

CHAPTER 111

ADMINISTRATION AND PROCEDURES

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111.010. ADMINISTRATION OF THE ORDINANCE. This ordinance shall be jointly administered by the County Building Official and the Director of Planning.

The Building Official or other designated officer, prior to issuing any permit pertaining to the use of land or structures, or the erection or alteration of any structure, shall ascertain that the proposed use or construction shall in all ways conform to the requirements set forth in this ordinance.

The Planning Director shall handle all matters pertaining to zone changes, variances, and conditional uses, and other administrative matters as prescribed by this ordinance; and such other matters as directed by the Board of Commissioners.

111.020. MINIMUM REQUIREMENTS. In interpreting and applying this ordinance, the provisions herein shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.

111.030. EFFECT ON OTHER ORDINANCES, AGREEMENTS BETWEEN PARTIES. It is not intended by this ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or ordinance, previously adopted, relating to the use of buildings or premises, or relating to the erection, construction, establishment, alteration, or enlargement of any buildings or improvements; nor is it intended by this ordinance to interfere with or abrogate or annul any easement, covenant, or other agreement between parties; provided, however, that where this ordinance imposes a greater restriction upon the erection, construction, establishment, alteration, or enlargement of buildings, structure, or improvements, or the use of any such structures or premises in said several zones or districts, or any of them, than is imposed or required by such existing provisions of this ordinance, the greater restriction shall control, except that such precedence of this ordinance shall not apply to valid and unexpired permits and/or uses previously granted under the terms and provisions of any ordinance.

111.040. INTERPRETATION OF ORDINANCE.

- (A) When, in the administration of this ordinance, there is doubt regarding the intent of the ordinance, the Director shall request an interpretation of the provision by the Board of Commissioners, who may issue an interpretation of the question if they have determined that such interpretation is within their power and is not a legislative act. Any interpretation of the ordinance shall be based on the following:
 - (1) The purpose and intent of the ordinance as applied to the particular section and question; and,
 - (2) The opinion of the County Counsel when requested by the Board of Commissioners.
- (B) The Board of Commissioners may decide that the interpretation of the question is not within their power without an ordinance amendment or that there is insufficient basis upon which to make an interpretation and may request the Director to study the problem, and where necessary, propose an amendment to the ordinance.
[Amended by Ordinance 88-21]
- (C) A use is not precluded from being established or authorized in a zone based solely on the fact that the use is more specifically identified in another zone, except for Marijuana Uses defined in PCZO 110.371. [Amended by Ordinances 14-04 and 16-01]

111.050. SIMILAR USES. The Director may permit in any zone any use not described or listed in this ordinance for any other zone if, in the opinion of the Director, the requested use is of the same general type and is similar to the uses permitted in the zone. Such review and permission shall be made in the same manner as other interpretations of this ordinance, as described in Section 111.040.

111.060. FEES. Fees shall be required by the Director to be paid at the time of filing of each petition or application for a farm or forest dwelling, lot-of-record determination, land use determination, conditional use, planned development, variance, land partition, property line adjustment, similar use decision, comprehensive plan amendment, or zone change. The fees required by this section shall be set by resolution adopted by the Board of County Commissioners.

[Amended by Ordinance 267]

111.070 ZONING DESIGNATIONS

FULL NAME

DESIGNATION

Suburban Residential Zone	SR Zone
Acreage Residential 5 Acre Zone	AR-5 Zone
Acreage Residential 10 Acre Zone	AR-10 Zone
Agriculture and Forestry 10 Acre Zone	AF-10 Zone
Limited Multi-Family Residential Zone	RL Zone
Multi-Family Residential Zone	RM Zone
High Rise Apartment Residential Zone	RH Zone
Exclusive Farm Use Zone	EFU Zone
Farm/Forest Zone	F/F Zone
Farm Forest Overlay Zone	FFO Zone
Public Amusement and Recreation Zone	PA Zone
Public and Private Cemeteries Zone	PC Zone
Public and Private Education Facilities Zone	PE Zone
Public and Private Hospital Zone	PH Zone
Public Park Zone	PP Zone
Public Service Zone	PS Zone
Commercial Office Zone	CO Zone
Commercial Retail Zone	CR Zone
Commercial General Zone	CG Zone
Industrial Commercial Zone	IC Zone
Industrial Park Zone	IP Zone
Light Industrial Zone	IL Zone
Heavy Industrial Zone	IH Zone
Rural Industrial Zone	R-IND Zone
Mineral Extraction Zone	ME Zone
Timber Conservation Zone	TC Zone
Rural Commercial Zone	R-COM Zone
Unincorporated Community Commercial Office Zone	UC-CO Zone
Unincorporated Community Commercial Retail Zone	UC-CR Zone
Unincorporated Community Commercial General Zone	UC-CG Zone
Unincorporated Community Industrial-Commercial Zone	UC-IC Zone
Unincorporated Community Industrial Park Zone	UC-IP Zone
Unincorporated Community Light Industrial Zone	UC-IL Zone
Unincorporated Community Heavy Industrial Zone	UC-IH Zone
Eola Unincorporated Community Commercial	Eola UC-C Zone
Eola Unincorporated Community Industrial Commercial	Eola UC-IC Zone

Eola Unincorporated Community Industrial
 Rickreall Unincorporated Community Commercial
 Rickreall Unincorporated Community Industrial Commercial
 Rickreall Unincorporated Community Industrial
 Northwest Polk Community Commercial
 Commercial Highway / Tourist
 Grand Ronde Light Industrial
 Grand Ronde Heavy Industrial
 Grand Ronde Public Assembly Zone
 Grand Ronde Public Works / Safety
 Limited Use Overlay Zone

Eola UC-I Zone
 Rickreall UC-C Zone
 Rickreall UC-IC Zone
 Rickreall UC-I Zone
 NPC-C Zone
 CH / T Zone
 GR / LI Zone
 GR / HI Zone
 GR / PA Zone
 GR / PW Zone
 LU Zone

111.090. OFFICIAL ZONING MAP.

- (A) The Official Zoning Map adopted with an effective date of January 23, 2013, exists as an electronic map layer within the Polk County geographic information system (GIS) at a scale of 1:24,000. The Official Zoning Map shall be maintained by the Planning Director. [Amended by Ordinances 11-02, 11-04, 12-06, and 13-03]
- (B) The Official Zoning Map shall depict the zoning designations for all properties located in Polk County, and shall be consistent with the Polk County Comprehensive Plan Map. The Official Zoning Map shall be the final authority as to the zoning status of land and water areas, buildings and other structures. [Amended by Ordinance 11-02]
- (C) The Official Zoning Map shall be available for review through the Polk County GIS at the Community Development Department during office business hours. [Amended by Ordinance 11-02]
- (D) The Planning Director may create an official copy of the Official Zoning Map by certifying on the copy that “this is an official copy of the Polk County Official Zoning Map.” [Amended by Ordinance 11-02]

111.110. AMENDING OFFICIAL ZONING MAP. A zone change is a reclassification of any area on the Official Zoning Map from one zoning designation to another, after the proposed change has been reviewed and a recommendation made by the Hearings Officer or the Planning Commission. Such change shall be an ordinance enacted by the Board of Commissioners after proceedings have been accomplished in accordance with the provisions of this chapter. Annexation of territory to a city shall result in automatic amendment of the Official Zoning Map as of the effective date of annexation. When the Official Zoning Map is amended by ordinance or annexation to a city, the Planning Director shall cause the changes to be made to the Official Zoning Map. [Amended by Ordinance 11-02]

111.120. REPLACEMENT OF OFFICIAL ZONING MAP. In the event the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret, or when it is necessary or desirable for some other reason, the Board of Commissioners, upon recommendation of the Planning Commission, may adopt all or part of a new Official Zoning Map by resolution. Such map shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct editing or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the ordinance or any subsequent amendment thereof. [Amended by Ordinance 11-02]

111.130. RULES FOR INTERPRETATION OF ZONE BOUNDARIES. Where uncertainty exists as to the boundaries of zones as shown on the Official Zoning Map, the following rules shall apply:

- (A) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- (B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (C) Boundaries indicated as approximately following county boundaries shall be construed as following county boundaries;
- (D) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (E) Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
- (F) Boundaries indicated as parallel to our extensions of features indicated in subsections (A) through (E) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;
- (G) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (A) through (F) above, the director shall interpret the zone boundaries, and if need be, may refer the matter to the Board of Commissioners for their interpretation. [Amended by Ordinance 88-19]

111.150. INITIATION OF A ZONE CHANGE BY POLK COUNTY.

- (A) A zone change may be initiated by Polk County only when the change proposed is in the public interest.
- (B) Proceedings to reclassify premises as to zone initiated by Polk County shall be by resolution, and the resolution shall be referred to the Planning Commission, if legislative, and the Hearings Officer, if quasi-judicial. The Director shall hereupon fix a date for hearing before the hearing body and give notice of such hearing as provided in Sections 111.340 through 111.370.
- (C) After the hearing, the Planning Commission or Hearings Officer shall make a recommendation to the Board of Commissioners. [Amended by Ordinance 88-21]

111.160. INITIATION OF ZONE CHANGE. Property owners, or persons purchasing property under contract, if they state in writing that they are purchasing the property under contract, may file a zone change petition. The petition shall be in writing on forms provided by the Planning Director and shall be filed with the Planning Director not less than 45 days prior to the date of the hearing. The petition shall contain the following information:

- (A) The present zone;
- (B) The proposed zone;
- (C) The street address, or where none exists, the location of the property;
- (D) The legal description of the property sought to be reclassified;
- (E) The names, addresses and zip codes of the owner(s) of the property sought to be reclassified; and
- (F) The signatures of the owners of at least 50 percent of the area of the property sought to be reclassified and the extent or percentage of interest or portion of the property as may be owned by the person signing the petition.

111.170. ZONE CHANGE SIGNATURES: HOW COUNTED. Pursuant to Section 111.160 (F), the following rules shall apply:

- (A) **Tenants in Common.** When but one tenant in common, or several but less than all, signs a zone change petition or waiver it shall be counted only for such interest or portion of the common property as the person or persons signing may own.
- (B) **Tenants by the Entirety; Joint Tenancy.** Where property is owned by a husband and wife as tenants by the entirety and only one of them signs, he or she shall be deemed the owner of 1/2 of the property and shall be counted accordingly. Where property is owned by two (2) or more persons under an estate having the attributes of a joint tenancy or right of survivorship each tenant shall be deemed the owner of so much of the property as he would receive if the joint property were divided equally between such tenants.
- (C) **Purchasers Under Contract.** Any person purchasing property under a contract of sale may sign a petition, waiver, or other instrument required by this ordinance, as owner, provided that he states he is purchasing the property under contract.
- (D) **Government Property.** Notwithstanding the fact that the consent of the federal, state, county, or local government, or the agents thereof, is not necessary to any zone change petition or other petition required by this ordinance, any such governmental unit or agency may, however, remonstrate and object to any proposed change, and such objection, remonstrance, or other instrument shall be signed by the administrative head of such governmental unit having authority over the property.
- (E) **Corporations.** Where property is owned by a private corporation, a petition, waiver, or other instrument convening such property under this ordinance shall be signed by an authorized officer of the corporation.
- (F) **Prima Facie Proof of Ownership.** When any person signs as the owner of property or as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any such owner, or when any person states that he is buying the property under contract, the Hearings Officer and the governing body may accept such statements to be true, unless the contrary be approved, and except where otherwise in this ordinance more definite and complete proof is required, the Hearings Officer or governing body may demand proof that the signer is such owner, officer, attorney in fact, or agent. [Amended by Ordinance 88-21]

111.180. FILING AND CHECKING PETITION. After the complete zone change petition has been filed with the Planning Director, the staff shall check the petition and determine if the petition is complete under the provisions of Section 111.170, and if the petition is sufficient, the Planning Director shall then fix the time of the hearing on such petition before the Planning Commission or Hearings Officer and cause notice of hearing to be given as provided in Sections 111.340 through 111.370. [Amended by Ordinance 88-21]

111.190. ZONE CHANGE HEARING BEFORE THE HEARINGS OFFICER. The Hearings Officer shall hold a public hearing as prescribed in Chapter 111 on the complete petition for zone change. After concluding this hearing, the Hearings Officer shall prepare a report setting forth a summary of facts and conditions involved in the reclassification and submit the same, together with a recommendation to the Board of Commissioners. [Amended by Ordinance 88-21]

111.200. ZONE CHANGE HEARING BEFORE THE BOARD OF COMMISSIONERS. The Board of Commissioners shall hold a public hearing on the proposed zone change as provided in Chapter 111. Final decision by the Board of Commissioners shall not be effective until 21 days after mailing of the decision. Filing of an appeal to the Land Use Board of Appeals stays all proceedings by all parties in connection with the matter appealed until the appeal has been resolved. [Amended by Ordinance 88-21]

111.210. FINAL ACTION BY THE BOARD OF COMMISSIONERS. Any zone change or reclassification of property shall be by ordinance which shall be passed by the Board of

Commissioners. Any denial of a proposed zone change shall be by order. A final decision by the Board of Commissioners shall not be effective until 21 days after mailing of the decision. Filing of an appeal to the Land Use Board of Appeals stays all proceedings by all parties in connection with the matter appealed until the appeal has been resolved. Whenever any premises are reclassified as to zone, or a new zone established, or boundary lines of a zone changed, the official zoning map shall be changed as provided in Section 111.140. [Amended by Ordinance 88-21]

111.215. AMENDING THE TEXT OF THE POLK COUNTY ZONING ORDINANCE.

- (A) [ORS 197.612(1)] An amendment to the text of the Polk County Zoning Ordinance solely for the purpose of conforming the ordinance to new requirements in a land use statute, statewide land use planning goal or rule of the Land Conservation and Development Commission implementing the statutes or goals may be made without holding a public hearing when:
 - (1) Polk County gives notice to the Oregon Department of Land Conservation and Development of the proposed change in the manner provided by ORS 197.610 and 197.615;
 - (2) The Oregon Department of Land Conservation and Development confirms in writing that the only effect of the proposed change is to conform the Polk County Zoning Ordinance to the new requirements; and
 - (3) The Planning Division provides notice of the proposed change to the Planning Commission.
- (B) An amendment to the text of the Polk County Zoning Ordinance under the provisions of subsection (A) of this section shall be considered a ministerial decision and not a land use action. Amendments under subsection (A) of this section need only be adopted on the Board of Commissioner's Consent agenda.
- (C) All amendments to the text of the Polk County Zoning Ordinance that are not included in subsection (A) of the section shall be processed under the procedures and criteria for a legislative comprehensive plan amendment described in Chapter 115.
[Amended by Ordinance 14-01]

111.220. FILING A LAND USE APPLICATION.

- (A) Application for any land use permit or determination under this ordinance shall be submitted to the Community Development Department on forms provided by the County Planning Director. The application shall be accompanied by the appropriate fee(s) as adopted by the Board of Commissioners. An application may be filed by:
 - (1) The owner of the subject property;
 - (2) A purchaser thereof under a duly executed written contract, when the purchaser states on the application he or she is the contract purchaser and the seller consents in writing to the application;
 - (3) A lessee in possession of the subject property, when the owner consents in writing to the application; or
 - (4) The agent for any of the foregoing persons when duly authorized in writing by the owner of the property.
- (B) Concurrent requests do not require multiple fees; however, the higher of multiple application fees shall be charged
- (C) If an application for a permit, limited land use decision or zone change is incomplete, the Planning Director shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to

submit the missing information. The application shall be deemed complete upon receipt by the Planning Director of:

- (1) All of the missing information;
- (2) Some of the missing information and written notice from the applicant that no other information will be provided; or
- (3) Written notice from the applicant that none of the missing information will be provided. [Amended by Ordinance 10-04]

Note: This provision does not preclude the applicant from submitting additional information at a later date.

- (D) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (C) of this section and has not submitted:
- (1) All of the missing information;
 - (2) Some of the missing information and written notice that no other information will be provided; or
 - (3) Written notice that none of the missing information will be provided. [Amended by Ordinance 10-04]

111.230. NOTICE OF APPLICATION.

- (A) Notice of an application which requires a public hearing shall be made as prescribed in Sections 111.340 through 111.370 of the Polk County Zoning Ordinance.
- (B) Notification shall be made at least 20 days before the date on which the application is to be heard. Those notified have an opportunity to comment in writing to the Planning Director concerning the application. [Amended by Ordinance 90-19]

111.235 SPECIAL TRANSPORTATION NOTIFICATION

- (A) Polk County will provide ODOT notification to ensure that ODOT is involved as early as possible in the assessment of any redevelopment or new development proposal within the Rickreall community with a trip generation potential that significantly exceeds the trip generation assumptions for the Rickreall community adopted into the Polk County TSP as part of the Rickreall Junction Facility Plan. The ODOT contact for any such development shall be the ODOT Region 2 Planner. [Amended by Ordinance 11-02]
- (B) Polk County will provide ODOT notification to ensure that ODOT is involved as early as possible in the assessment of any redevelopment or new development proposal within the Fort Hill Interchange Management Area Overlay Zone with a trip generation potential that significantly exceeds the trip generation assumptions used for the Fort Hill IAMP. The ODOT contact for any such development shall be the ODOT Region 2 Planner. [Amended by Ordinances 07-06 and 11-02]

111.240. ADMINISTRATIVE REVIEW. Administrative review shall be conducted by the Planning Director as follows:

- (A) Type A Procedure. This procedure shall apply to applications for land partitions; farm dwellings in the Exclusive Farm Use (EFU) and Farm Forest (F/F) zones; property line adjustments (except for those exclusions noted in Chapter 91 of the Polk County Code; forest dwellings in the Timber Conservation (TC) and Farm Forest (F/F) zones; lot-of-record determinations as specified by this ordinance; placement of manufactured homes in the Suburban Residential (SR) zone; use of a manufactured home for temporary hardship in all zones; administrative variances; land

use determinations; and all other listed uses as specified. Under this procedure, the Planning Director shall render a final decision or, alternatively, may refer the matter to the Hearings Officer as provided under Section 111.260. Decisions under this procedure may be appealed as provided under Section 111.280.

- (B) Type B Procedure. This procedure shall apply to all applications not specified under Section 111.240 (A), unless an initial hearing is required by a specific provision of the Polk County Zoning Ordinance. Notice of the proposed action shall be made pursuant to Section 111.350. Those notified, including the applicant, shall be given 10 days from the date of the notification to either submit a written request for public hearing before the Hearings Officer, or bring to the attention of the Planning Director objections to approval or any adverse consequences or incompatibilities that may result from approval. A request for a hearing shall be in writing and shall state the basis for requesting the hearing and shall be accompanied by payment of a fee, specified in the County's fee resolution, to defray the cost of the hearing. The amount of the fee shall not exceed the limits established by ORS 215.416(11). No fee is required if the hearing is requested by the Board, Commission, Department of Land Conservation and Development, or the Director. [Amended by Ordinances 92-38, 97-9, and 09-02]

111.245. NOTICE OF TYPE A PROCEDURE.

- (A) Notice of applications under Section 111.240 (A) shall be sent for review and comment to all groups that are registered with the Planning Division to receive electronic notification of land use applications within the geographical area that includes the site of the land use request and any affected jurisdiction, state, or local agency as determined by the Planning Director. [Amended by Ordinances 97-9 and 09-02]
- (B) Notice shall be mailed to the Oregon Department of Transportation for any land use change or development requiring County review and approval which requires direct access to a state highway or which is located within 500 feet of a state highway. Notice shall be mailed to the owner of an airport, defined by the Oregon Department of Aviation as a "public use airport," and to the Oregon Department of Aviation for any land use change or development requiring County review and approval within 5,000 feet of a visual flight rules public use airport or is within 10,000 feet of an instrument flight rules public use airport. [Amended by Ordinances 98-5 and 11-02]

111.250. ACTION BY PLANNING DIRECTOR OR HEARINGS OFFICER.

- (A) Applications submitted under section 111.240 may be granted only if they meet criteria established in the Polk County Zoning Ordinance and/or Comprehensive Plan. Decisions shall be made by the Polk County Planning Director or Hearings Officer only after reviewing materials submitted with the application and other applicable evidence and hearing testimony from Planning Division staff, the applicant(s) and other interested parties.
- (B) If the application was complete when first submitted or the applicant submits additional information as described in Section 111.220 (C), within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted. [Amended by Ordinance 10-04]
- (C) Polk County shall take final action on an application for a permit, limited land use decision, or zone change, for land within an urban growth boundary and applications for mineral aggregate extraction, including resolution of all appeals under Section 111.280, within 120 days after the application is deemed complete pursuant to Section 111.220 (C). Polk County shall take final action on all other applications for a permit, limited land use decision, or zone change, including resolution of all appeals

under Section 111.280, within 150 days after the application is deemed complete pursuant to Section 111.220 (C). [Amended by Ordinance 10-04]

- (D) The 120 or 150-day period set in subsection (C) of this section may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 215 days. [Amended by Ordinance 10-04]
- (E) The 120 or 150-day period set in subsection (C) of this section does not apply to an amendment to the Polk County Comprehensive Plan or the provisions of the Zoning Ordinance. [Amended by Ordinance 10-04]

111.260. REFERRAL BY PLANNING DIRECTOR.

- (A) The Polk County Planning Director may decline to act on an application under section 111.240 and refer it to the Polk County Hearings Officer. Referral shall be made within 30 days after the date on which the application is received, and shall be heard at the first regular meeting of the Hearings Officer scheduled after the referral.
- (B) Action of the Hearings Officer on a referral is final and may be appealed in accordance with section 111.280.
- (C) The Director shall notify the applicant in writing of a referral to the Hearings Officer. Notice shall be sent within seven days after the date of referral.

111.270. NOTICE OF ACTION BY PLANNING DIRECTOR OR HEARINGS OFFICER.

The Polk County Planning Director shall send notice of any action taken on an application under Section 111.240 to all groups that are registered with the Planning Division to receive electronic notification of land use applications within the geographical area that includes the site of the land use action, all property owners of record within the notification area as specified in Section 111.350, and any person who is adversely affected or aggrieved by the decision. Notification shall be mailed within ten days after action is taken on the application. However, failure to receive notice does not affect the validity of the action. [Amended by Ordinance 97-9 and 09-02]

111.275. ZONE CHANGE CRITERIA. Pursuant to Section 111.160, a zone change may be approved, provided that the request satisfies all applicable requirements of this ordinance, and provided that with written findings, the applicant(s) clearly demonstrate compliance with the following criteria:

- (A) The proposed zone is appropriate for the comprehensive plan land use designation on the property and is consistent with the purpose and policies for the applicable comprehensive plan land use classification;
- (B) The proposal conforms with the purpose statement of the proposed zone;
- (C) The uses allowed in the proposed designation will not significantly adversely affect allowed uses on adjacent lands;
- (D) Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property;
- (E) The proposed change is appropriate taking into consideration the following:
 - (1) Surrounding land uses,
 - (2) The density and pattern of development in the area,
 - (3) Any changes which may have occurred in the vicinity to support the proposed amendment;
- (F) The proposal complies with any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land; and

- (G) The proposal complies with Oregon Revised Statutes, all applicable statewide planning goals and associated administrative rules. If an exception to one or more of the goals is necessary, the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4 shall apply. [Amended by Ordinance 98-3]
- (H) The road function, classification, capacity and existing and projected traffic volumes have been considered. To allow comprehensive plan map and zone map amendments that may generate trips up to the planned capacity of the transportation system, Polk County will consider road function, classification, road capacity and existing and projected traffic volumes, as criteria for comprehensive plan map and zone map amendments. [Amended by Ordinance 11-02]

111.280. APPEAL AND REMAND CONSIDERATION PROCEDURES.

- (A) An appeal may be filed by any person whose interests are affected adversely or who is aggrieved by action on an application under Section 111.240. An appeal must be filed with the Community Development Department within 12 days after the mailing of notice to the applicant. [Amended by Ordinances 09-02, 10-04, and 11-02]
- (B) On receiving an appeal or request by the applicant for reconsideration of a land use application on remand from the Land Use Board of Appeals, the Community Development Department shall deliver to the Board the application and all other documents constituting the entire record of the action under appeal or remand. [Amended by Ordinance 11-02]
- (C) Upon receipt of an appeal filed with the Community Development Department of a decision by the Planning Director or request by the applicant for reconsideration of a land use application on remand from the Land Use Board of Appeals, the Board of Commissioners shall review the matter and thereafter set the matter for a public hearing and cause notice of the time and place of the hearing to be given as provided under Section 111.340. The public hearing, as determined by the Board of Commissioners, will be conducted by either the Hearings Officer or the Board. The decision resulting from this public hearing shall constitute the final county decision. Decisions of the Hearings Officer shall thereafter be ratified by the Board of Commissioners as part of the Board's Consent agenda. [Amended by Ordinance 11-02]
- (D) Upon receipt of an appeal filed with the Community Development Department of a decision by the Hearings Officer after a first evidentiary hearing, the Board of Commissioners shall review the matter and thereafter either ratify the Hearings Officer's decision or set the matter for a public hearing and cause notice of the time and place of the hearing to be given as provided under Section 111.340. The public hearing will be conducted by the Board of Commissioners. The Board's ratification of the Hearings Officer's decision or the Board's decision after holding a public hearing shall constitute the final county decision. [Amended by Ordinance 11-02]
- (E) The Planning Director shall send notice of a public hearing under subsections (C) or (D) of this section to all groups that are registered with the Planning Division to receive electronic notification of land use applications within the geographical area that includes the site of the land use action, all property owners of record within the notification area as specified in Section 111.350, and any person who is adversely affected or aggrieved by the decision. A hearing may be continued from time to time if the Board or Hearings Officer considers it advisable. [Amended by Ordinances 09-02 and 11-02]
- (F) The appeal or request for reconsideration on remand shall be accompanied by payment of a fee, specified in the County's fee resolution, to defray the cost of the hearing. [Amended by Ordinances 09-02 and 11-02]

- (G) Filing of an appeal stays all proceedings by all parties in connection with the matter appealed until the Board of Commissioners or Hearings Officer has made a decision on the appeal. [Amended by Ordinances 89-1, 97-9, and 11-02]

111.290. CALL OF BOARD OF COMMISSIONERS.

- (A) Two or more members of the Polk County Board of Commissioners may call up an action, which is not an appeal decision, by the Polk County Planning Director or the Hearings Officer. However, the call must be made at the first meeting after notice of the decision is presented. [Amended by Ordinance 11-02]
- (B) On receiving a call of the Board of Commissioners, the Community Development Department shall deliver to the Board the application and all other documents constituting the entire record of the action under appeal or remand. [Amended by Ordinance 11-02]
- (C) The Board of Commissioners shall set the matter for a public hearing and cause notice of the time and place of the hearing to be given as provided under Section 111.340. The public hearing, as determined by the Board of Commissioners, will be conducted by either the Hearings Officer or the Board. The decision resulting from this public hearing shall constitute the final county decision. Decisions of the Hearings Officer shall thereafter be ratified by the Board of Commissioners as part of the Board's Consent agenda. [Amended by Ordinance 11-02]
- (D) The Planning Director shall send notice of a public hearing under subsection (C) of this section to all groups that are registered with the Planning Division to receive electronic notification of land use applications within the geographical area that includes the site of the land use action, all property owners of record within the notification area as specified in Section 111.350, and all others who received notice of the Planning Director's or Hearings Officer's decision that has been called. A hearing may be continued from time to time if the Board or Hearings Officer considers it advisable. [Amended by Ordinance 11-02]
- (E) A call by the Board of Commissioners stays all proceedings by all parties in connection with the matter until the Board of Commissioners or Hearings Officer has made a decision on the call. [Amended by Ordinance 11-02]

111.300. ACTION BY BOARD OF COMMISSIONERS.

- (A) Pursuant to Section 111.290, the Polk County Board of Commissioners may review any action, which is not an appeal decision, of the Polk County Polk County Planning Director or the Hearings Officer. The Board may remand the matter for further investigation and consideration, in which case the Planning Director or Hearings Officer shall conduct such further investigation as is necessary and report findings and conclusions in writing to the Board. [Amended by Ordinance 11-02]
- (B) Pursuant to Section 111.290, after conducting a public hearing to consider an action, which is not an appeal decision, and finding that the facts therein stated do not warrant further hearing, the Board may summarily affirm the action. [Amended by Ordinance 11-02]
- (C) Pursuant to Section 111.290, after conducting a public hearing to consider an action on an appeal or non-appeal decision, the Board may affirm or reverse wholly or partly, or modify, any action, and may impose such additional conditions as it finds warranted by the facts. The Board's decision shall constitute the final local decision. [Amended by Ordinance 11-02]

111.310. EFFECTIVE DATE. Land use actions granted under section 111.240 become effective on the 12th day after mailing of the notice of the decision or after the regular meeting of the Polk County Board of Commissioners following such mailing, whichever is later. However, if the matter has been called up by the Board under Section 111.290, or the matter has been appealed under Section 111.280, the land use action does not become effective until the Board or Hearings Officer has taken final action. A final county decision by the Board of Commissioners or Hearings Officer shall not be effective until 21 days after mailing of the decision. An appeal of a land use action by the Board of Commissioners or the Hearings Officer to the Land Use Board of Appeals stays all proceedings by all parties in connection with the matter until the appeal has been resolved. [Amended by Ordinances 97-9 and 11-02]

111.320. HOLDING PUBLIC HEARINGS. Any hearing shall be public and may be continued or postponed from time to time. At any such hearing all persons shall be given an opportunity to be heard.

111.330. APPEARANCES OF INTERESTED PERSONS, REMONSTRANCES. Any person or persons desiring to be heard for or against the subject of the hearing may file with the governing body, Hearings Officer or the Planning Commission, whichever holds the hearing, a statement in writing, or may appear and respond orally at the hearing, either in person or by authorized representative. Written remonstrances or objections to the proposed zone change, variance, conditional use or other subject of hearing, may be filed with the hearings body. [Amended by Ordinance 88-21]

111.340. NOTICE OF PUBLIC HEARING; CONTENT. Upon the fixing of the time of public hearing on all matters before the appropriate hearing body, the Director shall give notice as set forth in this chapter. The notice shall:

- (A) Explain the nature of the application and the proposed use or uses which could be authorized;
- (B) List the applicable criteria from the ordinance and the plan that apply to the application at issue;
- (C) Set forth the street address or other easily understood geographical reference to the subject property.
- (D) State the date, time and location of the hearing.
- (E) State that failure of an issue to be raised in a hearing, in person or in writing, or failure to provide sufficient specificity to afford the hearings body an opportunity to respond to the issue, precludes appeal to the Land Use Board of Appeals on that issue;
- (F) State that a copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria, are available for inspection at no cost and will be provided at reasonable cost;
- (G) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and will be provided at a reasonable cost; and include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings. [Amended by Ordinances 89-17 and 88-21]
- (H) Include the name of a local government representative to contact and the phone number where additional information may be obtained. [Amended by Ordinance 11-02]

111.350. MAILING OF NOTICE; NOTIFICATION AREA; FAILURE TO RECEIVE NOTICE.

- (A) Notices of public hearing to be held by the hearing body, notice of an application to be processed as a Type B procedure pursuant to Section

111.240 (B), or notice of any action taken on an application by the Planning Director or Hearings Officer shall be mailed to the applicant and to owners of record on the most recent property tax assessment roll where such property is located:

- (1) Within 100 feet of the property which is the subject of the notice, where the subject property is wholly or partly within an urban growth boundary;
 - (2) Within 250 feet of the property which is the subject of the notice, where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
 - (3) Within 750 feet of the property which is the subject of the notice, where the subject property is within a farm or forest zone.
- (B) Notices of public hearing to be held by the hearing body shall be mailed 20 days prior to the date of the hearing.
- (C) Failure to receive notice by mail as provided in this section shall not affect the validity of the proceedings if the County can demonstrate by affidavit that such notice was given.
- (D) Notice of an application to be processed as a Type B procedure pursuant under Section 111.240 (B) and public hearing notices shall be mailed to all groups that are registered with the Planning Division to receive electronic notification of land use applications within the geographical area that includes the site of the land use action.
[Amended by Ordinances 89-17, 97-9 and 09-02]
- (E) Notice of a public hearing shall be mailed to the owners of public-use airports if the property subject to the land use permit or zone change is located:
- (1) Within 5,000 feet of a visual airport.
 - (2) Within 10,000 feet of an instrument airport. [Amended by Ordinance 98-5]
- (F) Notice shall be mailed to the Oregon Department of Transportation for any land use change or development requiring County review and approval which requires access to a state highway or which is located within 500 feet of a state highway. [Amended by Ordinance 11-02]

111.360. POSTING NOTICE.

- (A) Notice of all public hearings required by the provisions of this ordinance, except for legislative text amendments, shall be given by posting a sign on the subject property within 10 feet of whatever boundary line of such land abuts the most traveled public road or street, and if no public road abuts thereon, then facing in such a manner as may be most readily seen by the public. [Amended by Ordinance 11-02]
- (B) It shall be the responsibility of the applicant to provide the sign frame and place such notice at least 20 days prior to the public hearing. A placard with printed information on the proposed change shall be provided by the Planning Director for the sign structure, and shall be obtained for mounting by the applicant or his representative prior to posting.
- (C) The posted sign shall be removed by the applicant or the applicant's representative within five days after final action on the application. [Amended by Ordinance 89-17]

111.370. PUBLISHING NOTICES. Notice of all public hearings required by the provisions of this ordinance shall be given by publishing such notice in a newspaper of general circulation in the county at least once not less than 20 days prior to said hearing. [Amended by Ordinances 219, 88-21, and 11-02]

111.380. CONDUCT OF HEARING; CONTINUANCE; EXTENSION; REOPENING RECORD.

- (A) At the beginning of a hearing under the Comprehensive Plan or land use regulations of Polk County, a statement shall be made to those in attendance that:
 - (1) Lists the applicable substantive criteria;
 - (2) States that testimony and evidence must be directed toward the criteria described in paragraph (1) of this subsection, or other criteria in the Plan or implementing ordinances which the person believes to apply to the decision; and
 - (3) States that failure to raise an issue with sufficient specificity to afford the hearings body an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals.
- (B) If additional documents or evidence in support of an application is submitted at a public hearing, any party shall be entitled to a continuance of the hearing. Such a continuance is not subject to the limitations of ORS 215.428.
- (C) Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall not be subject to the limitations of ORS 215.428.
- (D) When the Board of Commissioners, Planning Commission or Hearings Officer reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue. [Amended by Ordinance 89-17]