USE ZONE**

**17.136.020 PERMITTED USES.** Within an EFU zone no building, structure or premise shall be used, arranged or designed to be used, erected, structurally altered or enlarged except for one or more of the following uses:

- A. Farm uses (see farm use definition, MCC 17.110.223).
- B. The propagation or harvesting of a forest product.
- C. Buildings, other than dwellings, customarily provided in conjunction with farm use.
- D. Alteration, restoration, or replacement of a lawfully established dwelling with filing of the Declaratory Statement in MCC 17.136.100(C), when the dwelling:
  - 1. Has a "percentage good" rating of 40 percent or more in the current County Assessor's records.



2. In the case of replacement, the replaced dwelling is removed, demolished or converted to an allowable non-residential use within three months of the final inspection or occupancy of the replacement dwelling.
  3. In the case of replacement of a manufactured dwelling, the unit to be replaced is a manufactured home as defined in ORS 446.003 [manufactured after June 15, 1976].
  4. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned EFU, SA (special agriculture) or FT (farm timber), the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement of dwellings have changed to allow the siting of another dwelling.
- E. Operations for the exploration for geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators, and customary production equipment for an individual well adjacent the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732.
- F. Operations for the exploration for minerals as defined by ORS 517.750.
- G. Widening of roads including public road and highway projects as follows:
1. Climbing and passing lanes within the street right-of-way existing as of July 1, 1987.
  2. Reconstruction or modification of public streets, including the placement of utility facilities overhead and in the subsurface of public roads and highways along public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new parcels result.
  3. Temporary public street detours that will be abandoned and restored to original condition or use at such time as no longer needed.
  4. Minor betterment of existing public street related facilities such as maintenance yards, weigh stations and rest areas, within rights-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public streets.
- H. Creation of, restoration of, or enhancement of wetlands.
- I. On-site filming and activities accessory to filming, as defined in MCC 17.136.140(A), if the activity would involve no more than 45 days on any site within a one-year period.
- J. Composting operations and facilities limited to those that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, and that meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.**

**17.136.030 DWELLINGS PERMITTED SUBJECT TO STANDARDS.** The following dwellings may be established in the EFU zone with filing of the declaratory statement in MCC 17.136.100(C), subject to approval by

the Director, based on satisfaction of the standards and criteria listed for each type of dwelling pursuant to the procedures in Chapter 17.115 MCC.

- A. Primary Farm Dwellings. A single-family dwelling customarily provided in conjunction with farm use. The dwelling will be considered customarily provided in conjunction with farm use when:
1. It is located on high-value farmland, as defined in MCC 17.136.140(D) and satisfies following standards:
    - a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use;
    - b. The **farm operator earned on** the subject tract, ~~produced~~ in the last two years, ~~or~~ three of the last five years, **or the average of the best three of the last five years** at least \$80, 000 in gross annual income from the sale of farm products. In determining gross annual income from the sale of farm products, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted;
    - c. The subject tract is currently employed for the farm use that produced the income required in subsection (A)(1)(b) of this section;
    - d. The proposed dwelling will be occupied by a person or persons who produced the commodities which generated the income in subsection (A)(1)(b) of this section; or
  2. It is not located on high-value farmland, as defined in MCC 17.136.140(D) and satisfies the following standards:
    - a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use;
    - b. The **farm operator earned on** the subject tract, ~~produced~~ in the last two years, ~~or~~ three of the last five years, **or the average of the best three of the last five years** at least \$40, 000 in gross annual income from the sale of farm products. In determining gross annual income from the sale of farm products, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted;
    - c. The subject tract is currently employed for the farm use that produced the income required in subsection (A)(2)(b) of this subsection;
    - d. The dwelling will be occupied by a person or persons who produced the commodities which generated the income required in subsection (A)(2)(b) of this subsection; or
  3. It is not located on high-value farmland, as defined in MCC 17.136.140(D) and satisfies the following standards:
    - a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are a used by the farm operator for farm use;

- b. The parcel on which the dwelling will be located is at least 160 acres;
  - c. The subject tract is currently employed for farm use, as defined in ORS 215.203;
  - d. The dwelling will be occupied by a person or person 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; or
4. It is in conjunction with a commercial dairy farm as defined in this chapter and if:
- a. The subject tract will be employed as a commercial dairy as defined; and
  - b. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and
  - c. Except as permitted by ORS 215.283(1)(p) (1999 Edition), (Seasonal Farmworker Housing), there is no other dwelling on the subject tract; and
  - 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 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.
5. The applicant had previously operated a commercial farm use and if:
- a. Within the previous two years, the applicant owned and operated a **different** farm or ranch operation that earned the gross farm income in **each of** the last five years or four of the last seven years as required by MCC 17.136.030(A)(1) or (2) of this section, 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 this title, that produced in the last two years or three of the last five years, **or the average of the best three of the last five years**; the gross farm income required by MCC 17.136.030(A)(1) or (2) of this section, whichever is applicable, and
    - ii. At least the size of the applicable minimum lot size in this chapter; and
      - (A) Except as permitted in ORS 215.283(1)(p)(1999 Edition) (Seasonal Farmworker Housing) there is no other dwelling on the subject tract; and

- (B) The dwelling will be occupied by a person or persons who produced the commodities, that grossed the income in subsection (A)(2)(b) of this section;
- (C) In determining the gross income required by subsections (A)(5)(a) and (b) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract, and only gross income from land owned not leased or rented, shall be counted.

6. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:

*It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.*

These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

- B. Secondary Farm Dwellings. Secondary (accessory) dwellings customarily provided in conjunction with farm use. The dwelling will be considered customarily provided in conjunction with farm use when:
1. The primary dwelling and the proposed dwelling will each be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm uses, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator.
  2. There is no other dwelling on lands in the EFU, SA or FT zone owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm and could reasonably be used as an additional farm dwelling.
  3. The proposed dwelling will be located:
    - a. On the same lot or parcel as the primary farm dwelling; or
    - b. On the same contiguous ownership as the primary dwelling, and the lot or parcel on which the proposed dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the same ownership; or
    - c. On a lot or parcel on which the primary farm dwelling is not located, when the secondary farm dwelling is limited to only a manufactured dwelling with a deed restriction filed with the county clerk. The deed restriction shall require the additional dwelling to be removed when the lot or parcel is conveyed to another party. Occupancy of the additional farm dwelling shall continually comply with subsection (B)(1) of this section; or
    - d. On any 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 worker ~~labor~~ housing as that existing ~~farm labor housing~~ on the farm operations registered with the Department of

Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The county shall require all accessory farm dwellings approved under this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or

- e. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in subsection (B)(4) below, whichever is applicable.
4. The primary dwelling to which the proposed dwelling would be accessory satisfies the following criteria:
- a. On land not identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and the farm operator earned ~~produced~~ at least \$40,000 in gross annual income from the sale of farm products in the last two years, or three of the last five years, or the average of the best three of the last five years at least; or
  - b. On land identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and the farm operator earned ~~produced~~ at least \$80,000 in gross annual income from the sale of farm products in the last two years, or three of the last five years, or the average of the best three of the last five years at least.
  - c. The primary dwelling is located on a commercial dairy farm as defined in this chapter; and
    - i. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and
    - ii. The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and
    - iii. Producer License for the sale of dairy products under ORS 621.072.
  - d. In determining the gross income in subsections (B)(4)(a) and (b) of this subsection, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
5. The dwelling will be consistent with the fish and wildlife habitat policies of the Comprehensive Plan if located in a designated big game habitat area.
6. Secondary farm dwellings shall be a manufactured home, or other type of attached multi-unit residential structure allowed by the applicable state building code, and a deed restriction filed with the county clerk requiring removal of the manufactured home or removal, demolition or conversion to a non-residential use if other residential structures are used, when the occupancy or use no longer complies with the criteria or standards under which the manufactured home was originally approved.
- C. A secondary single-family dwelling on real property used for farm use subject to the following standards:
- 1. A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step grandparent, grandchild, parent, stepparent, child, stepchild, brother,

sister, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use.

2. The farm operator shall continue to play the predominant role in management and farm 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.
3. A deed restriction is filed with the county clerk requiring removal of the dwelling when the occupancy or use no longer complies with the criteria or standards under which the dwelling was originally approved.
4. For purposes of this subsection, a commercial farm operation is one that meets the income requirements for a primary farm dwelling identified in subsection (A)(1)(b) of this section, and the parcel where the dwelling is proposed contains a minimum of 80 acres.
5. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:

*It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.*

These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

D. Dwelling Alteration and Replacement. Alteration, restoration, or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.136.100(C), other than as permitted in MCC 17.136.020(D), when the dwelling.

1. Has intact exterior walls and roof structure;
2. Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
3. Has interior wiring for interior lights;
4. Has a heating system; and
5. In the case of replacement, the replaced dwelling is removed, demolished or converted to an allowable non-residential use within three months of the final inspection or occupancy of the replacement dwelling.
6. For the case in which the applicant has requested a deferred replacement permit, the dwelling to be replaced shall be 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 consideration. 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.

7. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned EFU, SA or FT the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel.

The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting or another dwelling.

**17.136.040 USES PERMITTED SUBJECT TO STANDARDS.** The following uses may be permitted in the EFU zone subject to approval of the request by the planning director, based on satisfaction of the standards and criteria specified for each use, pursuant to MCC 17.115.

A. Farm Stand. Farm stand subject to the following standards:

1. Structures shall be designed used for the 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.
  - a. 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 produce but not prepared food items.
  - b. As used in this section, "local agricultural area" is limited to the State of Oregon.
2. The sale of incidental retail items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand is permitted provided 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.
3. Farm stand shall 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.

B. Winery. ~~Winery, as defined in MCC 17.136.140(G). The winery shall include only the sale of:~~ **A winery subject to the standards in MCC 17.125.030.**

- ~~1. Wines produced in conjunction with the winery.~~
- ~~2. Items directly related to the sale and promotion of wine produced in conjunction with the winery, the sale of which is incidental to retail sale of wine on site, including food and beverages served by a limited service restaurant, as defined in ORS 624.010, wine not produced in conjunction with the winery and gifts.~~
- ~~3. Services directly related to the sale and promotion of wine produced in conjunction with the winery, the sale and delivery of which are incidental to retail sale of wine on site, including private~~

~~events hosted by the winery or by patrons of the winery, at which wine produced in conjunction with the winery is featured.~~

4. ~~The gross income from the sale of incidental items and services under subsection (2) and (3) of this section may not exceed 25 percent of the gross income from the retail sale on-site of wine produced in conjunction with the winery.~~

C. Religious Organization and Cemeteries. Religious organization and cemeteries in conjunction with religious organizations subject to the following:

1. New religious organizations and cemeteries in conjunction with religious organizations:
  - a. May not be established on high-value farmland.
  - b. New religious organizations and cemeteries in conjunction with religious organizations, not on high-value farmland may be established. All new religious organizations and cemeteries in conjunction with religious organizations within three miles of an urban growth boundary shall meet the following standards:
    - (i) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved unless an exception is approved pursuant to OAR Chapter 660, Division 004.
    - (ii) Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.
    - (iii) For the purposes of this subsection "tract" means a tract as defined in MCC 17.136.140(F) in existence on (MAY 5, 2010).
2. Existing religious organizations and cemeteries in conjunction with religious organizations:
  - a. Existing religious organizations and cemeteries in conjunction with religious organizations on may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
  - b. Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (C)(1)(b)(i – iii) of this section.

D. Public and Private Schools. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, subject to the following:

1. New schools primarily for the residents of the rural area in which the school is located:
  - a. New schools may not be established on high-value farmland.
  - b. New schools not on high-value farmland may be established. Any new school within three miles of an urban growth boundary shall meet the following standards:
    - (i) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved unless an exception is approved pursuant to OAR Chapter 660, Division 004.



- (ii) Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.
      - (iii) For the purposes of this subsection "tract" means a tract as defined in MCC 17.136.140(F) in existence on (MAY 5, 2010).
    - c. New schools must be determined to be consistent with the provisions contained in MCC 17.136.060(A)(1).
  - 2. Existing schools primarily for the residents of the rural area in which the school is located:
    - a. Existing schools on high-value farmland may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
    - b. Existing schools not on high-value farmland may be maintained, enhanced, or expanded consistent with the provisions contained in MCC 17.136.060(A)(1).
    - c. Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (D)(1)(b)(i-iii) of this section.
  - 3. Existing schools that are not primarily for residents of the rural area in which the school is located may be expanded on the tax lot on which the use was established or on a contiguous tax lot owned by the applicant on January 1, 2009, however, existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (D)(1)(b)(i - iii) of this section.
- E. Filming Activities. On-site filming and activities accessory to filming, and defined in MCC 17.136.140(A), if the activity:
- 1. Involves filming or activities accessory to filming for more than 45 days; or
  - 2. Involves erection of sets that would remain in place longer than any 45 day period.
  - 3. The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- F. Facilities for Processing Farm Crops. A facility for processing of farm crops, or the production of biofuel as defined in ORS 315.141, subject to the following:
- 1. The farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility.
  - 2. 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 use.
  - 3. The processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits siting of the processing facility.
  - 4. Division of a lot or parcel that separates a processing facility from the farm operation on which it is located shall not be approved.

- G. Model Aircraft. A site for the takeoff and landing of model aircraft, including such building or facilities as may reasonably be necessary subject to the following:
1. Buildings and facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use.
  2. The site shall not include an aggregate surface or hard area surface unless the surface pre-existed the use.
  3. As used in this section "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and controlled by radio, lines or design by a person on the ground.
  4. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities.
- H. Wildlife Habitat Conservation. A wildlife habitat conservation and management plan on a lot or parcel subject to the following:
1. The lot or parcel contains an existing legally established dwelling; or
  2. Approval for the dwelling is obtained under provisions contained in MCC 17.136.030(A), (D) or 17.136.050(A).
  3. The dwelling is situated on a legally created lot or parcel existing on November 4, 1993.
  4. The lot or parcel is not predominantly composed of soils rated Class I or II, when not irrigated, or rated prime or unique by the Natural Resource Conservation Service, or any combination of such soils.
- I. Other Uses. Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A facility is "necessary" if it must be situated in the EFU zone in order for the service to be provided. An applicant must demonstrate that reasonable alternatives have been considered and that the facility must be sited in an EFU zone due to one or more of the following factors as found in OAR 660-33-130(16):
1. Technical and engineering feasibility;
  2. 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;
  3. Lack of available urban and non-resource lands;
  4. Availability of existing right-of-way;
  5. Public health and safety; and
  6. Other requirements of state and federal agencies.

- a. Costs associated with any of the factors listed above 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.
- b. The owner of a utility facility approved under this section shall be responsible for restoring, to its former condition as nearly as possible, any agricultural 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 facility from requiring a bond or other security from a contractor or otherwise imposing upon a contractor the responsibility for restoration.
- c. The applicant shall address the requirements of MCC 17.136.060(A).
- d. In addition to the provisions above, 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.
- e. The provisions of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
- f. If the criteria contained in MCC 17.136.040(I) for siting a utility facility on land zoned for exclusive farm use are met for a utility facility that is a transmission line, the utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult. The requirement to consult under this section is in addition to and not in lieu of any other legally required consultation process. For the purposes of this subsection:
  - (i) "Consult" means to make an effort to contact for purpose of notifying the record owner of the opportunity to meet.
  - (ii) "Transmission line" means a linear utility facility by which a utility provider transfers the utility product in bulk from a point of origin or generation, or between transfer stations, to the point at which the utility product is transferred to distribution lines for delivery to end users.

J. Parking of not more than seven log trucks on a tract when the use will not:

- 1. Force a significantly change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- 2. Significantly increase the cost of accepted farm or forest practices on surrounding land devoted to farm or forest use.

K. Fire service facilities providing rural fire protection services.

- L. Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and features, associated with a district as defined in ORS 540.505.
- M. Utility facility service lines. Utility facility service lines and accessory facilities or structures that end at the 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;
  - 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.
- N. Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251 the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this division.

**17.136.050 CONDITIONAL USES.** The following uses may be permitted in an EFU zone subject to obtaining a conditional use permit and satisfying the criteria in MCC 17.136.060(A), and any additional criteria, requirements, and standards specified for the use:

- A. Single-family dwelling or manufactured home not in conjunction with farm use, subject to the criteria and standards in MCC 17.136.060(B), 17.136.070 and 17.136.100.
- B. Temporary residence for hardship purposes subject to the requirements of MCC 17.120.040 with filing of the declaratory statement in MCC 17.136.100(C).
- C. Portable or temporary facility for primary processing of forest products subject to MCC 17.136.060(E).
- D. The following commercial uses:
  - 1. Home occupations, including bed and breakfast inns, subject to the criteria in MCC 17.136.060(C) with filing of a declaratory statement in MCC 17.136.100(C).
  - 2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.136.040(F), and subject to MCC 17.136.060(D), but including a winery not permitted under MCC 17.136.040(B).
  - 3. Expansion of a lawfully established dog kennel with filing of the declaratory statement in MCC 17.136.100(C).
  - 4. Room and board arrangements for a maximum of five unrelated persons in existing dwellings with filing of the declaratory statement in MCC 17.136.100(C).
  - 5. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.

6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
  7. Composting Facilities
    - a. ~~Existing Composting operations and facilities allowed on high value farmland, that do not meet 17.136.020(J) may be maintained, enhanced, or expanded on the same tract subject to meeting the performance and permitting requirements of~~ are limited to those that are exempt from a permit from the Department of Environmental Quality (DEQ) under OAR 340-093-0050 ~~and 340-096-006,~~ only require approval of an agricultural compost management plan by the Oregon Department of Agriculture, or require a permit from the DEQ under OAR 340-093-0050 where the compost is applied primarily on the subject farm or used to manage and dispose of by products generated on the subject farm. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.
    - b. ~~New Composting operations and facilities that do not meet 17.136.020(J) may be established~~ allowed on land not defined as high-value farmland ~~subject to the following:~~ shall be limited to the composting operations and facilities allowed by subsection (D)(7)(a) of this subsection or that require a permit from the Department of Environmental Quality under OAR 340-093-0050. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.
      1. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-006; and
      2. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility; and
      3. Onsite sales shall be limited to bulk loads of at least on unit (7.5 cubic yards) in size that are transported in one vehicle.
  8. Operations for the extraction and bottling of water, except in the sensitive groundwater overlay zone.
  9. Agri-tourism events and activities subject to the requirements in MCC 17.120.090.
- E. The following mining and processing activities:
1. Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 and MCC 17.120.410 through 17.120.480.
  2. Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298 and MCC 17.120.410 through 17.120.480.
  3. Processing, as defined by ORS 517.750, or aggregate into asphalt or portland cement subject to MCC 17.120.410 through 17.120.480 and 17.136.060(I)(1).

4. Processing of other mineral resources and other subsurface resources subject to MCC 17.120.410 through 17.120.480.
- F. The following utility use:
1. Commercial utility facilities for the purpose of generating power for public sale, subject to Section MCC 17.136.060(F).
  2. Wind power generation facilities subject to MCC 17.136.060(G).
  3. Transmission towers over 200 feet in height.
- G. Personal-use airports for airplanes and helicopter pads, including associated hanger, maintenance and service facilities as defined in ORS 215.283(2)(g).
- H. The following recreation uses subject to MCC 17.136.060(J):
1. Expansion of a lawfully established private park, playground, hunting and fishing preserve or campground subject to MCC 17.136.060(H) with filing of the declaratory statement in MCC 17.136.100(C).
  2. Expansion of a lawfully established community center, operated primarily by and for residents of the local rural community, where the land and facilities are owned and operated by a governmental agency or non-profit community organization with filing of the declaratory statement in MCC 17.136.100(C).
  3. Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035 or OAR 660-034-0040, whichever is applicable, and consistent with ORS 195.120 and with filing of the declaratory statement in MCC 17.136.100(C).
  4. Expansion of a lawfully established golf course on the same tract consistent with definitions in MCC 17.136.140(C), and with filing of the declaratory statement in MCC 17.136.100(C).
  5. Living history museum subject to MCC 17.136.060(I)(2), and with filing of the declaratory statement in MCC 17.136.100(C).
- I. Expansion of a lawfully established solid waste disposal site together with facilities and buildings for its operation.
- J. The following transportation uses:
1. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
  2. Reconstruction or modification of public streets involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
  3. Improvement of public street related facilities, such as maintenance yards, weigh stations and rest areas where additional property or right-of-way is required but not resulting in the creation of new land parcels.
  4. Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning

goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 012.

- K. A replacement dwelling to be used in conjunction with farm use and with filing of the declaratory statement in MCC 17.136.100(C), if the existing dwelling is listed in the Comprehensive Plan inventory and the National Register of Historic Places as historic property as defined in ORS 358.480.
- L. Residential home or adult foster home, as defined in ORS 197.660 and MCC 17.110.477, in an existing dwelling and with filing of the declaratory statement in MCC 17.136.100(C).
- M. A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(2).
- N. Expansion of existing schools not for kindergarten through grade 12 established on or before January 1, 2009, on the same tract wholly within a farm zone subject to MCC 17.136.060(J).

**17.136.090 MINIMUM PARCEL SIZE, DIVISIONS OF LAND, AND PROPERTY LINE ADJUSTMENTS.**

The following regulations apply when property line adjustments and partitioning of land within an EFU zone subject to the provisions of Chapter 17.172 MCC are proposed:

A. Minimum Parcel Size for Newly Created Parcels:

- 1. Farm Parcels: The minimal parcel size for new farm parcels shall be calculated as follows:
  - a. All parcels wholly or in part within 500 feet of the subject parcel shall be identified.
  - b. The average (mean) size of all parcels larger than 40 acres identified in subsection (A)(1)(a) of this section shall be determined.
  - c. The acreage size calculated in subsection (A)(1)(b) of this subsection, rounded to the nearest 10 acres, is the minimum parcel size unless such parcel size is less than 80 acres, in which case the minimum parcel size is 80 acres.
- 2. Non-farm Parcels: A new non-farm parcel created pursuant to MCC 17.136.090(B) shall only be as large as necessary to accommodate the use and any buffer area needed to ensure compatibility with adjacent farm uses.

B. Requirements for Creation of New Non-farm Parcels:

- 1. A new non-farm parcel may be created for uses listed in MCC 17.136.040(C), **MCC 17.136.040(K)** and 17.136.050, except the residential uses in MCC 17.136.050(A) and (B).
- 2. The criteria in MCC 17.136.060 applicable to the use shall apply to the parcel.
- 3. A non-farm parcel shall not be approved before the non-farm use is approved.
- 4. A division of land for non-farm use shall not be approved unless any additional tax imposed for the change has been paid, or payment of any tax imposed is made a condition of approval.
- 5. If the land division 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:

- a. A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
  - b. A parcel created pursuant to this subsection that does not contain a dwelling:
    - i. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
    - ii. May not be considered in approving or denying an application for siting any other dwelling;
    - iii. 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
  - c. May not be smaller than 25 acres unless the purpose of the land division is:
    - i. To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or
    - ii. 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.
6. A division of land smaller than the minimum lot or parcel size described in MCC 17.136.090(A) and (B) may be approved to establish a religious organization including cemeteries in conjunction with the religious organization if they meet the following requirements:
- a. The religious organization has been approved under MCC 17.136.040(C);
  - b. The newly created lot or parcel is not larger than five acres; and
  - c. The remaining lot or parcel, not including the religious organization, meets the minimum lot or parcel size described in MCC 17.136.090(A) and (B) either by itself or after it is consolidated with another lot or parcel.

C. Property Line Adjustments:

- 1. When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to MCC 17.136.090(A)(1), the same number of lots or parcels shall be as large or larger than the minimum parcel size after the adjustment. When all lots or parcels subject to the proposed adjustment are as large or larger than the minimum parcel size, no lot or parcel shall be reduced below the applicable minimum parcel size. If all lots or parcels are smaller than the minimum parcel size before the property line adjustment, the minimum parcel size pursuant to this section does not apply to those lots or parcels.
- 2. If the minimum parcel size in MCC 17.136.090(A)(1) is larger than 80 acres, and a lot or parcel subject to property line adjustment is smaller than the minimum parcel size but larger than 80 acres, the lot or parcel shall not be reduced in size through property line adjustment to less than 80 acres.
- 3. Any property line adjustment shall result in a configuration of lots or parcels that are at least as suitable for commercial agriculture as were the parcels prior to the adjustment.
- 4. A property line adjustment may not be used to:
  - a. Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and



contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;

- b. Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or
- c. Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard.

**17.136.140 DEFINITION OF TERMS USED IN THIS CHAPTER.** The following terms apply to this chapter and have no relevance to the same term used in other chapters of this zoning code unless specifically stated.

- A. "Filming Activities". On-site filming and activities accessory to on-site filming includes filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming. Production of advertisements, documentaries, feature film, television services and other film production that rely on the rural qualities of an EFU zone in more than an incidental way. It does not include facilities for marketing, editing and other such activities that are allowed only as a home occupation or construction of new structures that require a building permit.
- B. "Commercial dairy farm" means A dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by MCC 17.136.030(A)(1) or (2).
- C. "Golf course" means an area of land with highly maintained natural turf laid out for the for the game of golf with a series of nine or more holes, each including a tee, a fairway a putting green, and often one or more natural or artificial hazards. A "golf course" means a nine- or 18-hole regulation golf course, or golf tournament, consistent with the following:
  - 1. 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.
  - 2. 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.
  - 3. 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:
    - a. 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, and a practice or beginners course.
    - b. 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.
    - c. 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.

- d. Commercial activities such as food and beverage service and pro-shop are accessory to a golf course only when located in the clubhouse.
  - e. Accessory uses may include one or more food and beverage service facilities to addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designated for or include structures for banquets, public gatherings or public entertainment.
- D. "High-value farmland" means a tract composed predominantly of:
- 1. Soils rated Class I or II, prime, or unique, either irrigated or not irrigated;
  - 2. The following Class III soils: Chehalem (CeC), Concord (Co), Hullt (HuD), Jory (JoD), Nekia (NeC, NeD, NkC), Salkum (SkD), Silverton (SuD), and Woodburn (WuD);
  - 3. The following Class IV soils: Bashaw (Ba), Camas (Ca), Courtney (Cu), Dayton (Da), and Jory (JoE).
- E. Seasonal Farm Worker. Any person who, for an agreed remuneration or rate of pay, performs temporary labor for another to work in production of farm products or planting, cultivating or harvesting of seasonal agricultural crops or in forestation or reforestation of lands, including but not limited to the planting, transplanting, tubing, pre-commercial thinning and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash and other related activities.
- F. Tract. One or more contiguous lots or parcels under the same ownership.
- G. Winery. ~~As authorized under MCC 17.136.040(B), a winery is a facility that produces and sells wine and has a maximum annual production of:~~
- 1. ~~Less than 50,000 gallons and owns an on-site vineyard of at least 15 acres, owns a contiguous vineyard of at least 15 acres, has a long-term contract for the purchase of all the grapes from at least 15 acres of vineyard contiguous to the winery, or obtains grapes from any combination of these sites; or~~
  - 2. ~~At least 50,000 gallons and owns an on-site vineyard of at least 40 acres, owns a contiguous vineyard of at least 40 acres, has a long-term contract for the purchase of all the grapes from at least 40 acres of vineyard contiguous to the winery, or obtains grapes from any combination of these sites.~~

**CHAPTER 17.137  
SA (SPECIAL AGRICULTURE) ZONE**

**17.137.020 PERMITTED USES.** Within an SA zone no building, structure or premise shall be used, arranged or designed to be used, erected, structurally altered or enlarged except for one or more of the following uses:

- A. Farm uses (see farm use definition, MCC 17.110.223).
- B. The propagation or harvesting of a forest product.
- C. Buildings, other than dwellings, customarily provided in conjunction with farm use.

- D. Alteration, restoration, or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.137.100(C), when the dwelling:
1. Has a "percentage good" rating of 40 percent or more in the current county assessor's records.
  2. In the case of replacement, the replaced dwelling is removed, demolished or converted to an Allowable nonresidential use within three months of the final inspection or occupancy of the replacement dwelling.
  3. In the case of replacement of a manufactured dwelling, the unit to be replaced is a manufactured home as defined in ORS 446.003 [manufactured after June 15, 1976].
  4. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned SA or EFU (exclusive farm use), the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.
- E. Operations for the exploration for geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732.
- F. Operations for the exploration for minerals as defined by ORS 517.750.
- G. Widening of roads including public road and highway projects as follows:
1. Climbing and passing lanes within the street right-of-way existing as of July 1, 1987.
  2. Reconstruction or modification of public streets, including the placement of utility facilities overhead and in the subsurface of public roads and highways along public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new parcels result.
  3. Temporary public street detours that will be abandoned and restored to original condition or use at such time as no longer needed.
  4. Minor betterment of existing public street related facilities such as maintenance yards, weigh stations and rest areas, within rights-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public streets.
- H. Creation of, restoration of, or enhancement of wetlands.
- I. On-site filming and activities accessory to filming, as defined in MCC 17.137.130(A), if the activity would involve no more than 45 days on any site within a one-year period.
- J. Composting operations and facilities limited to those that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, and that meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at one unit (7.5 cubic yards) in size. Buildings and facilities used in**

conjunction with the composting operation shall only be those required for the operation of the subject facility.

**17.137.030 DWELLINGS PERMITTED SUBJECT TO STANDARDS.** The following dwellings may be established in the SA zone with filing of the declaratory statement in MCC 17.137.100(C), subject to approval by the director, based on satisfaction of the standards and criteria listed for each type of dwelling, pursuant to the procedures in Chapter 17.115 MCC:

- A. Primary Farm Dwellings. A single-family dwelling customarily provided in conjunction with farm use. The dwelling will be considered customarily provided in conjunction with farm use when:
1. It is located on high-value farmland, as defined in MCC 17.137.130(D) and satisfies the following standards:
    - a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA, or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use.
    - b. The **farm operator earned on** the subject tract, ~~produced~~ in the last two years, ~~or~~ three of the last five years, **or the average of the best three of the last five years** at least \$80, 000 in gross annual income from the sale of farm products. In determining gross annual income from the sale of farm products, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted;
    - c. The subject tract is currently employed for the farm use that produced the income required in subsection (A)(1)(b) of this section.
    - d. The proposed dwelling will be occupied by a person or persons who produced the commodities which generated the income in subsection (A)(1)(b) of this section; or
  2. It is not located on high-value farmland, as defined in MCC 17.137.130(D) subject to the following standards:
    - a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use
    - b. The **farm operator earned on** the subject tract, ~~produced~~ in the last two years, ~~or~~ three of the last five years, **or the average of the best three of the last five years** at least \$40, 000 in gross annual income from the sale of farm products. In determining gross annual income from the sale of farm products, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted;
    - c. The subject tract is currently employed for the farm use that produced the income required in subsection (A)(2)(b) of this section.
    - d. The dwelling will be occupied by a person or persons who produced the commodities which generated the income required in subsection (A)(2)(b) of this section; or
  3. It is not located on high-value farmland, as defined in MCC 17.137.130(D) and satisfies the

following standards:

- a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use.
  - b. The parcel on which the dwelling will be located is at least 160 acres.
  - c. The subject tract is currently employed for farm use, as defined in ORS 215.203.
  - 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.
4. It is in conjunction with a commercial dairy farm as defined in MCC 17.137.130(B) and if:
- a. The subject tract will be employed as a commercial dairy as defined; and
  - b. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and
  - c. Except as permitted by ORS 215.283(1)(p) (1999 Edition), (Seasonal Farmworker Housing), there is no other dwelling on the subject tract; and
  - 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 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.
5. The applicant had previously operated a commercial farm use and if:
- a. Within the previous two years, the applicant owned and operated a **different** farm or ranch operation that earned the gross farm income in **each of** the last five years or four of the last seven years as required by subsection (A)(1) or (2) of this section, 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 this title, that produced in the last two years or three of the last five years, **or the average of the best three of the last five years**; the gross farm income required by subsection (A)(1) or (2) of this section, whichever is applicable, and
    - ii. At least the size of the applicable minimum lot size in this Chapter; and

- (A) Except as permitted in ORS 215.283(1)(p)(1999 Edition) (Seasonal Farmworker Housing), there is no other dwelling on the subject tract; and
- (B) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in by subsection (A)(5)(a) of this section;
- (C) In determining the gross income required by subsections (A)(5)(a) and (A)(5)(b)(i) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract, and only gross income from land owned, not leased or rented, shall be counted.

6. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:

*It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.*

These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

- B. Secondary Farm Dwellings. Secondary (accessory) dwellings customarily provided in conjunction with farm use when:
- 1. The primary dwelling and the proposed dwelling will each be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-around 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.
  - 2. There is no other dwelling on lands in the SA or EFU zone owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm and could reasonably be used as an additional farm dwelling.
  - 3. The proposed dwelling will be located:
    - a. On the same lot or parcel as the primary farm dwelling; or
    - b. On the same contiguous ownership as the primary dwelling, and the lot or parcel on which the proposed dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the same ownership; or
    - c. On a lot or parcel on which the primary farm dwelling is not located, when the secondary farm dwelling is limited to only a manufactured dwelling with a deed restriction is filed with the county clerk. The deed restriction shall require the additional dwelling to be removed when the lot or parcel is conveyed to another party. Occupancy of the additional farm dwelling shall continually comply with subsection (B)(1) of this section; or

- d. On any 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 worker ~~labor~~ housing as that existing ~~farm labor housing~~ on the farm operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The county shall require all accessory farm dwellings approved under this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or
  - e. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in subsection (B)(4) of this section, whichever is applicable.
4. The primary dwelling to which the proposed dwelling would be accessory satisfies the following criteria:
- a. On land not identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and the farm operator earned ~~produced~~ at least \$40,000 in gross annual income from the sale of farm products in the last two years, or three of the last five years, or the average of the best three of the last five years at least; or
  - b. On land identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and the farm operator earned ~~produced~~ at least \$80,000 in gross annual income from the sale of farm products in the last two years, or three of the last five years, or the average of the best three of the last five years at least.
  - c. The primary dwelling is located on a commercial dairy farm as defined in this Chapter; and
    - i. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and
    - ii. The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and
    - iii. Producer License for the sale of dairy products under ORS 621.072.
  - d. In determining the gross income in subsections (B)(4)(a) and (b) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
5. The dwelling will be consistent with the fish and wildlife habitat policies of the Comprehensive Plan if located in a designated big game habitat area.
6. Secondary farm dwellings shall be a manufactured home, or other type of attached multi-unit residential structures allowed by the applicable state building code, and a deed restriction is filed with the county clerk requiring removal of the manufactured home, or removal, demolition or conversion to a non-residential use if other residential structures are used, when the occupancy or use no longer complies with the criteria or standards under which the manufactured home was originally approved.

C. A secondary single-family dwelling on real property used for farm use subject to the following standards:

1. A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step-grandparent, grandchild, parent, stepparent, child, stepchild, brother, sister, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use.
2. The farm operator shall continue to play the predominant role in management and farm 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.
3. A deed restriction is filed with the county clerk requiring removal of the dwelling when the occupancy or use no longer complies with the criteria or standards under which the dwelling was originally approved.
4. For purposes of this subsection, a commercial farm operation is one that meets the income requirements for a primary farm dwelling identified in MCC 17.137.030(A)(1)(b), and the parcel where the dwelling is proposed contains a minimum of 80 acres.
5. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions

*It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.*

These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

D. Lot-of-Record Dwelling. A single family dwelling subject to the following standards and criteria:

1. The lot or parcel on which the dwelling will be sited was lawfully created and acquired and owned continuously by the present owner:
  - a. Since prior to January 1, 1985; or
  - b. By devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
  - c. "Owner", as the term is used in this section only, 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, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.
2. The tract on which the dwelling will be sited does not include a dwelling.



3. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
4. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed.
5. The request is not prohibited by, and complies with, the Comprehensive Plan and other provisions of this ordinance, including but not limited to floodplain, greenway, and big game habitat area restrictions.
6. The proposed dwelling will not:
  - a. Exceed the facilities and service capabilities of the area.
  - b. Create conditions or circumstances contrary to the purpose of the Special Agriculture zone.
7. A lot-of-record dwelling approval may be transferred one time only by a person who has qualified under this section to any other person after the effective date of the land-use decision.
8. The county assessor shall be notified that the county intends to allow the dwelling.
9. The lot or parcel on which the dwelling will be sited is not high-value farmland as defined in MCC 17.137.130(D); or
10. The lot or parcel on which the dwelling will be sited is high-value farmland as defined in MCC 17.137.130(D)(2) or (3) and:
  - a. Is twenty-one acres or less in size.
  - b. The tract on which the dwelling is to be sited is not a flaglot and is:
    - i. Bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993; or
    - ii. 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 one-quarter mile of the center of the subject tract. No more than two of the four dwellings may be within an urban growth boundary; or
  - c. The tract on which the dwelling is to be sited is a flaglot and is:
    - i. The tract is a flaglot 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 1/4 mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The Board, or its designee, must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary;
    - ii. "Flag lot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.

- iii. "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 flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot; or

11. The lot or parcel on which the dwelling is to be sited is high-value farmland as defined in MCC 17.137.130(D)(1) and:

a. The hearings officer determines that:

i. The lot or 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. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to 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 demonstrates 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; and

ii. The use will not force a significant change in or significantly increase the cost of farm or forest practices on surrounding lands devoted to farm or forest use; and

iii. The dwelling will not materially alter the stability of the overall land use pattern in the area. To address this standard, the following information shall be provided:

(A) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm 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 parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area;

(B) Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved under subsection D of this section and MCC 17.137.050(A), including identification of predominant soil classifications and parcels created prior to January 1, 1993. The 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 non-farm dwellings under this provision;

- (C) Determine whether approval of the proposed non-farm/lot-of-record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm 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, 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.

- b. The county shall provide notice of the application for a dwelling allowed under this subsection to the Oregon Department of Agriculture.

E. Dwelling Alteration and Replacement. Alteration, restoration or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.137.100(C), other than as permitted in MCC 17.137.020(D), when the dwelling:

1. Has intact exterior walls and roof structure;
2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
3. Has interior wiring for interior lights;
4. Has a heating system; and
5. In the case of replacement, is removed, demolished or converted to an allowable non-residential use within three months of the final inspection or occupancy of the replacement dwelling.
6. For the case in which the applicant has requested a deferred replacement permit, the dwelling to be replaced shall be 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 consideration. 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.
7. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned SA or EFU, the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.

**17.137.040** USES PERMITTED SUBJECT TO STANDARDS. The following uses may be permitted in the SA zone subject to approval of the request by the director, based on satisfaction of the standards and criteria specified for each use, pursuant to the procedures in MCC 17.115.

- A. Farm Stand. Farm stand subject to the following standards:
1. Structures shall be designed and used for the 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.
    - a. 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 section, "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 produce but not prepared food items.
    - b. As used in this section, "local agricultural area" is limited to the State of Oregon.
  2. The sale of incidental retail items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand is permitted provided 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.
  3. Farm stand shall 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.
- B. ~~Winery. Winery, as defined in MCC 17.137.130(G). The winery shall include only the sale of:~~ **A winery subject to the standards in MCC 17.125.030.**
- ~~1. Wines produced in conjunction with the winery.~~
  - ~~2. Items directly related to the sale and promotion of wine produced in conjunction with the winery, the sale of which is incidental to retail sale of wine on-site, including food and beverages served by a limited service restaurant, as defined in ORS 624.010, wine not produced in conjunction with the winery and gifts.~~
  - ~~3. Services directly related to the sale and promotion of wine produced in conjunction with the winery, the sale and delivery of which are incidental to retail sale of wine on-site, including private events hosted by the winery or by patrons of the winery, at which wine produced in conjunction with the winery is featured.~~
  - ~~4. The gross income from the sale of incidental items and services under subsection (2) and (3) of this section may not exceed 25 percent of the gross income from the retail sale on-site of wine produced in conjunction with the winery.~~
- C. Religious Organizations and Cemeteries. Religious organizations and cemeteries in conjunction with religious organizations subject to the following:
1. New religious organizations and cemeteries in conjunction with religious organizations:
    - a. May not be established on high-value farmland.
    - b. New religious organizations and cemeteries in conjunction with religious organizations, not on high-value farmland may be established. All new religious organizations and

cemeteries in conjunction with religious organizations within three miles of an urban growth boundary shall meet the following standards:

- (i) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people shall be approved, unless an exception is approved pursuant to OAR Chapter 660, Division 004.
- (ii) Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.
- (iii) For the purposes of this subsection "tract" means a tract as defined in MCC 17.137.130(F) in existence on (MAY 5, 2010).

2. Existing religious organizations and cemeteries in conjunction with religious organizations:

- a. Existing religious organizations and cemeteries in conjunction with religious organizations may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
- b. Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (C)(1)(b)(i – iii) of this section.

D. Public and Private Schools. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, subject to the following:

1. New schools primarily for the residents of the rural area in which the school is located:

- a. New schools may not be established on high-value farmland.
- b. New schools not on high-value farmland may be established. Any new school within three miles of an urban growth boundary shall meet the following standards:
  - (i) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people shall be approved, unless an exception is approved pursuant to OAR Chapter 660, Division 004.
  - (ii) Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.
  - (iii) For the purposes of this subsection "tract" means a tract as defined in MCC 17.137.130(F) in existence on (MAY 5, 2010).
- c. New schools must be determined to be consistent with the provisions contained in MCC 17.137.060(A)(1).

2. Existing schools primarily for the residents of the rural area in which the school is located:

- a. Existing schools on high-value farmland may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
- b. Existing schools not on high-value farmland may be maintained, enhanced, or expanded consistent with the provisions contained in MCC 17.137.060(A)(1).

- c. Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (D)(1)(b)(i – iii) of this section.
  - 3. Existing schools that are not primarily for residents of the rural area in which the school is located may be expanded on the tax lot on which the use was established or on a contiguous tax lot owned by the applicant on January 1, 2009, however, existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (D)(1)(b)(i – iii) of this section.
- E. **Filming Activities.** On-site filming and activities accessory to filming, and defined in MCC 17.137.130(A), if the activity:
  - 1. Involves filming or activities accessory to filming for more than 45 days; or
  - 2. Involves erection of sets that would remain in place longer than any 45 day period.
  - 3. The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- F. **Facility for Processing Farm Crops.** A facility for the processing of farm crops, or the production of biofuel as defined in ORS 315.141, subject to the following:
  - 1. The farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility.
  - 2. 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 use.
  - 3. The processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits siting of the processing facility.
  - 4. Division of a lot or parcel that separates a processing facility from the farm operation on which it is located shall not be approved.
- G. **Model Aircraft.** A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary subject to the following:
  - 1. Buildings and facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use.
  - 2. The site shall not include an aggregate surface or hard area surface unless the surface pre-existed the use.
  - 3. As used in this section, “model aircraft” means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and controlled by radio, lines or design by a person on the ground.
  - 4. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator’s cost to maintain the property, buildings and facilities.

- H. Wildlife Habitat Conservation. A wildlife habitat conservation and management plan on a lot or parcel subject to the following:
1. The lot or parcel contains an existing legally established dwelling; or
  2. Approval for the dwelling is obtained under provisions contained in MCC 17.137.030(A), (D), (E) or 17.137.050(A).
  3. The dwelling is situated on a legally created lot or parcel existing on November 4, 1993.
  4. The lot or parcel is not predominantly composed of soils rated Class I or II, when not irrigated, or rated Prime or Unique by the Natural Resources Conservation Service, or any combination of such soils.
- I. Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A facility is "necessary" if it must be situated in the SA zone in order for the service to be provided. An applicant must demonstrate that reasonable alternatives have been considered and that the facility must be sited in an SA zone due to one or more of the following factors as found in OAR 660-33-130(16):
1. Technical and engineering feasibility;
  2. The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for Special Agriculture in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
  3. Lack of available urban and non-resource lands;
  4. Availability of existing rights-of-way;
  5. Public health and safety; and
  6. Other requirements of state and federal agencies.
    - a. Costs associated with any of the factors listed above 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.
    - b. The owner of a utility facility approved under this section shall be responsible for restoring, to its former condition as nearly as possible, any agricultural 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 facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
    - c. The applicant shall address the requirements of MCC 17.137.060(A)(1).
    - d. In addition to the provisions above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in a special agriculture zone shall be subject to the provisions of OAR 660-011-0060.

- e. The provisions of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
  - f. If the criteria contained in MCC 17.137.040(I) for siting a utility facility on land zoned for exclusive farm use are met for a utility facility that is a transmission line, the utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult. The requirement to consult under this section is in addition to and not in lieu of any other legally required consultation process. For the purposes of this subsection:
    - (i) 'Consult' means to make an effort to contact for purpose of notifying the record owner of the opportunity to meet.
    - (ii) 'Transmission line' means a linear utility facility by which a utility provider transfers the utility product in bulk from a point of origin or generation, or between transfer stations, to the point at which the utility product is transferred to distribution lines for delivery to end users.
- J. Parking of not more than seven log trucks on a tract when the use will not:
1. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.
  2. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- K. Fire service facilities providing rural fire protection services.
- L. Irrigation **reservoirs**, canals, delivery lines and those structures and accessory operational facilities, **not including parks or other recreational structures and features**, associated with a district as defined in ORS 540.505.
- M. Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the 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;
  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.
- N. Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249, and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural,



horticultural or silvicultural production, or for irrigation in connection with a use allowed in a special agriculture zone under this division.

**17.137.050 CONDITIONAL USES.** The following uses may be permitted in an SA zone subject to obtaining a conditional use permit and satisfying the criteria in MCC 17.137.060(A) and any additional criteria, requirements, and standards specified in this section:

- A. Single-family dwelling or mobile home not in conjunction with farm uses, subject to the criteria and standards in MCC 17.137.060(B), 17.137.070, and 17.137.100.
- B. Temporary residence for hardship purposes pursuant to MCC 17.120.040 with filing of the declaratory statement in MCC17.137.100(C).
- C. Portable or temporary facility for primary processing of forest products subject to MCC 17.137.060(D).
- D. The following commercial uses:
  1. Home occupations, including bed and breakfast inns, subject to the criteria in MCC 17.137.060(C) with filing of the declaratory statement in MCC17.137.100(C).
  2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.136.040(F), and subject to MCC 17.137.060(J), but including a winery not permitted under MCC 17.137.040(B).
  3. Dog kennels in conjunction with a dwelling occupied by the kennel operator, subject to MCC 17.137.060(D)(2) with filing of the declaratory statement in MCC17.137.100(C).
  4. Room and board arrangements for a maximum of five unrelated persons in existing residences with filing of the declaratory statement in MCC17.137.100(C).
  5. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.
  6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
  7. Composting Facilities
    - a. ~~Existing Composting operations and facilities allowed on high value farmland, that do not meet 17.137.020(J) may be maintained, enhanced, or expanded on the same tract subject to meeting the performance and permitting requirements of~~ are limited to those that are exempt from a permit from the Department of Environmental Quality (DEQ) under OAR 340-093-0050 ~~and 340-096-006,~~ only require approval of an agricultural compost management plan by the Oregon Department of Agriculture, or require a permit from the DEQ under OAR 340-093-0050 where the compost is applied primarily on the subject farm or used to manage and dispose of by products generated on the subject farm. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.

- b. ~~New Composting operations and facilities that do not meet 17.137.020(J) may be established~~ allowed on land not defined as high-value farmland ~~subject to the following:~~ shall be limited to the composting operations and facilities allowed by subsection (D)(7)(a) of this subsection or that require a permit from the Department of Environmental Quality under OAR 340-093-0050. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.
1. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-006; and
  2. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility; and
  3. 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.

8. Operations for the extraction and bottling of water, except in the sensitive groundwater overlay zone.
9. Agri-tourism events and activities subject to the requirements in MCC 17.120.090.

E. The following mining and processing activities:

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 in MCC 17.137.020.
2. Mining of aggregate and other mineral and other subsurface resources subject to ORS 215.298 and MCC 17.120.410 through MCC 17.120.480.
3. Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement subject to MCC 17.137.060(I)(1) and MCC 17.120.410 through 480.
4. Processing of other mineral resources and other subsurface resources subject to MCC 17.120.410 through 17.120.480.

F. The following utility uses:

1. Commercial utility facilities for the purpose of generating power for public sale, subject to MCC 17.137.060(E).
2. Wind power generation facilities subject to MCC 17.137.060(F).
3. Transmission towers over 200 feet in height.

G. Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities as defined in ORS 215.283(2)(h).

H. The following recreation uses subject to MCC 17.137.060(K):

1. Private parks, playgrounds, hunting and fishing preserves and campgrounds subject to MCC 17.137.060(G) and (I)(2) with filing of the declaratory statement in MCC17.137.100(C).
2. Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035, or OAR 660-034-0040, whichever is applicable, and consistent with ORS 195.120 and with filing of the declaratory statement in MCC17.137.100(C).

3. Golf courses, as defined in MCC 17.137.130(C), and subject to the requirements in MCC 17.137.060(H) with filing of the declaratory statement in MCC17.137.100(C).
  4. Living history museum subject to MCC 17.137.060 (I)(3) with filing of the declaratory statement in MCC17.137.100(C).
- I. Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, or for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with facilities and buildings for its operation, subject to MCC 17.137.060(I)(2) with filing of the declaratory statement in MCC17.137.100(C).
- J. The following transportation uses:
1. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
  2. Reconstruction or modification of public streets involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
  3. Improvement of public street related facilities, such as maintenance yards, weigh stations and rest areas where additional property or right-of-way is required but not resulting in the creation of new land parcels.
  4. Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 12.
- K. A replacement dwelling to be used in conjunction with farm use with filing of the declaratory statement in MCC17.137.100(C), if the existing dwelling is listed in the Comprehensive Plan inventory and the National Register of Historic Places as historic property as defined in ORS 358.480.
- L. Residential home or adult foster home, as defined in ORS 197.660 and MCC 17.110.477, in an existing dwelling with filing of the declaratory statement in MCC17.137.100(C).
- NM. Expansion of existing schools not for kindergarten through grade 12 established on or before January 1, 2009, on the same tract wholly within a farm zone subject to MCC 137.060(K).

**17.137.090 MINIMUM PARCEL SIZE, DIVISIONS OF LAND, AND PROPERTY LINE ADJUSTMENTS.**

The following regulations shall apply when property line adjustments and partitioning of land within the SA zone subject to the provisions of Chapter 17.172 MCC are proposed:

- A. Minimum Parcel Size for Newly Created Parcels.
1. Farm Parcels: The minimum parcel size for any new parcel in the SA zone is 80 acres, except as provided in subsection (A)(2) of this section.
  2. Non-farm Parcels: A new non-farm parcel created pursuant to subsection (B) of this section shall only be as large as necessary to accommodate the use and any buffer area needed to ensure compatibility with adjacent farm uses.
- B. Requirements for Creation of New Non-farm Parcels:

1. A new non-farm parcel may be created for uses listed in MCC 17.137.040(C), MCC17.137.040(K) and 17.137.050, except the residential uses in MCC 17.137.050(A) and (B).
2. The criteria in MCC 17.137.060 applicable to the use shall apply to the creation of the parcel.
3. A non-farm parcel shall not be approved before the non-farm use is approved.
4. A division of land for non-farm use shall not be approved unless any additional tax imposed for the change has been paid, or payment of any tax imposed is made a condition of approval.
5. If the land division 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:
  - a. A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
  - b. A parcel created pursuant to this subsection that does not contain a dwelling:
    - i. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
    - ii. May not be considered in approving or denying an application for siting any other dwelling;
    - iii. 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
  - c. May not be smaller than 25 acres unless the purpose of the land division is:
    - i. To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or
    - ii. 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.
6. A division of land smaller than the minimum lot or parcel size described in MCC 17.137.090(A) and (B) may be approved to establish a religious organization including cemeteries in conjunction with the religious organization if they meet the following requirements:
  - a. The religious organization has been approved under MCC 17.137.040(C);
  - b. The newly created lot or parcel is not larger than five acres; and
  - c. The remaining lot or parcel, not including the religious organization, meets the minimum lot or parcel size described in subsection (A) and (B) of this section either by itself or after it is consolidated with another lot or parcel.

C. Property Line Adjustments:

1. When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to subsection (A)(1) of this section, the same number of lots or parcels shall be as large or larger than the minimum parcel size after the adjustment. When all lots or parcels subject to the proposed adjustment are as large or larger than the minimum parcel size, no lot or parcel shall be reduced below the applicable minimum parcel size. If all lots or parcels

are smaller than the minimum parcel size before the property line adjustment, the minimum parcel size pursuant to this section does not apply to those lots or parcels.

2. If the minimum parcel size in subsection (A)(1) of this section is larger than 80 acres, and a lot or parcel subject to property line adjustment is smaller than the minimum parcel size but larger than 80 acres, the lot or parcel shall not be reduced in size through property line adjustment to less than 80 acres.
3. Any property line adjustment shall result in a configuration of lots or parcels that are at least as suitable for commercial agriculture as were the parcels prior to the adjustment.
4. A property line adjustment may not be used to:
  - a. Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;
  - b. Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or
  - c. Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard.

**17.137.130 DEFINITION OF TERMS USED IN THIS CHAPTER.** The following terms apply only to this title and have no relevance to the same term used in other chapters of this ordinance unless specifically stated.

- A. "Filming Activities". On-site filming and activities accessory to on-site filming includes filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming. Production of advertisements, documentaries, feature film, television services and other film production that rely on the rural qualities of a SA zone in more than an incidental way. It does not include facilities for marketing, editing and other such activities that are allowed only as a home occupation or construction of new structures that require a building permit.
- B. "Commercial dairy farm" means a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by MCC 17.137.030(A)(1) or (2).
- C. "Golf course" means an area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" means a nine- or 18-hole regulation golf course, or golf tournament, consistent with the following:
  1. 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.
  2. 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.
  3. 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:

- a. 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, and a practice or beginners course.
- b. 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.
- c. 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.
- d. Commercial activities such as food and beverage service and pro shop are accessory to a golf course only when located in the clubhouse.
- e. Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designated for or include structures for banquets, public gatherings or public entertainment.

D. "High-value farmland" means a tract composed predominantly of:

1. Soils rated Class I or II, prime, or unique, either irrigated or not irrigated;
2. The following Class III soils: Chehalem (CeC), Concord (Co), Hullt (HuD), Jory (JoD), Nekia (NeC, NeD, NkC), Salkum (SkD), Silverton (SuD), and Woodburn (WuD);
3. The following Class IV soils: Bashaw (Ba), Camas (Ca), Courtney (Cu), Dayton (Da), and Jory (JoE).

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

F. "Tract" means one or more contiguous lots or parcels under the same ownership.

G. "Winery," as authorized under MCC 17.137.040(B), a winery is a facility that produces and sells wine and has a maximum annual production of:

1. Less than 50,000 gallons and owns an on-site vineyard of at least 15 acres, owns a contiguous vineyard of at least 15 acres, has a long term contract for the purchase of all the grapes from at least 15 acres of vineyard contiguous to the winery, or obtains grapes from any combination of these sites; or
2. At least 50,000 gallons and owns an on-site vineyard of at least 40 acres, owns a contiguous vineyard of at least 40 acres, has a long term contract for the purchase of all the grapes from at

least 40 acres of vineyard contiguous to the winery, or obtains grapes from any combination of these sites.

**CHAPTER 17.138  
TC (TIMBER CONSERVATION) ZONE**

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**17.138.035 USES PERMITTED SUBJECT TO STANDARDS.**

A. **Wildlife Habitat Conservation.** A wildlife habitat conservation and management plan on a lot or parcel subject to the following:

1. The lot or parcel contains an existing legally established dwelling; or
2. Approval for the dwelling is obtained under provisions contained in MCC 17.138.030(A), (B), (C), or (D).
3. The dwelling is situated on a legally created lot or parcel existing on November 4, 1993.
4. The lot or parcel is not predominantly composed of soils rated Class I or II, when not irrigated, or rated Prime or Unique by the Natural Resources Conservation Service, or any combination of such soils.

**B. Parking of not more than seven dump trucks and not more than seven trailers on a tract when the use will not:**

- 1. Force a significantly change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.**
- 2. Significantly increase the cost of accepted farm or forest practices on surrounding land devoted to farm or forest use.**

**CHAPTER 17.139  
FT (FARM/TIMBER) ZONE**

**17.139.020 PERMITTED USES.** Within an FT zone no building, structure or premise shall be used, arranged or designed to be used, erected, structurally altered or enlarged except for one or more of the following uses:

- A. Farm uses (see farm use definition, MCC 17.110.223).
- B. Buildings, other than dwellings, customarily provided in conjunction with farm use.
- C. Forest operations or forest practices including, but not limited to, reforestation, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash pursuant to ORS 527 (Forest Practices Act).
- D. Temporary forest labor camp.
- E. Alteration, restoration, or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.139.070(B), when the dwelling:
  - 1. Has a "percentage good" rating of 40 percent or more in the current county assessor's records.
  - 2. In the case of replacement, the replaced dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the final inspection or occupancy of the replacement dwelling;
  - 3. In the case of replacement of a manufactured dwelling, the unit to be replaced is a manufactured home as defined in ORS 446.003 [manufactured after June 15, 1976].
  - 4. If the lot or parcel was predominantly devoted to farm use on January 1, 1993, and the dwelling to be replaced is located on a portion of the lot or parcel not zoned FT or EFU the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.
  - 5. If the lot or parcel was predominantly devoted to forest use on January 1, 1993, the replacement dwelling shall be situated in the same location as the existing dwelling.
- F. Temporary on-site structures auxiliary, as defined in MCC 17.139.130(A), to and used during the term of a particular forest operation pursuant to ORS 527.
- G. Physical alteration to the land auxiliary, as defined in MCC 17.139.130(A), 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 pursuant to ORS 527.
- H. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources, including creation, restoration, or enhancement of wetlands.
- I. Local distribution lines (e.g. electric, telephone, natural gas) and accessory equipment (e.g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.
- J. Exploration for mineral and aggregate resources as defined in ORS Chapter 517.
- K. Private hunting and fishing operations without any lodging accommodations.
- L. Towers and fire stations for forest fire protection.



- M. Widening of roads including public road and highway projects as follows:
  - 1. Climbing and passing lanes within the street right-of-way existing as of July 1, 1987.
  - 2. Reconstruction or modification of public streets, including the placement of utility facilities overhead and in the subsurface of public roads and highways along public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new parcels result.
  - 3. Temporary public street detours that will be abandoned and restored to original condition or use at such time as no longer needed.
  - 4. Minor betterment of existing public street related facilities such as maintenance yards, weigh stations and rest areas, within rights-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public streets.
- N. Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- O. Caretaker residences for public park or public fish hatchery.
- P. Uninhabitable structures accessory to fish and wildlife enhancement.
- Q. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.
- R. On-site filming and activities accessory to filming, as defined in MCC 17.139.130(B), if the activity would involve no more than 45 days on any site within a one-year period.
- S. **Composting operations and facilities limited to those that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, and that meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.**

**17.139.030 DWELLINGS PERMITTED SUBJECT TO STANDARDS.** The following dwellings may be established in the FT zone, with filing of the declaratory statement in MCC 17.139.070(B), subject to approval by the director, based on satisfaction of the standards and criteria listed for each type of dwelling, pursuant to the procedures in Chapter 17.115 MCC. Subsections (A) through (D) of this section provide criteria for siting a dwelling based on the predominant use of the tract on January 1, 1993, for forest land. Subsections (E) through (I) of this section list criteria for siting a dwelling based on the predominant use of the tract on January 1, 1993, for farm use.

- A. Lot-of-Record Dwellings. A single-family dwelling, subject to the special use and siting requirements in MCC 17.139.070, may be allowed on a lot or parcel predominantly devoted to forest use on January 1, 1993, provided:
  - 1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner:
    - A. Since prior to January 1, 1985; or

- B. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel prior to January 1, 1985.
  - C. "Owner", as the term is used in this section only, 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, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.
2. The tract on which the dwelling will be sited does not include a dwelling. "Tract" means all contiguous lands in the same ownership.
  3. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, and no dwelling exists on another lot or parcel that was part of that tract.
  4. The subject tract is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species. (See definitions in MCC 17.139.130(H) and (I).)
  5. The subject tract is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and be either paved or surfaced with rock, and shall not be:
    - A. A United States Bureau of Land Management road; or
    - B. A United States 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 United States Forest Service and landowners adjacent to the road, a local government or a state agency.
  6. The proposed dwelling is not prohibited by, and will comply with land use regulations and other provisions of law including MCC 17.110.830 through 17.110.836.
  7. The dwelling will be consistent with the density policy if located in the big game habitat area identified in the Comprehensive Plan.
  8. The remaining portions of the tract and the subject lot or parcel are consolidated into a single lot or parcel when the dwelling is allowed.
- B. Template Dwellings. A single-family dwelling, subject to the special use and siting requirements in MCC 17.139.070, may be allowed on a lot or parcel predominantly devoted to forest use on January 1, 1993, provided:
1. The tract on which the dwelling will be sited does not include a dwelling. "Tract" means all contiguous lands in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.
  2. No dwellings are allowed on other lots or parcels that make up the tract, and the other lots or parcels in the tract cannot be used to justify another forest dwelling. Evidence must be provided that covenants, conditions and restrictions have been recorded with the county clerk of the county or counties where the property is located for any other lot or parcel within the subject tract.
  3. The lot or parcel is:

- a. Predominantly composed of soils that are capable of producing zero to 49 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least three other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993 and continue to exist; or
  - b. Predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least seven other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993 and continue to exist; or
  - c. Predominantly composed of soils that are capable of producing more than 85 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least eleven other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993 and continue to exist; and
  - d. If the tract is 60 acres or larger and abuts a road or perennial stream the measurements shall be made by using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and is to the maximum extent possible aligned with the road or stream; and  
  
If a road crosses the tract on which the dwelling will be located, at least one of the required dwellings shall be on the same side of the road as the proposed dwelling and be located within the 160-acre rectangle or within one-quarter mile from the edge of the subject tract and not outside the length of the 160-acre rectangle; or
  - e. If the tract abuts a road that existed on January 1, 1993 and subsection (D) of this section does not apply, the measurements may be made using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and is to the maximum extent possible aligned with the road.
  - f. Lots or parcels within an urban growth boundary cannot be used to satisfy the requirements in this subsection.
- 4. The proposed dwelling is not prohibited by and will comply with land use regulations and other provisions of law including MCC 17.110.830 through 17.110.836.
  - 5. The dwelling will be consistent with the density policy if located in the big game habitat area identified in the Comprehensive Plan.

C. Large Parcel Dwellings. A single-family dwelling, subject to the special use and siting requirements in MCC 17.139.070, may be allowed on a lot or parcel predominantly devoted to forest use on January 1, 1993, provided:

- 1. The lot or parcel on which the dwelling will be located was created before January 1, 1994, or is a consolidated parcel comprised entirely of contiguous lots or parcels that were created before January 1, 1994.
- 2. The lot or parcel contains at least 160 acres in the FT or TC zone, or a combination of these zones.
- 3. The tract on which the dwelling will be sited does not include a dwelling.

4. The proposed dwelling is not prohibited by and will comply with land use regulations and other provisions of law including MCC 17.110.830 through 110.836.
  5. The dwelling will be consistent with the density policy if located in the big game habitat area identified in the Comprehensive Plan.
- D. Dwelling Alteration and Replacement. Alteration, restoration or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.139.070(B), other than as permitted in MCC 17.139.020(E), when the dwelling:
1. Has intact exterior walls and roof structure;
  2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  3. Has interior wiring for interior lights;
  4. Has a heating system; and
  5. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the occupancy of the replacement dwelling.
  6. In the case of replacement, the replacement dwelling shall meet siting requirements set forth in MCC 17.139.070(A)(2) or (A)(3).
- E. Primary Farm Dwellings. A single-family dwelling, subject to the special use and siting requirements in MCC 17.139.070, customarily provided in conjunction with farm use. The dwelling will be considered customarily provided in conjunction with farm use when:
1. It is located on high-value farmland, as defined in MCC 17.139.130(E) on a lot or parcel predominantly devoted to farm use on January 1, 1993, and satisfies the following standards:
    - a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use.
    - b. The **farm operator earned on** the subject tract, ~~produced~~ in the last two years, or three of the last five years, **or the average of the best three of the last five years** at least \$80,000 in gross annual income from the sale of farm products. In determining gross annual income from the sale of farm products, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted;
    - c. The subject tract is currently employed for the farm use that produced the income required in subsection (E)(1)(b) of this section.
    - d. The dwelling will be occupied by a person or persons who produced the commodities which generated the income in subsection (E)(1)(b) of this section; or
  2. It is not located on high-value farmland, as defined in MCC 17.139.130(E) on a lot or parcel predominantly devoted to farm use on January 1, 1993, and satisfies the following standards:
    - a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use.

- b. The **farm operator earned on** the subject tract, ~~produced~~ in the last two years, ~~or~~ three of the last five years, **or the average of the best three of the last five years** at least \$40,000 in gross annual income from the sale of farm products. In determining gross annual income from the sale of farm products, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted;
  - c. The subject tract is currently employed for the farm use that produced the income required in subsection (E)(1)(b) of this section.
  - d. The dwelling will be occupied by a person or persons who produced the commodities which generated the income required in subsection (E)(1)(b) of this section; or
3. It is not located on high-value farmland, as defined in MCC 17.139.130(E) on a lot or parcel predominantly devoted to farm use on January 1, 1993, and satisfies the following standards:
- a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term "farm operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use.
  - b. The parcel on which the dwelling will be located is at least 160 acres.
  - c. The subject tract is currently employed for farm use, as defined in ORS 215.203.
  - 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.
4. It is in conjunction with a commercial dairy farm as defined in this chapter and if:
- a. The subject tract will be employed as a commercial dairy as defined; and
  - b. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and
  - c. Except as permitted by ORS 215.283 (1)(p) (1999 Edition), (Seasonal Farmworker Housing), there is no other dwelling on the subject tract; and
  - 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 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.

5. The applicant had previously operated a commercial farm use and if:
  - a. Within the previous two years, the applicant owned and operated a **different** farm or ranch operation that earned the gross farm income in **each of** the last five years or four of the last seven years as required by MCC 17.139.030(E)(1) or (2), 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 this title, that produced in the last two years or three of the last five years, **or the average of the best three of the last five years**; the gross farm income required by MCC 17.139.030(E)(1) or (2) of this section, whichever is applicable, and
    - i. Currently employed for the farm use, as defined in this title, that produced in the last two years or three of the last five years the gross farm income required by MCC, whichever is applicable; and
    - ii. At least the size of the applicable minimum lot size in this title; and
    - iii. Except as permitted in ORS 215.283(1)(p)(1999 Edition) (Seasonal Farmworker Housing), there is no other dwelling on the subject tract; and
    - iv. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (E)(5)(a) of this section;
    - v. In determining the gross income required by subsections (E)(5)(a) and (E)(5)(b)(i) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract, and only gross income from land owned, not leased or rented, shall be counted.

6. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:

*It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.*

These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

- F. Secondary Farm Dwellings. Secondary (accessory) dwellings, subject to the special use and siting requirements in MCC 17.139.070, customarily provided in conjunction with farm use, on a lot or parcel predominantly devoted to farm use on January 1, 1993, when:
  1. The primary dwelling and the proposed dwelling will each be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-around 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.

2. There is no other dwelling on lands in the FT, SA or EFU zones owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm and could reasonably be used as an additional farm dwelling.
3. The proposed dwelling will be located:
  - a. On the same lot or parcel as the primary farm dwelling; or
  - b. On the same contiguous ownership as the primary dwelling, and the lot or parcel on which the proposed dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the same ownership; or
  - c. On a lot or parcel on which the primary farm dwelling is not located, when the secondary farm dwelling is limited to only a manufactured dwelling with a deed restriction is filed with the county clerk. The deed restriction shall require the additional dwelling to be removed when the lot or parcel is conveyed to another party. Occupancy of the additional farm dwelling shall continually comply with subsection (F)(1) of this section; or
  - d. On any 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 ~~worker labor~~ housing as that existing ~~farm labor housing~~ on the farm operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The county shall require all accessory farm dwellings approved under this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or
  - e. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in subsection (F)(4) of this section, whichever is applicable.
4. The primary dwelling to which the proposed dwelling would be accessory satisfies the following criteria:
  - a. On land not identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and the farm operator earned ~~produced~~ at least \$40,000 in gross annual income from the sale of farm products in the last two years, ~~or~~ three of the last five years, or the average of the best three of the last five years at least; or
  - b. On land identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and the farm operator earned ~~produced~~ at least \$80,000 in gross annual income from the sale of farm products in the last two years, ~~or~~ three of the last five years, or the average of the best three of the last five years at least.
  - c. The primary dwelling is located on a commercial dairy farm as defined in MCC 17.139.130(C); and

- i. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and
      - ii. The Oregon Department of Agriculture has approved a permit for a confined animal feeding operation under ORS 468B.050 and ORS 468B.200 to 468B.230; and
      - iii. The Oregon Department of Agriculture has approved a producer license for the sale of dairy products under ORS 621.072.
    - d. In determining the gross income in subsections (F)(4)(a) and (b) of this subsection, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
  - 5. The dwelling will be consistent with the Fish and Wildlife Habitat policies of the Comprehensive Plan if located in a designated big game habitat area.
  - 6. Secondary farm dwellings shall be a manufactured home, or other type of attached multi-unit residential structure allowed by the applicable State Building Code, and a deed restriction (removal agreement) is filed with the county clerk requiring the removal of the manufactured home, or removal, demolition or conversion to a non-residential use, if other residential structures are used, when the occupancy or use no longer complies with the criteria or standards under which the manufactured home was originally approved.
- G. A secondary single-family dwelling on real property used for farm use since at least January 1, 1993, subject to the special use and siting requirements in MCC 17.39.070, and subject to the following standards:
- 1. A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step-grandparent, grandchild, parent, stepparent, child, brother, sister, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use.
  - 2. The farm operator shall continue to play the predominant role in management and farm 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.
  - 3. A deed restriction is filed with the county clerk requiring removal of the dwelling when the occupancy or use no longer complies with the criteria or standards under which the dwelling was originally approved.
  - 4. For purposes of this subsection, a commercial farm operation is one that meets the income requirements for a primary farm dwelling identified in MCC 17.139.030(E)(1)(b), and the parcel where the dwelling is proposed contains a minimum of 80 acres.
  - 5. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:

*It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.*



These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

H. Lot-of-record Dwellings. A lot-of-record dwelling on a lot or parcel predominantly devoted to farm use on January 1, 1993, subject to the special use and siting requirements in MCC 17.139.070, and subject to the following standards and criteria:

1. The lot or parcel on which the dwelling will be sited was lawfully created and acquired and owned continuously by the present owner:
  - a. Since prior to January 1, 1985; or
  - b. By devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
  - c. "Owner", as the term is used in this section only, 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, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.
2. The tract on which the dwelling will be sited does not include a dwelling; and
3. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract; and
4. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed; and
5. The request is not prohibited by, and complies with, the Comprehensive Plan and other provisions of this zoning code, including but not limited to floodplain, greenway, and big game habitat area restrictions; and
6. The proposed dwelling will not:
  - a. Exceed the facilities and service capabilities of the area.
  - b. Create conditions or circumstances contrary to the purpose of the FT zone.
7. A lot-of-record dwelling approval may be transferred one time only by a person who has qualified under this section to any other person after the effective date of the land-use decision; and
8. The county assessor shall be notified that the county intends to allow the dwelling; and
9. The lot or parcel on which the dwelling will be sited is not high-value farmland as defined in MCC 17.139.130(B); or

10. The lot or parcel on which the dwelling will be sited is high-value farmland as defined in MCC 17.139.130(E)(2) or (3) and:
  - a. Is 21 acres or less in size; and
  - b. The tract on which the dwelling is to be sited is not a flag lot and is:
    - i. Bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993; or
    - ii. 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 one-quarter mile of the center of the subject tract. No more than two of the four dwellings may be within an urban growth boundary; or
  - c. The tract on which the dwelling is to be sited is a flag lot and is:
    - i. The tract is a flag lot and is bordered on at least 25 percent of its perimeter by tracts that are small than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The board, or its designee, must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary;
    - ii. "Flag lot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
    - iii. "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot.
11. The lot or parcel on which the dwelling is to be sited is high-value farmland as defined in MCC 17.139.130(E)(1) and:
  - a. The hearings officer determines that:
    - i. The lot or 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. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to 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; and

- ii. The use will not force a significant change in or significantly increase the cost of farm or forest practices on surrounding lands devoted to farm or forest use; and
- iii. The dwelling will not materially alter the stability of the overall land use pattern in the area. To address this standard, the following information shall be provided:

- (A) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area;

- (B) Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved under subsection (H) of this section and MCC 17.139.050(A), including identification of predominant soil classifications and parcels created prior to January 1, 1993. The 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 non-farm dwellings under this provision;

- (C) Determine whether approval of the proposed non-farm/lot-of-record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm 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, 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.

- b. The county shall provide notice of the application for a dwelling allowed under this subsection to the Oregon Department of Agriculture.

I. Dwelling Alteration and Replacement. Alteration, restoration or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.139.070(B), other than as permitted in MCC 17.139.020(E), when the dwelling:

- 1. Has intact exterior walls and roof structure.

2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system.
3. Has interior wiring for interior lights.
4. Has a heating system.
5. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the final inspection or occupancy of the replacement dwelling.
6. For the case in which the applicant has requested a deferred replacement permit, the dwelling to be replaced shall be 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 consideration. 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.
7. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned FT, SA or EFU, the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.

**17.139.40 USES PERMITTED SUBJECT TO STANDARDS.** The following uses may be permitted in the FT zone subject to approval of the request by the director, based on satisfaction of the standards and criteria specified for each use, pursuant to the procedures in MCC 17.115.

- A. Farm Stand. Farm stand subject to the following standards:
  1. Structures shall be designed and used for the 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.
    - a. 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 produce but not prepared food items.
    - b. As used in this section, "local agricultural area" is limited to the state of Oregon.
  2. The sale of incidental retail items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand is permitted provided 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.

3. Farm stand shall 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.
- B. ~~Winery. Winery, as defined in MCC 17.139.130(G). The winery shall include only the sale of:~~ **A winery subject to the standards in MCC 17.125.030.**
- ~~1. Wines produced in conjunction with the winery.~~
  - ~~2. Items directly related to the sale and promotion of wine produced in conjunction with the winery, the sale of which is incidental to retail sale of wine on-site, including food and beverages served by a limited service restaurant, as defined in ORS 624.010, wine not produced in conjunction with the winery and gifts.~~
  - ~~3. Services directly related to the sale and promotion of wine produced in conjunction with the winery, the sale and delivery of which are incidental to retail sale of wine on-site, including private events hosted by the winery or by patrons of the winery, at which wine produced in conjunction with the winery is featured.~~
  - ~~4. The gross income from the sale of incidental items and services under subsection (2) and (3) of this section may not exceed 25 percent of the gross income from the retail sale on-site of wine produced in conjunction with the winery.~~
- C. Religious Organizations and Cemeteries. Religious organizations and cemeteries in conjunction with religious organizations subject to the following:
1. New religious organizations and cemeteries in conjunction with religious organizations:
    - a. May not be established on high-value farmland.
    - b. New religious organizations and cemeteries in conjunction with religious organizations, not on high-value farmland may be established. All new religious organizations and cemeteries in conjunction with religious organizations, within three miles of an urban growth boundary shall meet the following standards:
      - (i) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people shall be approved, unless an exception is approved pursuant to OAR Chapter 660, Division 004.
      - (ii) Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.
      - (iii) For the purposes of this subsection "tract" means a tract as defined in MCC 17.139.130(F) in existence on (MAY 5, 2010).
  2. Existing religious organizations and cemeteries in conjunction with religious organizations:
    - a. Existing religious organizations and cemeteries in conjunction with religious organizations may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
    - b. Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (C)(1)(b)(i – iii) of this section.

- D. Public and Private Schools. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, subject to the following:
1. New schools primarily for the residents of the rural area in which the school is located:
    - a. New schools may not be established on high-value farmland.
    - b. New schools not on high-value farmland may be established. Any new school within three miles of an urban growth boundary shall meet the following standards:
      - (i) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people shall be approved, unless an exception is approved pursuant to OAR Chapter 660, Division 004.
      - (ii) Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.
      - (iii) For the purposes of this subsection "tract" means a tract as defined in MCC 17.139.130(F) in existence on (MAY 5, 2010).
    - c. New schools must be determined to be consistent with the provisions contained in MCC 17.139.060(A)(1).
  2. Existing schools primarily for the residents of the rural area in which the school is located:
    - a. Existing schools on high-value farmland may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
    - b. Existing schools not on high-value farmland may be maintained, enhanced, or expanded consistent with the provisions contained in MCC 17.139.060(A)(1).
    - c. Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (D)(1)(b)(i – iii) of this section.
  3. Existing schools that are not primarily for residents of the rural area in which the school is located may be expanded on the tax lot on which the use was established or on a contiguous tax lot owned by the applicant on January 1, 2009, however, existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (D)(1)(b)(i – iii) of this section.
- E. Filming Activities. On-site filming and activities accessory to filming, as defined in MCC 17.139.130(B), if the activity:
1. Involves filming or activities accessory to filming for more than 45 days; or
  2. Involves erection of sets that would remain in place longer than any 45 day period.
  3. The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- F. Facility for the Processing of Farm Crops. A facility for the processing of farm crops, or the production of biofuel as defined in ORS 315.141, subject to the following:
1. The farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility,

2. 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 use.
  3. The processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits siting of the processing facility.
  4. Division of a lot or parcel that separates a processing facility from the farm operation on which it is located shall not be approved.
- G. Model Aircraft. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary subject to the following:
1. Buildings and facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use.
  2. The site shall not include an aggregate surface or hard area surface unless the surface pre-existed the use.
  3. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and controlled by radio, lines or design by a person on the ground.
  4. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities.
- H. Wildlife Habitat Conservation. A wildlife habitat conservation and management plan on a lot or parcel subject to the following:
1. The lot or parcel contains an existing legally established dwelling; or
  2. Approval for the dwelling is obtained under provisions contained in MCC 17.139.030(A), (B), (C), (D), (E), (H), (I) or 17.139.050(A);
  3. The dwelling is situated on a legally created lot or parcel existing on November 4, 1993;
  4. The lot or parcel is not predominantly composed of soils rated Class I or II, when not irrigated, or rated Prime or Unique by the Natural Resources Conservation Service, or any combination of such soils.
- I. Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A facility is "necessary" if it must be situated in the FT zone in order for the service to be provided. An applicant must demonstrate that reasonable alternatives have been considered and that the facility must be sited in an FT zone due to one or more of the following factors as found in OAR 660-33-130(16):
1. Technical and engineering feasibility;
  2. The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for farm/timber in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

3. Lack of available urban and nonresource lands;
4. Availability of existing rights-of-way;
5. Public health and safety; and
6. Other requirements of state and federal agencies.
  - a. Costs associated with any of the factors listed above 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.
  - b. The owner of a utility facility approved under this section shall be responsible for restoring, to its former condition as nearly as possible, any agricultural 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 facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
  - c. The applicant shall address the requirements of MCC 17.139.060(A)(1).
  - d. In addition to the provisions above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in a farm/timber zone shall be subject to the provisions of OAR 660-011-0060.
  - e. The provisions of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
  - f. If the criteria contained in MCC 17.137.040(I) for siting a utility facility on land zoned for exclusive farm use are met for a utility facility that is a transmission line, the utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult. The requirement to consult under this section is in addition to and not in lieu of any other legally required consultation process. For the purposes of this subsection:
    - (i) 'Consult' means to make an effort to contact for purpose of notifying the record owner of the opportunity to meet.
    - (ii) 'Transmission line' means a linear utility facility by which a utility provider transfers the utility product in bulk from a point of origin or generation, or between transfer stations, to the point at which the utility product is transferred to distribution lines for delivery to end users.



- J. Parking of not more than seven log trucks on a tract when the use will not:
  - 1. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.
  - 2. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
  
- K. Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249, and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in the farm/timber zone under this division.
  
- L. Parking of not more than seven dump trucks and not more than seven trailers on a tract when the use will not:**
  - 1. Force a significantly change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.**
  - 2. Significantly increase the cost of accepted farm or forest practices on surrounding land devoted to farm or forest use.**

**17.139.050 CONDITIONAL USES.** The following uses may be permitted in an FT zone subject to obtaining a conditional use permit and satisfying the criteria in MCC 17.139.060(A) and any additional criteria, requirements and standards specified for the use.

- A. Single family dwelling or mobile home not in conjunction with farm uses on a lot or parcel predominantly devoted to farm use on January 1, 1993, meeting the criteria and standards in MCC 17.139.060(B) and 17.139.070.
  
- B. Temporary residence for hardship purposes per MCC 17.120.040, meeting the standards and requirements in MCC 17.139.070.
  
- C. The following uses supporting forest operations:
  - 1. Log scaling and weigh stations.
  - 2. Permanent logging equipment repair and storage.
  - 3. Forest management research and experimentation facilities as defined in ORS 526.215 or where accessory to a forest operation.
  - 4. Temporary portable facility for the primary processing of forest products, subject to MCC 17.139.060(I).
  
- D. The following commercial uses:
  - 1. Home occupations, including bed and breakfast inns, subject to MCC 17.139.060(C) and the requirements in MCC 17.139.070(B).
  - 2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.139.040(F), and subject to MCC 17.139.060 (L), but including a winery not permitted under MCC 17.139.040 (B).

3. Dog kennels in conjunction with a dwelling occupied by the kennel operator, subject to MCC 17.139.060(E) and the requirements in MCC 17.139.070(B).
4. Room and board arrangements for a maximum of five unrelated persons in an existing dwelling, subject to the requirements in MCC 17.139.070(B).
5. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.
6. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
7. Composting Facilities
  - a. ~~Existing Composting~~ operations and facilities ~~allowed on high value farmland, that do not meet 17.139.020(S) may be maintained, enhanced, or expanded on the same tract subject to meeting the performance and permitting requirements of~~ are limited to those that are exempt from a permit from the Department of Environmental Quality (DEQ) under OAR 340-093-0050 ~~and 340-096-006,~~ only require approval of an agricultural compost management plan by the Oregon Department of Agriculture, or require a permit from the DEQ under OAR 340-093-0050 where the compost is applied primarily on the subject farm or used to manage and dispose of by products generated on the subject farm. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.
  - b. ~~New Composting~~ operations and facilities ~~that do not meet 17.139.020(S) may be established~~ allowed on land not defined as high-value farmland ~~subject to the following:~~ shall be limited to the composting operations and facilities allowed by subsection (D)(7)(a) of this subsection or that require a permit from the Department of Environmental Quality under OAR 340-093-0050. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.
    1. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-006; and
    2. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility; and
    3. 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.
8. Operations for the extraction and bottling of water, except in the sensitive groundwater overlay zone.
9. Agri-tourism events and activities subject to the requirements in MCC 17.120.090.

E. The following mining and processing activities:

1. Operations for the exploration for and production of oil, gas and geothermal resources as defined by ORS 520.005 and ORS 522.005, including the placement and operation of compressors, separators and storage serving multiple wells and other customary production equipment otherwise permitted in this chapter.
  2. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298 and MCC 17.120.410 through 17.120.480.
  3. Processing as defined in ORS 517.750 of aggregate into asphalt or portland cement subject to the standards in MCC 17.139.060(D) and MCC 17.120.410 through 17.120.480.
  4. Processing of other mineral resources and other subsurface resources subject to MCC 17.120.410 through 17.120.480.
  5. Temporary asphalt and concrete batching plants as accessory uses to specific highway projects.
- F. The following utility uses:
1. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
  2. Television, microwave and radio communication facilities and transmission towers over 200 feet in height.
  3. Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than:
    - a. Ten acres from use as a commercial forest operation unless an exception is taken pursuant to OAR Chapter 660, Division 004.
    - b. Twelve acres from use as a commercial agricultural enterprise on high-value farmland unless an exception is taken pursuant to OAR Chapter 660, Division 004.
    - c. Twenty acres from use as a commercial agricultural enterprise on farmland that is not high-value unless an exception is taken pursuant to ORS 197.732 and OAR Chapter 660, Division 004.
  4. Aids to navigation and aviation.
  5. New electric transmission lines with right of way widths of up to 100 feet specified in ORS 772.210.
  6. New distribution lines (gas or oil, for example) with right of way widths up to 50 feet.
- G. Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities as defined in ORS 215.283(2)(h).
- H. The following recreation uses subject to MCC 17.139.060(M):
1. Private parks, playgrounds and campgrounds, subject to MCC 17.139.060(E) and (F), and subject to MCC 17.139.070(B).
  2. Private seasonal accommodations for fee hunting or fishing operations, subject to MCC 17.139.060(E) and (G), and subject to MCC 17.139.070(B).

3. Destination resorts reviewed and approved pursuant to the destination resort siting requirements in ORS 197.435 to ORS 197.465 and State Land Use Goal 8, subject to MCC 17.139.060(E) and 17.139.070(B).
  4. Community centers, operated primarily by and for residents of the local rural community, where the land and facilities are owned and operated by a governmental agency or a nonprofit community organization, subject to MCC 17.139.070(B).
  5. Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035 or OAR 660-034-0040, whichever is applicable, and with filing of the declaratory statement in MCC 17.137.100(C) and consistent with ORS 195.120 and subject to MCC 17.139.070(B).
  6. Golf courses, as defined in MCC 17.139.130(D) and subject to the requirements of MCC 17.139.060(H) and subject to the requirements of MCC 17.139.070(B).
  7. A "youth camp" may be established in compliance with OAR 660-006-0031. The purpose is for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment. This zoning code applies to youth camps established after July 12, 1999, and shall meet the requirements in MCC 17.139.060(J).
  8. Living history museum on a lot or parcel where the predominant use of the tract on January 1, 1993, was farm use, subject to MCC 17.139.060(K), with the filing of a declaratory statement in MCC 17.139.070(B).
- I. Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, or for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation, subject to MCC 17.139.060(E) and 17.139.070(B).
  - J. Reservoirs and water impoundments, subject to MCC 17.139.070(B).
  - K. Firearms training facility as provided in ORS 197.770.
  - L. The following transportation uses:
    1. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
    2. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
    3. Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.
    4. Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 012.
  - M. Fire stations for rural fire protection.

- N. The propagation, cultivation, maintenance and harvesting of aquatic species.
- O. A residential home or adult foster home, as defined in ORS 197.660 and section 110.477, in an existing dwelling, subject to the requirements in MCC 17.139.070(B).
- P. A replacement dwelling to be used in conjunction with farm use if the existing dwelling is listed in the Comprehensive Plan Inventory and the National Register of Historic Places as historic property as defined in ORS 358.480 and subject to the requirements in MCC 17.139.070(B).
- Q. Expansion of an existing, legally established, airport.
- N. Expansion of existing schools not for kindergarten through grade 12 established on or before January 1, 2009, on the same tract wholly within a farm zone subject to MCC 139.060(M).

**17.139.130 DEFINITION OF TERMS USED IN THIS CHAPTER.** The following terms apply only to this chapter and have no relevance to the same term used in other chapters of this title unless specifically stated.

- A. "Auxiliary," for the purposes of MCC 17.139.020(F) and (G), 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. "Filming activities" means on-site filming and activities accessory to on-site filming includes filming and site preparation, construction of sets, staging, makeup and support services customary provided for on-site filming. Production of advertisements, documentaries, feature film, television services and other film production that rely on the rural qualities of the FT zone in more than an incidental way. It does not include facilities for marketing, editing and other such activities that are allowed only as a home occupation or construction of new structures that require a building permit.
- C. "Commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by MCC 17.139.030(E)(1) or (2).
- D. "Golf course" means an area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" means a nine or 18-hole regulation golf, or golf tournament, course consistent with the following:
  1. 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.
  2. 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.
  3. 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.
    - a. 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, and a practice or beginners course.

- b. 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.
- c. 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.
- d. Commercial activities such as food and beverage service and pro shop are accessory to a golf course only when located in the clubhouse.
- e. Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designated for or include structures for banquets, public gatherings or public entertainment.

E. "High-value farmland" means a tract composed of:

- 1. Soils rated Class I or II, prime, or unique, either irrigated or not irrigated;
- 2. The following Class III soils: Chehalem (CeC), Concord (Co), Hullt (HuD), Jory (JoD), Nekia (NeC, NeD, NkC), Salkum (SkD), Silverton (SuD), and Woodburn (WuD);
- 3. The following Class IV soils: Bashaw (Ba), Camas (Ca), Courtney (Cu), Dayton (Da), and Jory (JoE).

F. "Tract" means one or more contiguous lots or parcels under the same ownership.

G. ~~"Winery", as authorized under MCC 17.139.030(B), is a facility that produces and sells wine and has a maximum annual production of:~~

- ~~1. Less than 50,000 gallons and owns an on-site vineyard of at least 15 acres, owns a contiguous vineyard of at least 15 acres, has a long-term contract for the purchase of all the grapes from at least 15 acres of vineyard contiguous to the winery, or obtains grapes from any combination of these sites; or~~
- ~~2. At least 50,000 gallons and owns an on-site vineyard of at least 40 acres, owns a contiguous vineyard of at least 40 acres, has a long-term contract for the purchase of all the grapes from at least 40 acres of vineyard contiguous to the winery, or obtains grapes from any combination of these sites.~~

H. "Commercial tree species" means trees recognized under rules adopted under ORS 527.715 for commercial production.

I. "Cubic foot per year per tract" 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 Resources Conservation Service (NRCS) soil survey information, USDA Forest Service plant association guides, Oregon Department of Revenue Western Oregon site class maps, or other information determined by the State Forester to be of comparable quality. Where such 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 as explained in the Oregon Department of Forestry's Technical Bulletin entitled

"Land Use Planning Notes Number 3 dated April 1998" and be approved by the Oregon Department of Forestry.

**CHAPTER 17.143**  
**CC (COMMUNITY COMMERCIAL) ZONE**

**17.143.020 PERMITTED USES.** Within any CC community commercial zone no building, structure, or premises shall be used, or arranged, except as permitted by this ordinance. Only the following uses may be permitted in the specified unincorporated community, as those communities are defined in the comprehensive plan:

- A. All communities. The following uses are permitted in an existing building or a new or expanded building up to 4,000 square feet in a rural community or in a new or expanded building up to 8,000 square feet in an urban community, subject to MCC 17.143.060(D):
1. Automobile repair (SIC 7532 and 7538);
  2. Restaurant (SIC 5812);
  3. Tavern (SIC 5813);
  4. Office for professional services;
  5. Nursery, lawn, and garden supply store (SIC 5261);
  6. Used merchandise store (SIC 5932);
  7. Hardware store (SIC 5251);
  8. Meat and fish markets (SIC 5421);
  9. Fruit and vegetable market (SIC 5431);
  10. Candy, nut, and confectionary store (SIC 5441);
  11. Retail bakery (SIC 5461);
  12. Gift and souvenir shop (SIC 5947)
  13. Retail art dealer;
  14. Service station (SIC 5541);
  15. Household appliance store (SIC 5722);
  16. Radio, television, and consumer electronics store (SIC 5731);
  17. Sporting goods store (SIC 5941);
  18. Book store (SIC 5942);
  19. Florist (SIC 5992);
  20. Coin-operated laundry and dry cleaning (SIC 7215);
  21. Photographic studio (SIC 7221);
  22. Beauty and barber shop (SIC 7231 and 7241)
  23. Shoe repair shop (SIC 7251);
  24. Repair services, including electrical; watch, clock and jewelry; reupholstery and furniture (SIC 76);
  25. Watch, clock and jewelry repair (SIC 763);
  26. Video tape rental (SIC 7841);
  27. Gunsmith;
  28. Special trade contractors (SIC 17);
- B. All communities. The following uses are permitted without size limitations, unless specified in an unincorporated community designated in the comprehensive plan:
1. Grocery store, limited to a maximum of 8,000 square feet of floor space in an urban community and a maximum of 4,000 square feet of floor space in a rural community (SIC 5411 and 5499);
  2. Agricultural equipment repair;
  3. Agricultural services (SIC 07);
  4. Caretaker's dwelling;

5. Uses legally established and existing on July 19, 2000. Such uses are permitted pursuant to this section only on the lot(s) or parcel(s) where they existed on July 19, 2000;
  6. Wireless communication facilities attached, subject to MCC 17.125.110 and pursuant to 17.115.110.
  7. Expansion of an existing commercial use under the following circumstances:
    - a. The use will have a maximum floor space of 4,000 square feet in a rural community or 8,000 square feet in an urban community after the expansion; or
    - b. The use is intended to serve the community and surrounding rural area or the travel needs of people passing through the area;
  8. Fire station;
  9. Public and private utility facilities and buildings including cooperatives necessary for public service.
- C. Brooks-Hopmere
1. Used motor vehicle sales (SIC 5521) with a maximum of 8,000 square feet of floor space;
- D. Labish Village
1. Used motor vehicle sales (SIC 5521) with a maximum of 4,000 square feet of floor space;
- E. Mehama. The following uses are permitted in an existing building or a new or expanded building with a maximum of 4,000 square feet of floor space.
1. Food store (SIC 54);
  2. Eating and drinking places (SIC 58);
  3. Building materials, hardware, garden supply, and mobile home dealers (SIC 52);
  4. General merchandise store (SIC 53);
  5. Automotive dealers and gasoline services (SIC 55);
  6. Apparel and accessory stores (SIC 56);
  7. Home furniture, furnishing and equipment (SIC 57);
  8. Miscellaneous retail (SIC 59);
  9. Depository institutions (SIC 60);
  10. Nondepository credit institutions (SIC 61);
  11. Security and commodity broker, dealer and services (SIC 62);
  12. Insurance carrier (SIC 63);
  13. Insurance agent, broker and services (SIC 64);
  14. Real estate (SIC 65);
  15. Holding and other investment offices (SIC 67);
  16. Photographic portrait studio (SIC 7221);
  17. Tax return preparation service (SIC 7291).
- F. Quinaby
1. Public warehousing and storage (SIC 422) with a maximum of 4,000 square feet of floor space.

**CHAPTER 17.145  
C (COMMERCIAL ZONE)**



**17.145.020 PERMITTED USES.** Within any C zone no building, structure, or premises shall be used, or arranged, except as permitted by this ordinance. Only the following uses may be permitted at a scale appropriate to serve the rural area, subject to MCC 17.145.050:

- A. Agricultural services and Forestry (SIC 07 and 08, except 0752 kennels);
- B. Offices for building construction contractors, heavy construction contractors and special trade contractors (SIC 15, 16, and 17);
- C. Glass products made of purchased glass (SIC 323);
- D. Transportation and warehousing (SIC 40, 41, 4212, 4225, 43, 4491, 4492, 45, 47);
- E. Communication (SIC 48, except 4812 cellular telephone communications, see subsection (W)(2) of this section);
- F. Motor vehicle wholesale (SIC 5012);
- G. Retail sales (SIC 52, 53, 54, 56, 57, 58, 59, except 598 fuel dealers, see subsection (W)(3) of this section);
- H. Financial, insurance and real estate offices (SIC 60, 61, 62, 63, 64, 65 and 67);
- I. Recreation vehicle parks and campsites (SIC 7033);
- J. Services (SIC 72, 73, except crematories and heavy construction equipment rental and leasing);
- K. Automotive repair, services, and parking (SIC 75, except 7521 automobile parking);
- L. Retail and service (SIC 76, except 7692 welding shop and 7699 blacksmith);
- M. Amusement and recreation (SIC 79, except 7948 racing facilities);
- N. Professional offices (SIC 80, 81, 87);
- O. Career, trade or commercial schools (SIC 824 and 829 and as defined in Chapter 17.110 MCC);
- P. Schools, elementary and secondary (as defined in Chapter 17.110MCC);
- Q. Non-profit membership organizations (SIC 86);
- R. Sheet metal shop;
- S. Caretaker's dwelling;
- T. Fire station;
- U. Public and private utility facilities and buildings including cooperatives necessary for public service;
- V. Laboratory seed and soil testing, research;
- W. The following uses are subject to special standards:
  - 1. Mobile home towing service (see limited use, MCC 17.125.070);
  - 2. Wireless communication facilities attached subject to MCC 17.125.110 and pursuant to 17.115.110. (see limited use, MCC 17.125.110);
  - 3. Fuel oil distribution firm (see limited use, MCC 17.125.060);
  - 4. Automobile parking lot when developed as described in Chapter 17.118 MCC (SIC 7521).
- X. Uses legally established and existing on the date of adoption of this ordinance. Such uses are permitted pursuant to this section only on the lot(s) or parcel(s) where they existed on the date of adoption of this ordinance, subject to MCC 17.145.060.

#### **CHAPTER 17.172 SUBDIVISION AND PARTITION REQUIREMENTS**

**17.172.660 FINAL RECORDATION.** Within two years of approval of the partitioning application, the applicant shall submit for approval by the director, a partitioning plat in the appropriate form that shall reflect the final decision. When approved, the plat shall be recorded with the Marion County clerk. Until the plat is approved and recorded, no building permits for any of the divided parcels shall be issued. Should the applicant fail to record

a partitioning plat within two years the approval shall be deemed null and void. ~~One~~ ~~e~~Extensions may be approved by the director upon submittal of written justification prior to the expiration of the two-year time limit.

**CHAPTER 17.178  
FLOODPLAIN OVERLAY ZONE**

**17.178.050 CONDITIONAL USE PROCEDURES AND REQUIREMENTS.**

- A. Except as provided in MCC 17.178.040 a conditional use permit (floodplain development permit) shall be obtained before construction or development begins within the floodplain overlay zone. The conditional use permit shall include conditions ensuring that the flood protection standards in MCC 17.178.060 are met.
- B. When base flood elevation data and floodway data have not been provided in accordance with MCC 17.178.030, the applicant, with the assistance of the zoning administrator, shall obtain and reasonably utilize any base flood elevation data or evidence available from a federal, state or other source in order to determine compliance with the flood protection standards. If data are insufficient, the zoning administrator may require that the applicant provide data derived by standard engineering methods.
- C. Prior to obtaining a building permit the owner shall be required to sign and record in the deed records for the county a declaratory statement binding the landowner, and the landowners successors in interest acknowledging that the property and the approved development are located in a floodplain.
- D. Prior to obtaining a building permit, commencing development or placing fill in the floodplain the applicant shall submit a certification from a registered civil engineer demonstrating that a development or fill will not result in an increase in floodplain area on other properties and will not result in an increase in erosive velocity of the stream that may cause channel scouring or reduce slope stability downstream of the development or fill.
- E. The applicant shall provide an elevation certificate signed by a licensed surveyor or civil engineer certifying that the actual elevations of all new or substantially improved manufactured homes, dwellings and structures meet the requirements of MCC 17.178.060(A), (B) and (C), where applicable, as follows:
  - 1. Prior to construction (based on construction drawings), and
  - 2. Once the floor elevation can be determined (based on the building under construction), and
  - 3. Prior to occupancy (based on finished construction).

**Unless requested by FEMA, elevation certificates shall not be required for the following uses:**

- 1. Water dependent uses, such as boat ramps, docks, wells and well covers.**
  - 2. Improvements resulting from cut or fill operations, such as berms, bank improvements, ponds and dams.**
  - 3. Small scale facilities necessary to serve other uses, such as kiosks and open picnic shelters.**
  - 4. Grading, such as for roadways, even where alteration of topography occurs.**
- F. A highway ready recreation vehicle may be located on a lot or parcel without a dwelling in a floodplain or floodway only during the non-flood season (June 1st through September 30th), subject to the requirements in MCC 17.126.040.

- G. In addition to other information required in a conditional use application, the application shall include:
1. Land elevation in mean sea level data at development site and topographic characteristics of the site.
  2. Base flood level expressed in mean sea level data on the site, if available.
  3. Plot plan showing property location, floodplain and floodway boundaries where applicable, boundaries and the location and floor elevations of existing and proposed development, or the location of grading or filling where ground surface modifications are to be undertaken.
  4. Any additional statements and maps providing information demonstrating existing or historical flooding conditions or characteristics, which may aid in determining compliance with the flood protection standards of this overlay zone.

**17.178.060 FLOOD PROTECTION STANDARDS.** In all areas of identified floodplain, the following requirements apply:

- A. Dwellings, Manufactured Homes and Related Accessory Structures. New residential construction, substantial improvement of any residential structures, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after adoption of this title shall:
1. Dwellings **and accessory structures, except as provided for in 7 and 8 of this subsection,** shall have the top of the lowest floor, including basement, elevated on a permanent foundation to two feet above base flood elevation and the bottom of the lowest floor constructed a minimum of one foot above the base flood elevation. Where the base flood elevation is not available, the top of the lowest floor, including basement shall be elevated on a permanent foundation to two feet above the highest adjacent natural grade (within five feet) of the building site and the bottom of the lowest floor elevated to one foot above the highest adjacent natural grade (within five feet) of the building site; and
  2. Manufactured homes shall have the bottom of the longitudinal chassis frame beam, including basement, elevated on a permanent foundation to two feet above base flood elevation. Where the base flood elevation is not available, the finished floor, including basement shall be elevated on a permanent foundation to two feet above the highest adjacent natural grade (within five feet) of the building site; and
  3. Manufactured homes shall be anchored in accordance with subsection (D) of this section; and
  4. No new dwelling or manufactured home shall be placed in a floodway. An exception to this prohibition may be granted if a floodplain development permit, and variance consistent with MCC 17.178.080, are obtained; and
  5. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must comply with the following standards:
    - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
    - b. The bottom of all openings shall be no higher than one foot above grade.
    - c. Openings may be equipped with screens, louvers, or other coverings or devices

provided that they permit the automatic entry and exit of floodwaters.

6. Construction where the crawlspace is below-grade on all sides may be used. Designs for meeting these requirements must either be certified by a registered professional engineer or architect, or must meet the following standards, consistent with FEMA Technical Bulletin 11-01 for crawlspace construction:
  - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
  - b. The bottom of all openings shall be no higher than one foot above grade;
  - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
  - d. Interior grade of the crawlspace shall not exceed two feet below the lowest adjacent exterior grade;
  - e. The height of the crawlspace when measured from the interior grade of the crawlspace (at any point on grade) to the bottom of the lowest horizontal structural member of the lowest floor shall not exceed four feet;
  - f. An adequate drainage system that removes floodwaters from the interior area of the crawlspace shall be provided; and,
  - g. Below-grade crawlspace construction in accordance with the requirements listed above will not be considered basements for flood insurance purposes. However, below grade-crawlspace construction in the special flood hazard area is not the recommended construction method because of the increased likelihood of problems with foundation damage, water accumulation, moisture damage, and drainage. Applicants shall be advised that buildings constructed with below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction (the interior grade of the crawlspace is at or above the adjacent exterior grade).
7. A garage attached to a residential structure, constructed with the garage floor slab below the base flood elevation, may be constructed to wet floodproofing standards provided that:
  - a. The garage shall meet the standards for openings in subsection (A)(5) of this section; and
  - b. The garage shall be constructed with unfinished materials acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade.
8. A detached residential accessory structure may be constructed to wet floodproofing standards provided that:
  - a. The accessory structure shall be located on a property with a dwelling;
  - b. The accessory structure shall be limited to vehicle parking and limited storage (no workshops, offices, recreation rooms, etc);
  - c. The accessory structure shall be constructed with unfinished materials acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade;

- d. The accessory structure shall not be used for human habitation;
  - e. The accessory structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
  - f. The accessory structure shall meet the standards for openings in subsection (A)(5) of this section and,
  - g. The accessory structure shall meet the criteria for a variance in MCC 17.178.090.
  - h. A declaratory statement is recorded requiring compliance with the standards in 17.178.060(A)(8)(b)-(f) and 17.178.060(F)(3).
- B. Manufactured Homes in Existing Manufactured Home Parks. The standards in subsection (A) of this section shall apply to location of a manufactured home in a vacant space in a manufactured home park existing prior to adoption of the zoning code codified in this title.
- C. Non-residential Development
1. New construction and substantial improvement of any commercial, industrial or other non-residential structures shall either have the lowest floor, including basement, elevated to two feet above the level of the base flood elevation, and where the base flood elevation is not available, the lowest floor, including basement, shall be elevated to two feet above the highest adjacent natural grade (within five feet) of the building site; or together with attendant utility and sanitary facilities, shall:
    - a. Be floodproofed to an elevation of two feet above base flood elevation or, where base flood elevation has not been established two feet above the highest adjacent grade, so that the structure is watertight with walls substantially impermeable to the passage of water.
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
    - c. Be certified by a registered professional engineer or architect that the standards in this subsection are satisfied. This certificate shall include the specific elevation (in relation to mean sea level) to which such structures are floodproofed.
    - d. Non-residential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsections (A)(4 ~~5~~) and (~~5~~ 6) of this section.
    - e. Applicants floodproofing non-residential buildings shall be notified by the zoning administrator that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).
  2. New construction of any commercial, industrial or other non-residential structures are prohibited in the floodway. An exception to this prohibition may be granted if a floodplain development permit and variance consistent with MCC 17.178.080 are obtained. This prohibition does not apply to water dependent uses.
  3. An agricultural structure may be constructed to wet floodproofing standards provided that:
    - a. The structure shall be used solely for agricultural purposes, for which the use is exclusively in conjunction with the production, harvesting, storage, drying, or raising of agricultural commodities, the raising of livestock, and the storage of farm machinery and equipment;

- b. The structure shall be constructed with unfinished materials acceptable for wet floodproofing to two feet above the base flood elevation or, where no BFE has been established, to two feet above the highest adjacent grade;
- c. The structure shall not be used for human habitation;
- d. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- e. The structure shall meet the standards for openings in subsection (A)(5) of this section; and,
- f. The structure shall meet the criteria for a variance in MCC 17.178.090.

D. Anchoring.

- 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- 2. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movements, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Anchoring methods shall be consistent with the standards contained in Section 308 (Flood Resistance) contained in the Oregon Manufactured Dwelling Standards Manual per ORS 446.062.

E. Construction Materials and Methods.

- 1. All new construction and substantial improvements below base flood level shall be constructed with materials and utility equipment resistant to flood damage, and the design and methods of construction are in accord with accepted standards of practice based on an engineer's or architect's review of the plans and specifications.
- 2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damages.

F. Utilities.

- 1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system as approved by the State Health Division.
- 2. New and replacement sanitary sewage systems including on-site waste disposal systems shall be designed and located to minimize flood water contamination consistent with the requirements of the Oregon State Department of Environmental Quality.
- 3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment shall be elevated to one above the level of the base flood elevation. Where the base flood elevation is not available, the electrical, heating, ventilation, plumbing and air-condition equipment shall be elevated to one foot above the highest adjacent natural grade (within five feet) of the building site.

G. Developments Generally. Residential developments involving more than one single family dwelling, including subdivisions, manufactured home parks, multiple family dwellings and planned developments including development regulated under subsections (A) and (C) of this section shall meet the following requirements:

1. Be designed to minimize flood damage.
  2. Have public utilities and facilities such as sewer, gas electrical and water systems located and constructed to minimize flood damage.
  3. Have adequate drainage provided to reduce exposure to flood damage.
  4. Base flood elevation data shall be provided by the developer. In cases where no base flood elevation is available analysis by standard engineering methods will be required.
- H. Storage of Materials and Equipment. Materials that are buoyant, flammable, obnoxious, toxic or otherwise injurious to persons or property, if transported by floodwaters, are prohibited. Storage of materials and equipment not having these characteristics is permissible only if the materials and equipment have low-damage potential and are anchored or are readily removable from the area within the time available after forecasting and warning.
- I. Alteration of Watercourses. When considering a conditional use permit to allow alteration or modification of a watercourse the following shall apply:
1. Adjacent communities, the Oregon Division of State Lands and the Department of Land Conservation and Development, and other affected agencies, shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Insurance Administration.
  2. Maintenance shall be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- J. Floodways. Located within areas of floodplain established in MCC 17.178.030 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles and erosion potential the following provisions shall apply in addition to the requirement in subsection (I) of this section:
1. Prohibit encroachments, including fill, new construction, substantial improvements and other development unless a certified technical evaluation is provided by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. This evaluation may be submitted to the Federal Emergency Management Agency for technical review.
  2. If subsection (J)(1) of this section is satisfied all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.
  3. The area below the lowest floor shall remain open and unenclosed to allow the unrestricted flow of floodwaters beneath the structure.
- K. Standards for Shallow Flooding Areas (AO Zones). Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from one to three feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:
1. New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent natural grade (within five feet) of the building site, to two feet above the depth number specified on the FIRM or three feet if no depth number is specified.

2. New Construction and substantial improvements of non-residential structures within AO zones shall either:
  - a. Have the lowest floor (including basement) elevated above the highest adjacent natural grade (within five feet) of the building site, to two feet above the depth number specified on the FIRM or three feet if no depth number is specified; or
  - b. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in subsection (C) of this section.
3. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

**CHAPTER 17.191  
SIGNS**

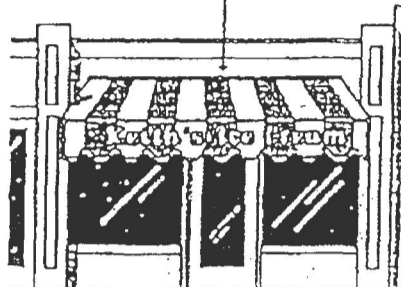
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**17.191.010 DEFINITIONS.** For the purpose of this Chapter the following definitions shall apply:

- A. "Alteration" means any change in the size, shape, method of illumination, position, location, material, construction, or supporting structure of a sign.
- B. "Aurora Airport business center" identifies the area at the Aurora State Airport and surrounding Public zone.**
- C. "Awning" means a temporary or removable shelter supported entirely from the exterior of a building and composed of non-rigid materials except for support framework.



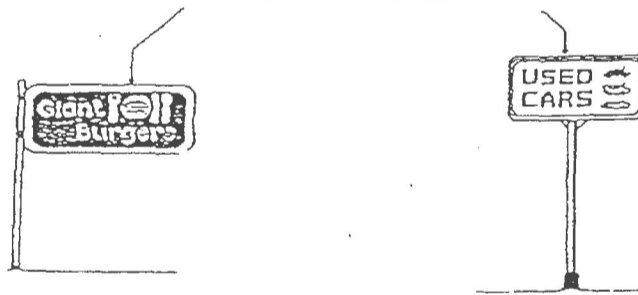
Awning Sign



- D. "Awning Sign" means signs painted on or affixed to an awning.
- E. "Building face or wall" means all window and wall area of a building on one plane or architectural elevation.
- F. "Building frontage" means the portion of a building facing a street right-of-way or on-site parking lot.
- G. "Change of sign face" means where an existing sign is altered by a change of message or design on the sign face, without any change to the size or shape of the sign framework or structure, excluding marquee, electronic message boards, menu boards, and changeable copy signs.
- H. "Display" means any identifiable visual form or character, and which may be comprised solely, or be comprised of a combination of, words, symbols, images, and graphic elements.
- I. "Electronic display sign" means a sign including, or comprised solely or partially of an electronic display that can be changed by automatic means, including, but not limited to, the operation of computer software is internally illuminated, is permanently fixed to a foundation and shall not include TPCMS (Temporary Portable Changeable Message Signs).
- J. "Effect" means sequential, flashing, or simultaneous illumination by electrical means other than by an electronic display. As used in this chapter effects include, but are not limited to:
1. Animated effect: illumination that depicts a moving object, thing, person, animal, or happening or depicts an ongoing series of images.
  2. Chaser effect: illumination that is intended to lead the eye by producing lineal or circular movement.
  3. Scintillating effect: illumination that provides a random twinkling of lights, including illumination that forms images, words or sentences at the end of the sequence of twinkling lights.
  4. Speller effect: illumination that spells a word, one letter, sentence, number, or character at a time, including flashing a complete word or words or sentence.
- K. "Electronic time and temperature sign" means a sign, or portion thereof, that announces time, temperature and/or date.
- L. "Electronic display" means a display created by light emitting diodes, liquid crystal displays, plasma display panels, pixel or sub-pixel technology, or other similar technology. As used in this chapter, electronic displays include, but are not limited to:

1. Dissolve: the changing of an electronic display by means of varying light intensity or pattern, where one display gradually appears to dissipate or lose legibility simultaneously with the gradual appearance and legibility of a subsequent display.
  2. Fade: the changing of an electronic display by means of varying light intensity, where one display gradually reduces intensity to the point of being illegible or imperceptible and the subsequent display gradually increases intensity to the point of being legible or capable of being perceived.
  3. Scrolling: the changing of an electronic display by the apparent vertical movement of the visual image, such that a new visual image appears to ascend and descend, or appear and disappear from the margins of the sign in a continuous or unfurling movement.
  4. Static display: an electronic display that does not change.
  5. Travel: the changing of an electronic display by the apparent horizontal movement of the visual image.
  6. Video display: providing an electronic display in horizontal or vertical formats to create continuously moving images.
- M. "Fabric sign" means any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, fabric or other light material, with or without frames, that is not permanently affixed to a supporting structure.
- N. "Flashing" means sudden or intermittent electrical illumination.
- O. "Freestanding sign" means a sign supported by one or more upright poles or braces placed in or upon the ground and wholly detached from any building. Also known as a ground sign.

**Free-standing Signs**



- P. "Indirect illumination" means a source of illumination directed toward a sign so that the beam of light falls upon the exterior surface of the sign.
- Q. "Integrated business center" means a group of two or more businesses and/or uses which have been developed as a unit and which have common parking facilities.
- R. "Internal illumination" means a source of illumination from within a sign, including neon signs, but not including electronic message board signs and temporary portable changeable message signs.
- S. "Marquee" means a permanent roofed structure, but not an enclosed structure, attached to or supported by a building for the purpose of providing shelter to patrons.

- T. "Nit" means a measurement of luminance, where one nit is equal to one candela per square meter ( $1\text{cd}/\text{m}^2$ ). A candela means a unit of measurement of the intensity of light, where one candela is the monochromatic radiation of 540THz with a radiant intensity of 1/683 watt per steradian in the same direction. By way of example, an ordinary wax candle generates approximately one candela.
- U. "Non-conforming sign" means an existing sign, lawful at the time of the enactment of this code, which does not conform to the requirements of this code.
- V. "Portable sign" means any sign not permanently attached to the ground, a building, or other structure, not including TPCMS (temporary portable changeable message signs).
- W. "Projecting sign" means signs other than wall signs, which are attached to and project from a structure or building face more than 18 inches.

**Projecting Sign**



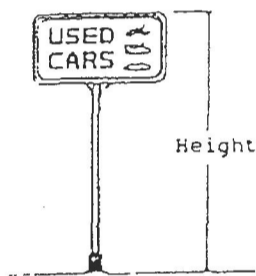
- X. "Roof sign" means a sign supported by, and located on or over, the roof of a building.
- Y. "Sign" means any medium, including its structure and component parts, which is used or intended to be used to attract attention to the subject matter for advertising or identifying purposes. Sign does not include any cloth attached to a single pole equipped to raise and lower the cloth from the ground.
- Z. Sign area.
1. Except as provided in subsection (Y)(2) of this section, the area of a sign shall be calculated by adding the outer dimensions of all the faces presenting a sign message. Pole covers and columns shall not be included in the area of the measurement if they do not include advertising. Double-faced signs will be calculated as one sign only when placed back-to-back and separated by no more than 24 inches.
  2. The area of a wall sign without a border shall be computed by enclosing the entire sign within sets of parallel lines touching the outer limits of the sign message.

Determining the Area of a Sign



Shaded Area Indicates Area of Signs

- AA. "Sign height" means the distance measured from the average elevation of the ground adjacent to the structure that the sign is mounted on, or the elevation of a public sidewalk or street curb within 10 feet of the sign structure, to the greatest height of the sign face.



- BB. "Sign structure" means the supports, uprights, braces, framework and other structural components of the sign.
- CC. "Street frontage" means the portion of a property that abuts a street right-of-way.
- DD. "Temporary portable changeable message signs (TPCMS)" means any sign that is visible for only 60 days twice per year capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means with a dwell time of six seconds, is internally illuminated, not permanently affixed to the ground, a building, or other structure, serves a temporary purpose, is freestanding without a permanent foundation, and contains a surface area of no more than 32 square feet and a height of no more than eight feet.
- EE. "Temporary sign" means any sign that is visible for only 60 days twice per year, is without illumination, not permanently affixed to the ground, a building, or other structure, serves a temporary purpose, is freestanding without a permanent foundation, including lawn signs, vehicle signs fabric signs and balloon signs but not including TPCMS (temporary portable changeable message signs).
- FF. "Under marquee sign" means a sign which is erected or maintained under and is supported by a marquee.
- GG. "Wall sign" means any sign placed or painted directly against a building wall, with the exposed face of the sign in a plane approximately parallel to the plane of the wall and projects outward from the wall not more than eighteen inches.

Wall Sign



HH. "Window sign" means any sign that is erected or placed within a building or structure but is visible from the exterior of said building or structure.

**17.191.065 SIGNS IN PUBLIC, FARM AND FOREST ZONES.** Except as provided in MCC 17.191.040, no sign shall be erected or maintained in Public, Farm and Forest zones except as set forth in this section:

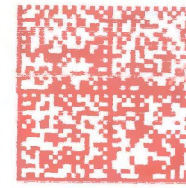
- A. One unlighted wall, window or freestanding sign not exceeding 32 square feet per street frontage.
- B. One temporary sign not exceeding 32 square feet visible for 60 days twice per year.
- C. One temporary portable changeable message sign for 60 days twice per year.
- D. On property developed for religious organizations, museums, ~~and commercial and industrial airport related uses in the public zone only~~, educational institutions and schools as defined in sections MCC 17.110.505 and 17.110.510, and subject to the standards above one electronic display sign not exceeding 32 square feet with a dwell time of one hour, except changes to correct hour-and-minute or temperature information, which may change no more often than once every three seconds, may be erected in place of a freestanding sign.
- E. Height Limitations. Signs shall comply with the following maximum height limitations:
  - 1. Freestanding sign: eight feet.
  - 2. Wall and window signs: eight feet.
  - 3. For signs allowed in subsection (D) of this section: 15 feet.
- F. Setbacks. Unless specified otherwise, signs shall comply with the following minimum setback requirements: signs shall be located at least three feet from a lot line abutting a street. All signs shall comply with requirements for vision clearance areas and special street setbacks. Freestanding signs may be erected in special setback areas. [See MCC 17.191.090].
- G. Illumination.
  - 1. Indirect illumination shall be directed away from and not be reflected upon adjacent premises, streets or roadways. Illumination shall be subject to the standards in MCC 17.191.100(A).

2. The light source for an internally illuminated sign may be comprised of light emitting diodes, so long as the light emitting diodes are used for illumination only, do not create an electronic display or effect, and conform to the brightness limitations set forth in MCC 17.191.100(B).
- H. Signs no larger than 800 square feet shall be permitted within stadiums, athletic fields, and other outdoor assembly facilities, where they are intended primarily for viewing by persons within the facility, are oriented toward the interior of the facility and viewing stands, and are only used during events where the public attends as spectators. Notwithstanding any other provision of this chapter, signs allowed by this subsection may employ any effect and shall not be subject to the limitation imposed in MCC 17.191.100(B).

**17.191.068 SIGNS FOR THE AURORA AIRPORT BUSINESS CENTER IN A PUBLIC ZONE. Except as provided in MCC 17.191.040, only signs permitted in this section are allowed in an Aurora Airport integrated business center in a P zone:**

- A. Aurora Airport Business Center Sign: One freestanding sign structure at each driveway entrance designed to be read from the roadway.**
1. **Maximum height: 30 feet.**
  2. **Maximum square footage. Total sign area shall not exceed 500 square feet.**
  3. **Minimum Setback. Signs shall not project into the public right-of-way. Signs shall comply with requirements for vision clearance areas and special street setbacks. Freestanding signs may be placed in special setbacks [see MCC 17.191.090].**
  4. **Illumination.**
    - a. **Indirect illumination shall be directed away from and not be reflected upon adjacent premises, streets or roadways. Illumination shall be subject to the standards in MCC 17.191.100(A) and Federal Aviation Administration (FAA) standards for lighting at airports.**
    - b. **The light source for an internally illuminated sign may be comprised of light emitting diodes, so long as the light emitting diodes are used for illumination only, do not create an electronic display or effect, and conform to the brightness limitations set forth in MCC 17.191.100(B) and Federal Aviation Administration standards for lighting at airports.**
- B. Signs for Individual Businesses in the Aurora Airport Business Center: Wall, awning and window signs are permitted subject to the following requirements:**
1. **Maximum Square Footage: The total sign area is based upon street frontage and frontage on common parking areas. The aggregate sign area shall not exceed one square foot for each linear foot of building frontage for a maximum of two building frontages. A sign shall not exceed 100 square feet.**
  2. **Maximum Height. 30 feet.**
  3. **Illumination. Wall signs shall be internally illuminated. Illumination shall be subject to the standards in MCC 17.191.100 and Federal Aviation Administration standards for lighting at airports.**

4. Parking Lot Signs. Two permanent signs to identify each motor vehicle entrance into or exit from the premises. Each sign shall be limited to eight square feet in area and a height of 30 inches above the sidewalk or 36 inches above the street elevation where there is no sidewalk.
  5. On every structure with a vertical surface visible from the runway, in addition to other signage allowed under this subsection, one sign not to exceed 300 square feet on a wall, window or awning.
- C. One temporary sign not exceeding 32 square feet visible for 60 days twice per year.
- D. Setbacks. Unless specified otherwise, signs shall comply with the following minimum setback requirements: signs shall be located at least three feet from a lot line abutting a street. All signs shall comply with requirements for vision clearance areas and special street setbacks. Freestanding signs may be erected in special setback areas. [See MCC 17.191.090].
- E. Prohibited signs: Signs containing electronic time and temperature or electronic displays and temporary portable changeable message signs are prohibited at the Aurora Airport Business Center.
- F. Signs not regulated: Except as provided in this section, signs not visible from surrounding roadways are exempt from regulation by this code.
- G. Existing signs: Existing signs not in a right-of-way as of [the date of adoption of this ordinance] are permitted pursuant to this section only on the lot(s) or parcel(s) where they existed on [the date of adoption of this ordinance] and are subject to MCC 17.114.
- H. Signs may also be subject to permitting requirements of the FAA or local airport sponsor (e.g., Oregon Department of Aviation). Other permitting requirements may be more restrictive than those in the MCC. Where other permitting requirements are more restrictive, those requirements shall apply.



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