

**POLK COUNTY BOARD OF COMMISSIONERS**

**DATE:** May 10, 2023  
**TIME:** 9:00 a.m.  
**PLACE:** Polk County Courthouse, Dallas, Oregon

**THE LOCATION OF THIS MEETING IS ADA ACCESSIBLE. PLEASE ADVISE THE BOARD OF COMMISSIONERS AT (503-623-8173), AT LEAST 24 HOURS IN ADVANCE, OF ANY SPECIAL ACCOMMODATIONS NEEDED TO ATTEND OR TO PARTICIPATE IN THE MEETING VIRTUALLY.**

**PAGE:** **AGENDA ITEMS**

- 1. CALL TO ORDER AND NOTE OF ATTENDANCE**
- 2. ANNOUNCEMENTS**
  - (a) Regular meetings of the Board of Commissioners are held on Tuesday and Wednesday each week. Each meeting is held in the Courthouse Conference Room, 850 Main Street, Dallas, Oregon. Each meeting begins at 9:00 a.m. and is conducted according to a prepared agenda that lists the principal subjects anticipated to be considered. Pursuant to ORS 192.640, the Board may consider and take action on subjects that are not listed on the agenda. The Board also holds a department staff meeting at 9:00am on every Monday in the Commissioners Conference Room at 850 Main Street, Dallas, Oregon.
- 3. COMMENTS (for items not on this agenda)**
- 4. APPROVAL OF AGENDA**
- 5. APPROVAL OF THE MINUTES FROM May 3, 2023**
- 6. APPROVAL OF CONSENT CALENDAR**
- 7. POLK COUNTY ORDER NO. 23-07 – Valerie Patoine**
- 8. LENGTH OF SERVICE AWARDS**
  - Susan Fleming, 20 years
  - Sara Bischel, 15 years
  - Robert Caudill, 15 years
  - Justin Reed, 15 years

**CONSENT CALENDAR**

- (a) Polk County Affirmative Action Plan and Equal Opportunity Employer Policy (Lynn Hall, Human Resources)
- (b) Polk County Ordinance No. 23-01 (Michael Burns, Community Development)
- (c) Polk County Contract No. 23-63 (Todd Whitaker, Public Works)

**THE BOARD OF COMMISSIONERS WILL MEET IN EXECUTIVE SESSION  
PURSUANT TO ORS 192.660.**

**ADJOURNMENT**

POLK COUNTY PUBLIC MEETINGS AND PUBLIC HEARINGS  
GUIDELINE FOR CITIZENS

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REGULAR MEETING AGENDA

Regular meetings of the Polk County Board of Commissioners convene at 9 a.m. each Wednesday morning. Any person wishing to bring a matter before the Board at one of these meetings may do so by mailing or delivering written notice, concisely describing the nature of the item, to the Board of Commissioners, Polk County Courthouse, Dallas, Oregon 97338, by noon on the preceding Thursday. Unless otherwise announced, meetings are held in the Main Conference Room of the Courthouse.

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APPEARANCE OF INTERESTED CITIZENS

The Board sets aside a time at each regular meeting for comment by the public on subjects not appearing on the Agenda. Individuals may come forward and make any statement they wish, but not to exceed three (3) minutes in length, except as is required to give concise answers to questions from Board members. If the subject will require a lengthier presentation, or merits inclusion as an item on the Agenda of a future meeting, the Board shall schedule it accordingly.

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PUBLIC HEARING FORMAT

Land Use

1. Chairman opens hearing.
  - a. Reading of hearing request or appeal statement.
  - b. Call for abstentions (ex parte contact or conflict of interest).
2. County staff presents background, summary and its recommendation (20-minute limit).
3. Applicant (Appellant) presents his/her case (15-minute limit).
4. Public testimony. Note that all testimony and evidence must be directed toward the applicable factual and legal criteria as identified in the record and/or during this hearing. Do not repeat previous testimony. Simply note for the record that you are in agreement with that earlier testimony. Your time to present testimony is limited. FAILURE TO RAISE AN ISSUE IN THIS HEARING, IN PERSON OR BY LETTER, OR FAILURE TO PROVIDE ADEQUATE SPECIFICITY TO AFFORD THE BOARD AN OPPORTUNITY TO RESPOND TO THE ISSUE MAY PRECLUDE LATER APPEAL TO LUBA ON THAT ISSUE.
  - a. Individuals in favor of the application or appeal.
  - b. Individuals against the application or appeal. At the discretion of the Chairman, an attorney, consultant, or other designated representative of two or more individuals may be allowed the combined time for each represented individual who does not speak, not to exceed 20 minutes. The Chairman may require proof of designation.
5. Rebuttal by Applicant (Appellant) (10-minute limit).
6. Questions from Board (discussion limited to individuals questioned by the Board).
  - a. Staff.
  - b. Applicant (Appellant).
  - c. Individuals testifying.
7. Chairman closes hearing and announces closing of Record.
8. Chairman announces date for deliberation and decision.
9. The Board's decision is deemed the final decision of Polk County. It may be appealed to LUBA within 21 days of its issuance in written form. The address and phone number of LUBA may be obtained from the Polk County Community Development Department and will also appear on the Notice of Decision which will be mailed to all persons who testify, submit comments, or print their name and address on the hearing attendance sheet at the back of the hearing room.

**POLK COUNTY BOARD OF COMMISSIONERS**

**DATE:** May 10, 2023  
**TIME:** 9:00 a.m.  
**PLACE:** Polk County Courthouse, Dallas, Oregon

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- (b) Polk County Ordinance No. 23-01 (Michael Burns, Community Development)

**THE BOARD OF COMMISSIONERS WILL MEET IN EXECUTIVE SESSION  
PURSUANT TO ORS 192.660.**

**ADJOURNMENT**

**POLK COUNTY BOARD OF COMMISSIONERS**  
**MINUTES May 3, 2023**

**1. CALL TO ORDER & ATTENDANCE**

At 9:00 a.m., Commissioner Gordon declared the meeting of the Polk County Board of Commissioners to be in session. Commissioner Pope and Commissioner Mordhorst were present.

Staff present: Greg Hansen, Administrative Officer  
Morgan Smith, County Counsel  
Matt Hawkins, Administrative Services Director

**2. ANNOUNCEMENTS**

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**3. COMMENTS**

None.

**4. APPROVAL OF AGENDA**

**Discussion:**

Due to Valerie Patoine being out ill, the agenda has been modified to remove and reschedule item # 7 in regards to Polk County Order No. 23-07 until next Wednesday.

Greg Hansen stated that he is adding Polk County Resolution No. 23-05 to the agenda for discussion.

**MOTION: COMMISSIONER POPE MOVED TO APPROVE THE AGENDA AS MODIFIED, COMMISSIONER GORDON SECONDED, TO APPROVE THE AGENDA AS MODIFIED.**

**MOTION PASSED BY UNANIMOUS VOTE OF THE QUORUM.**

**5. APPROVAL OF MINUTES OF BOARD MEETING OF April 26, 2023**

**MOTION: COMMISSIONER POPE MOVED, COMMISSIONER POPE SECONDED, TO APPROVE THE MINUTES OF April 26, 2023.**

**MOTION PASSED BY UNANIMOUS VOTE OF THE QUORUM.**

**6. APPROVAL OF CONSENT CALENDAR**

**MOTION: COMMISSIONER POPE MOVED, COMMISSIONER GORDON SECONDED, TO APPROVE THE CONSENT CALENDAR.**

**MOTION PASSED BY UNANIMOUS VOTE OF THE QUORUM.**

**7. POLK COUNTY RESOLUTION NO. 23-05**

Greg Hansen, Admin Officer, provided some background information on Resolution 23-05 in regards to amending the Master Fee Schedule that was approved last year in Resolution No. 22-08 . Mr. Hansen provided the options of approving this Resolution or waiting until

July 2023 when we adopt a new Master Fee Schedule. Commissioner Pope stated that he asked for this to be a separate item so that he could ask some questions on the record. Commissioner Pope asked who pays for these increases. Mr. Hansen stated it comes from the Treasury, Federally, and from income taxes. Commissioner Pope stated that he wanted to make sure that the public understood that this is not coming from property taxes or the General Fund. Mr. Hansen stated that the Behavioral Health Fund is funding solely from the State and not from the General Fund.

**MOTION: COMMISSIONER POPE MOVED TO APPROVE AND SIGN RESOLUTION NO. 23-05, COMMISSIONER GORDON SECONDED, TO APPROVE AND SIGN RESOLUTION NO. 23-05.**

**MOTION PASSED BY UNANIMOUS VOTE OF THE QUORUM.**

**8. COMMUNITY CORRECTIONS UPDATE:**

Jodi Merritt, Community Corrections Director, provided an update for the Board for the Community Corrections Department. Mrs. Merritt's update focused on the Adult Parole/Probation department. The update highlighted their current staffing levels and caseloads, the state funded population, Community Corrections Review (CCR), highlights from their most recent review, and their departments current focus. The Commissioners asked questions in regards to the data that was shared on the employment rates and Mrs. Merritt answered their questions. Commissioner Pope stated that he would like to get more of a breakdown at a later time in the numbers that were provided for the treatment goals. The Commissioners asked about recovering from COVID and what that looks like. Mrs. Merritt stated what they are currently focusing on with working with people and eliminate any barriers, but also make sure that they are meeting the requirements. Commissioner Pope asked a clarifying question about the current 3-year Recidivism rate data. Mrs. Merritt answered his question.

The following items were approved by Motion under **5. APPROVAL OF CONSENT CALENDAR:**

- a) Polk County Contract No. 23-60, Jackson County IGA  
(Dean Anderson, Information Services)
- b) Polk County Contract No. 23-61, Yamhill County IGA  
(Dean Anderson, Information Services)
- c) New Job Specification & Wage, Engineer Survey Tech 1/Emergency  
Management Coordinator  
(Matt Hawkins, Admin Services Director)

There was no need for an executive session and Commissioner Gordon adjourned the meeting at 9:55 a.m.

**POLK COUNTY BOARD OF COMMISSIONERS**

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Jeremy Gordon, Chair

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Craig Pope, Commissioner

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Lyle Mordhorst, Commissioner

Minutes: Nicole Pineda  
Approved: May 3, 2023



# POLK COUNTY

POLK COUNTY COURTHOUSE \* DALLAS, OREGON 97338-3177  
CRIMINAL DIVISION \* (503) 623-9268  
SUPPORT ENFORCEMENT \* (503) 623-9269  
VICTIM ASSISTANCE \* (503) 623-9268  
FAX \* (503) 623-7556

## DISTRICT ATTORNEY

AARON FELTON  
District Attorney  
*felton.aaron@co.polk.or.us*

April 24, 2023

### HAND DELIVERED

Board of Commissioners  
Polk County Courthouse  
Dallas OR 97338

Re: Order 23-07

Dear Board of Commissioners:

I have reviewed the proposed Order 23-07 and the Board Memorandum prepared by Katlyn D'Agostini, Tax Collector for Polk County. Pursuant to ORS 311.790, I concur in her recommendation that the Board of Commissioners approve Order 23-07 and cancel the uncollectible property taxes as set forth in the order.

Sincerely,

Aaron D. Felton  
District Attorney

Cc: Katlyn D'Agostini  
Tax Collector

## **MEMORANDUM**

**TO:** Board of Commissioners  
**FROM:** Katlyn D'Agostini, Tax Collector  
**DATE:** May 10, 2023  
**SUBJECT:** Write off unpaid property tax on manufactured structure (Order 23-07)

**Wednesday Consent: May 10, 2023**

### **RECOMMENDATION:**

Board of Commissioners approve the request to cancel personal property taxes in the amount of \$57.92 on tax account number 432366.

### **ISSUE:**

The tax office has been notified by the assessor's office that the manufactured structure located at 573 E Ellendale Ave #57 Dallas in Oregon is no longer on the property as of August 24, 2021 and verified it was torn down in 2018. ORS 311.790 requires that the Tax Collector petition the Board of Commissioners for an order cancelling the unpaid property taxes. We have determined this home was destroyed and deem the taxes as uncollectible.

### **DISCUSSION/ALTERNATIVES:**

In the past, we have occasionally received requests from mobile park managers and landowners for write off of unpaid property taxes on abandoned or destroyed homes when the allowed expenses of rent, storage and disposition costs exceed the sales price amount. These taxes have been written off. These requests are infrequent and usually small.

### **ALTERNATIVES:**

The following are alternatives:

1. Cancel the property tax on these accounts.
2. Don't cancel the property tax on these accounts.

### **FISCAL IMPACT:**

Loss of tax income of \$57.92, accumulated interest of \$42.13 Approximately 14% of this is loss to Polk County, with the remaining share being lost by the other taxing districts.



**Account 432366**

Appraiser verified that the 1961 manufactured structure is no longer on the property as of August 24, 2021. Verified torn down in 2018

**STATEMENT OF TAX ACCOUNT**  
**POLK COUNTY TAX COLLECTOR**  
**850 MAIN ST**  
**DALLAS, OREGON 97338-3184**  
**(503) 623-9264**

3-May-2023

MORRIS BRANDY N ETAL  
14440 DEARBORN AVE  
SOUTH BELOIT IL 61080-9478

Tax Account #	432366	Lender Name	
Account Status	A	Loan Number	
Roll Type	MS	Property ID	0201 07528DC 01502
Situs Address	573 E ELLENDALE AVE 57 DALLAS, OR 97338		Interest To May 3, 2023

**Tax Summary**

Tax Year	Tax Type	Total Due	Current Due	Interest Due	Discount Available	Original Due	Due Date
2022	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	Nov 15, 2022
2021	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	Nov 15, 2021
2020	ADVALOREM	\$14.74	\$10.53	\$4.21	\$0.00	\$10.53	Nov 15, 2020
2019	ADVALOREM	\$15.62	\$10.01	\$5.61	\$0.00	\$10.01	Nov 15, 2019
2018	ADVALOREM	\$23.41	\$13.61	\$9.80	\$0.00	\$13.61	Nov 15, 2018
2017	ADVALOREM	\$25.94	\$13.80	\$12.14	\$0.00	\$13.80	Nov 15, 2017
2016	ADVALOREM	\$20.34	\$9.97	\$10.37	\$0.00	\$9.97	Nov 15, 2016
2015	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$10.66	Nov 15, 2015
2014	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$9.52	Nov 15, 2014
2013	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$9.75	Nov 15, 2013
2012	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$10.51	Nov 15, 2012
2011	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$10.75	Nov 15, 2011
2010	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$11.57	Nov 15, 2010
2009	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$12.44	Nov 15, 2009
2008	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$10.91	Nov 15, 2008
2007	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$10.52	Nov 15, 2007
2006	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$10.54	Nov 15, 2006
2005	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$18.67	Nov 15, 2005
2004	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$78.15	Nov 15, 2004
2004	FEE	\$0.00	\$0.00	\$0.00	\$0.00	\$47.00	Feb 23, 2005
2003	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$79.30	Nov 15, 2003
2003	FEE	\$0.00	\$0.00	\$0.00	\$0.00	\$47.00	Nov 15, 2003
2002	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$76.67	Nov 15, 2002
2001	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$78.60	Nov 15, 2001
2000	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$76.47	Nov 15, 2000
2000	FEE	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	Feb 27, 2001
1999	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$75.40	Nov 15, 1999
1999	FEE	\$0.00	\$0.00	\$0.00	\$0.00	\$47.00	Mar 28, 2000
1998	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$63.98	Nov 15, 1998
1997	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$69.19	Dec 15, 1997
1996	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$71.09	Nov 15, 1996
1995	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$71.24	Nov 15, 1995
1994	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$54.59	Nov 15, 1994
1993	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$50.10	Nov 15, 1993
1992	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$11.79	Nov 15, 1992
1991	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$11.81	Nov 15, 1991
1990	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$13.88	Nov 15, 1990
1989	ADVALOREM	\$0.00	\$0.00	\$0.00	\$0.00	\$15.88	Nov 15, 1989

Craig Pope, Commissioner

Approved as to Form:

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Morgan Smith, County Counsel



## HUMAN RESOURCES

POLK COUNTY COURTHOUSE ★ DALLAS, OREGON 97338-3174  
(503) 623-1888 ★ FAX (503) 623-1889

### MEMORANDUM

**TO:** Board of Commissioners

**FROM:** Lynn Hall, Human Resources Analyst II

**DATE:** April 14, 2023

**SUBJECT:** Polk County Affirmative Action Plan and Equal Opportunity Employer Policy

**Wednesday Consent – May 10, 2023**

#### RECOMMENDATION:

That the Board of Commissioners re-adopt the Affirmative Action Plan and Equal Opportunity Employer Policy.

#### ISSUE:

Shall the Board re-adopt the Affirmative Action Plan and Equal Opportunity Employer Policy?

#### BACKGROUND:

The Affirmative Action Plan and Equal Opportunity Employer policy must be re-affirmed each year by the Board of Commissioners. These policies are required under Federal law. It is necessary for the County to certify these policies have been formulated and posted in a conspicuous location.

#### DISCUSSION / ALTERNATIVES:

1. The Board may adopt the policy and be in compliance with the law.
2. The Board may not adopt the policy.

#### FISCAL IMPACT:

There is no fiscal impact.



## HUMAN RESOURCES

POLK COUNTY COURTHOUSE ★ DALLAS, OREGON 97338-3174  
(503) 623-1888 ★ FAX (503) 623-1889

### EQUAL OPPORTUNITY EMPLOYER

#### Policy Statement:

Polk County is an Equal Opportunity Employer and, as such, states its commitment to providing equal employment opportunities to all persons in matters affecting, but not limited to, recruitment, employment, compensation, benefits, promotions, training, discipline, transfer and layoff practices without regard to a person's race, color, religion, national origin, gender, age, marital or family status, sexual orientation, association, disability, injured worker, or military status (except where age or non-disability are bonafide occupational qualifications).

Polk County does not discriminate on the basis of disability in the admission or access to or treatment of employment in its programs or activities.

Polk County is committed to providing all employees with a work environment free of discrimination or harassment of any kind.

10th day of May 2023

POLK COUNTY BOARD OF COMMISSIONERS

Jeremy Gordon, Commissioner

Lyle Mordhorst, Commissioner

Craig Pope, Commissioner



## HUMAN RESOURCES

POLK COUNTY COURTHOUSE ★ DALLAS, OREGON 97338-3174  
(503) 623-1888 ★ FAX (503) 623-1889

### POLK COUNTY AFFIRMATIVE ACTION PLAN

1. In recruitment and selection, the public shall be informed of Polk County's affirmative action policy.
  - a. All recruiting announcements shall be posted on the County website and the official bulletin board of the County. In addition, recruiting announcements may be published as necessary to assure reaching qualified applicants.
  - b. All recruiting announcements and advertisements shall include the words "An Equal Opportunity Employer" as a statement of Polk County's policy.
2. Personnel shall ensure that all selection processes use valid, job-related criteria in hiring new employees and in promoting and retaining existing employees.
3. Personnel shall review minimum qualifications of the recruitment to ensure that the knowledge, skills, ability, experience, and education requirements are related to successful performance on the job.
4. Personnel shall encourage upward mobility of Polk County employees and be available to help employees prepare for advancement.
5. A copy of this policy shall be posted in the County buildings and available to all employees.

[Adopted by the Board of Commissioners per Resolution No. 11-04, dated April 27, 2011.]



# POLK COUNTY

POLK COUNTY COURTHOUSE • DALLAS, OREGON 97338  
(503) 623-9237

## COMMUNITY DEVELOPMENT

AUSTIN M<sup>C</sup>GUIGAN  
Director

### MEMORANDUM

**TO:** Board of Commissioners  
**FROM:** Michael Burns, Assistant Planner  
**DATE:** May 5, 2023  
**SUBJECT:** Ordinance 23-01: Update to Polk County Zoning Ordinance Chapters 136, 138, and 177.

**Consent Calendar – May 10, 2023**

#### **RECOMMENDATION:**

Planning staff recommends that the Board of Commissioners adopt Ordinance 23-01 in order to bring Polk County Zoning Ordinance (PCZO) Chapters 136, 138, and 177, into compliance with changes found in State law.

#### **ISSUE:**

Should Polk County adopt changes to the PCZO in order to be consistent with changes found in State law?

#### **BACKGROUND:**

Oregon Revised Statute (ORS) 197.646 states that when new land use statutes, statewide land use planning goals, or rules implementing the statutes or the goals are enacted, counties must either adopt amendments to their local code to implement the changes to State law or apply those changes directly to land use applications. Currently the Planning Division applies certain sections of ORS and Oregon Administrative Rules (OAR) directly to land use applications. The proposed legislative amendment is intended to conform the Polk County Zoning Ordinance (PCZO) to land use regulations found in State law. Below is a summary of the changes found in State law and the implementing Chapters of the PCZO:

- House Bill (HB) 2225 (2019) amended ORS 215.750, amended new forest dwelling standards. These amended criteria apply to forest “template” dwellings within Polk County’s Farm/Forest (FF) and Farm/Forest Overlay (FFO) zones (PCZO Chapter 138), and the Timber Conservation (TC) zone (PCZO Chapter 177).
- HB 3024 (2019) amended ORS 215.283, which changed the replacement dwelling criteria within the Exclusive Farm Use (EFU), FF and FFO Zoning Districts.

Additionally, an amendment to OAR 660-006-0025 permits the replacement of dwellings that were destroyed by the wildfires in the past 60 months within the TC zone.

- Currently, PCZO 136.040(Z) and 138.050(K) permit churches within the EFU, FF and FFO Zoning Districts, but they are subject to an administrative review land use application. ORS 215.283(1)(a) and ORS 215.441 amended criteria for churches, making it clear that churches are outright permitted, but are subject to certain development standards. The amendments made to implement ORS 215.441 are not intended to adopt additional development standards for churches, but are to provide clarification that



churches are subject to the existing development standards, such as parking, sanitation requirements, etc. The development standards would be subject to a ministerial review.

- HB 3616 (2003) repealed ORS 215.800 to 215.808, which permitted Wildlife Habitat Conservation and Management plans for special assessment programs in PCZO Chapters 136 and 138.
- OAR 660-006-0029, 660-006-0035, and 660-006-0040 amend siting standards for dwellings in forest zones in PCZO Chapters 138 and 177.

Staff has prepared the proposed amendments to PCZO Chapters 136, 138, and 177 that reflect these changes, which are included as Exhibits A–C of Ordinance 23-01.

PCZO 111.215 allows Ordinance text amendments to be adopted as part of the Board of Commissioner's Consent agenda when the sole purpose of the amendments is to conform the Ordinance to new requirements in statute. On January 17, 2023, the Board of Commissioners directed staff to prepare an Ordinance to adopt updates to PCZO Chapters 136, 138, and 177. Staff provided notice of the proposed text amendments to the Oregon Department of Land Conservation and Development (DLCD) on February 22, 2023. On April 6, 2023, DLCD provided written comments back to staff, which were considered as part of the updates reflected in Exhibits A-C. Adopting Ordinance 23-01 would bring the PCZO into conformance with the changes to ORS 215 and OAR 660-006.

#### **ALTERNATIVES:**

1. Adopt Ordinance 23-01;
2. Direct staff to amend Ordinance 23-01 and return it to the Board for adoption; or
3. Other.

#### **FISCAL IMPACTS:**

Fiscal impacts to Polk County include staff time necessary to prepare an ordinance and updated sections of the PCZO.

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

In the matter of Legislative Amendment )  
LA 23-01; updating the Polk County )  
Zoning Ordinance Chapters 136, 138, )  
and 177 to be consistent with changes to )  
State law. )

**ORDINANCE NO. 23-01**

**WHEREAS**, House Bill (HB) 2225 (2019) amended Oregon Revised Statute (ORS) 215.750, which revised new forest dwelling standards. These amended criteria apply to forest “template” dwellings within Polk County’s Farm/Forest (FF) and Farm/Forest Overlay (FFO) zones (PCZO Chapter 138), and the Timber Conservation (TC) zone (PCZO Chapter 177); and

**WHEREAS**, HB 3024 (2019) amended ORS 215.283, which changed the replacement dwelling criteria within the Exclusive Farm Use (EFU), FF and FFO Zoning Districts. Additionally, an amendment to Oregon Administrative Rule (OAR) 660-006-0025 permits the replacement of dwellings that were destroyed by the wildfires in the past 60 months within the TC zone; and

**WHEREAS**, Currently, PCZO 136.040(Z) and 138.050(K) permit churches within the EFU, FF and FFO Zoning Districts, but they are subject to an administrative review land use application. ORS 215.283(1)(a) and ORS 215.441 amended criteria for churches, making it clear that churches are outright permitted, but are subject to certain development standards. The amendments made to implement ORS 215.441 are not intended to adopt additional development standards for churches, but are to provide clarification that churches are subject to the existing development standards, such as parking, sanitation requirements, etc. The development standards would be subject to a ministerial review; and

**WHEREAS**, HB 3616 (2003) repealed ORS 215.800 to 215.808, which permitted Wildlife Habitat Conservation and Management plans for special assessment programs in PCZO Chapters 136 and 138; and

**WHEREAS**, PCZO Chapters 138 and 177 are amended to provide consistency with OAR 660-006-0029, 660-006-0035, and 660-006-0040; and

**WHEREAS**, Polk County Zoning Ordinance Section 111.215 permits Ordinance text amendments that reflect changes in state law without holding a public hearing or adopting findings, and allows these updates to be adopted without going through Polk County’s legislative amendment process; now therefore,

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

Sec. 1. That Polk County amends Polk County Zoning Ordinance Chapter 136 Exclusive Farm Use (EFU), as shown on Exhibit A.

Sec. 2. That Polk County amends Polk County Zoning Ordinance Chapter 138

Farm/Forest (F/F), as shown on Exhibit B.

Sec. 3. That Polk County amends Polk County Zoning Ordinance Chapter 177 Timber Conservation (TC), as shown on Exhibit C.

Sec. 4. That Polk County determines that an emergency related to the economic welfare of the citizens of Polk County is declared and this Ordinance is effective immediately upon passage.

Dated this 10<sup>th</sup> day of May, 2023 at Dallas, Oregon.

POLK COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Jeremy Gordon, Chair

\_\_\_\_\_  
Lyle Mordhorst, Commissioner

\_\_\_\_\_  
Craig Pope, Commissioner

Approved as to Form

\_\_\_\_\_  
Morgan Smith  
County Counsel

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Recording Secretary: \_\_\_\_\_

# Amendments to Polk County Zoning Ordinance Chapter 136;

## Exclusive Farm Use (EFU) Zoning District

Additions are double underlined

Deletions are in ~~strikethrough~~

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

<b>PARKS/PUBLIC/QUASI-PUBLIC FACILITIES</b>	<b>HV</b>	<b>OTHER</b>	<b>PCZO</b>
Schools, public or private (K-12) that serve the residents of the rural area	NP	CUP	050(II)
<del>Churches and Associated Cemeteries</del>	<del>NP</del>	<del>AR</del>	<del>040(Z)</del>
<u>Churches and cemeteries in conjunction with churches</u>	<u>P</u>	<u>P</u>	<u>030(K)</u>
Parks, private, including playgrounds, hunting/fishing preserves and campgrounds	NP	CUP	050(DD)
<u>Public</u> <del>P</del> arks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120	CUP	CUP	050(CC)
Model Aircraft Takeoff and Landing Sites	AR	AR	040(Y)
Expansion of Existing County Fairgrounds	CUP	CUP	050(EF)
Golf Courses	NP	CUP	050(FG)
Community centers owned by a governmental agency or a nonprofit organization	CUP	CUP	050(GG)
Firearms training facility as provided in ORS 197.770	AR	AR	<del>040(AA)</del> <del>(Z)</del>
Living history museum	CUP	CUP	050(HH)

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

- (K) Wildlife Habitat Conservation and Management Plan pursuant to ORS 215.800 to 215.808. Churches and cemeteries in conjunction with churches pursuant to ORS 215.283(1)(a) and ORS 215.441. The applicant shall obtain a permit that is subject to ministerial review from the Polk County Planning Division prior to the establishment of a church or a cemetery in conjunction with churches.

- (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:

- (a) Worship services.
- (b) Religion classes.
- (c) Weddings.
- (d) Funerals.
- (e) Meal programs.
- (f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

- (2) A county may:

- (a) Subject real property described in Section 136.030(K)(1) to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or
- (b) Prohibit or restrict the use of real property by a place of worship described in Section 136.030(K)(1) if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in Section 136.030(K)(1). [Amended by Ordinance 23-01]

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

#### **SINGLE-FAMILY RESIDENCES**

- (I) Replacement Dwelling [OAR 660-033-0130(8) and temporary provisions relating to replacement dwellings are compiled as notes following ORS 215.306291]. A lawfully established dwelling may be altered, restored or replaced under ORS 215.283(1)(p) in the manner provided by either subsection (1) or (2) of this section.
- (1) The dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the permitting authority:
- (a) Finds to the satisfaction of the permitting authority that the dwelling to be altered, restored or replaced has, or formerly had:
    - (i) Intact exterior walls and roof structure;
    - (ii) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
    - (iii) Interior wiring for interior lights; and
    - (iv) A heating system; and

- (b) ~~Finds that the dwelling was assessed as a dwelling for purposes of ad valorem taxation for the lesser of:~~
  - (i) ~~The previous five property tax years unless the value of the dwelling was eliminated as a result of the destruction, or demolition in the case of restoration, of the dwelling; or~~
  - (ii) ~~From the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010 unless the value of the dwelling was eliminated as a result of the destruction, or demolition in the case of restoration, of the dwelling.~~
- (b) If the dwelling was removed, destroyed or demolished:
  - (i) The dwelling's tax lot does not have a lien for delinquent ad valorem taxes; and
  - (ii) Any removal, destruction or demolition occurred on or after January 1, 1973;
- (c) If the dwelling is currently in such a state of disrepair that the dwelling is unsafe for occupancy or constitutes an attractive nuisance, the dwelling's tax lot does not have a lien for delinquent ad valorem taxes; or
- (d) A dwelling not described in subparagraph (b) or (c) of this paragraph was assessed as a dwelling for purposes of ad valorem taxation:
  - (i) For the previous five property tax years; or
  - (ii) From the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.
- ~~(2) The dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the dwelling meets the requirements of subsection (1)(a) of this section, the dwelling does not meet the requirement of subsection (1)(b) of this section, and the applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner.~~
- (3)(2) For replacement of a lawfully established dwelling under ORS 215.283 (1)(p) this section:
  - (a) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
    - (i) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
    - (ii) If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued.
  - (b) The replacement dwelling:
    - (i) May be sited on any part of the same lot or parcel.

- (ii) Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
- (c) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
- (4)(3) Notwithstanding subsection (3)(b)(i) of this section, the replacement dwelling must be sited on the same lot or parcel; subsection 5 of this section applies when a replacement dwelling under 215.283 (1)(p) qualifies for replacement:
  - (a) ~~Under subsection (1) of this section because the dwelling formerly had the features described in subsection (1) of this section; or~~
  - (b) ~~Under subsection (2) of this section.~~
- ~~(5) The replacement dwelling must be sited on the same lot or parcel:~~
  - (a) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and
  - (b) If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.
- (6)(4) The County Planning Director, or the Director's designee, shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under subsection (3)(2) of this section, including a copy of the deed restrictions filed under subsection (3)(2)(c) of this section.
- (7)(5) If an applicant is granted a deferred replacement permit under this section:
  - (a) The deferred replacement permit:
    - (i) Does not expire but, notwithstanding subsection (3)(2)(a)(i) of this section, the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and
    - (ii) May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
  - (b) The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
- (8) As used in this section, ~~"improperly removed" means, with respect to a dwelling removed from the tax roll, that:~~
  - (a) ~~The dwelling has taxable value in its present state, or had taxable value when the dwelling:~~

- (i) ~~Was first removed from the tax roll; or~~
- (ii) ~~Was destroyed by fire or other act of God; and~~
- (iii) ~~The county stopped assessing the dwelling even though the current owner did not request removal of the dwelling from the tax roll.~~

- Notes:
- (1) A replacement dwelling permit that is issued under ORS 215.283(1)(p) is not subject to the time to act limits of ORS 215.417 [OAR 660-0033-0130(8)(d)(e)(B)]
  - (2) These temporary provisions to ORS 215.283~~291~~ sunset on January 2, 2024. [Amended by Ordinance 18-01 and 23-01]

## **PARKS/PUBLIC/QUASI-PUBLIC FACILITIES**

~~(Z) Churches and Associated Cemeteries consistent with ORS 215.441 [ORS 215.283(1)(a)]. New churches and associated cemeteries are not authorized on lands classified as high value. New churches and associated cemeteries on not high value farmland, or the expansion of existing churches and associated cemeteries on all farmlands, shall be subject to the standards listed in Section 136.065. [Amended by Ordinance 11-03]~~

~~(AA)~~(Z) Firearms training facility as provided in ORS 197.770, subject to the standards listed in Section 136.065.



**Amendments to Polk County Zoning Ordinance Chapter 138;  
Farm Forest (F/F) Zoning District**

Additions are double underlined

Deletions are in ~~strikethrough~~

**138.015 DEFINITIONS**

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

- (A) Auxiliary: As used in Section 138.040, "auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- (B) Definitions contained in ORS 197.015 and the Statewide Planning Goals.
- (C) Cubic Foot Per Acre Per Year [OAR 660-006-0005(3)] means the average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey. [Amended by Ordinance 11-03]
- (D) Cubic Foot Per Tract Per Year [OAR 660-006-0005(4)] means the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey. [Amended by Ordinance 11-03]
- (E) Date of Creation and Existence: When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.
- (F) Forest Operation means any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620(6).
- (G) Relative means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin as defined in ORS 215.283(1)(e)(A).
- (H) Tract means one or more contiguous lots or parcels in the same ownership.
- (I) Center of the Subject Tract: As used in Section 138.080(B), "center of the subject tract" means the mathematical centroid of the tract. [Amended by Ordinance 23-01]

RESOURCE USES	AUTHORIZATION	PCZO
Farm Use as defined in ORS 215.203	P	040(A)
Use and Management of Forest Lands	P	040(B)
Farm and Forest Accessory Structures	P	040(C)
Temporary Portable Facilities for Primary Processing of Forest Products	P	040(D)

## EXHIBIT B

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

COMMERCIAL	AUTHORIZATION	PCZO
On-site Filming and Accessory Activities for 45-days or less (ORS 215.306).	P	040( <del>L</del> )( <u>K</u> )
Single Day Agri-Tourism/Commercial Event	P	040( <del>N</del> )( <u>M</u> )
Winery, as described in ORS 215.452 or 215.453	AR & CUP	050(B) & 060(N)
Cider Business, as described in ORS 215.451	AR	050(C)
Farm Brewery	AR	050(D)
Farm Stand	P & AR	040( <del>M</del> )( <u>L</u> ) & 050(E)
Commercial Activity In Conjunction with Farm Use	CUP	060(H)

## EXHIBIT B

Food Service Safe Harbor	CUP	060(I)
Home Occupations	CUP	060(J)
On-site Filming and Accessory Activities for more than 45-days (ORS 215.306).	CUP	060(K)
Dog Kennels**	CUP	060(L)
Dog Training Classes or Testing Trials	AR	050(F)
Landscape Contracting Business	CUP	060(M)

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

<b>TRANSPORTATION</b>	<b>AUTHORIZATION</b>	<b>PCZO</b>
Reconstruction or Modification of Public Roads, not including addition of travel lanes, removal of buildings or creation of new parcels.	P	040( <del>Q</del> )( <u>P</u> )
Climbing and Passing Lanes within Right-of Way existing on July 1, 1987.	P	040( <del>R</del> )( <u>Q</u> )
Temporary Public Road Detours	P	040( <del>S</del> )( <u>R</u> )
Minor Betterment to Existing Road and Highway Related Facilities, including climbing and passing lanes within right-of-way existing on July 1, 1987.	P	040( <del>T</del> )( <u>S</u> )
Widening of Roads within existing right-of-way	P	040( <del>U</del> )( <u>T</u> )
Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	CUP	060(P)
Expansion of Existing Airport.	CUP	060(Q)
Construction of Additional Passing and Travel lanes requiring acquisition of right-of-way, but not resulting in the creation of new parcels.	CUP	060(R)
Personal Use Airports and Helipads	CUP	060(S)

## EXHIBIT B

Reconstruction or Modification of Public Roads, involving the removal of buildings, but not the creation of new parcels.	CUP	060(T)
Improvements to Existing Road and Highway Related Facilities where additional property right-of-way is required.	CUP	060(U)
Transportation Facilities: Roads and Highways; including aids to Navigation and Aviation	CUP	060(V)

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

<b>PARKS/PUBLIC/QUASI-PUBLIC FACILITIES</b>	<b>AUTHORIZATION</b>	<b>PCZO</b>
Uninhabitable Structures Accessory to Fish and Wildlife Enhancement	P	040( <del>X</del> )( <u>W</u> )
Private Fee Hunting Operations without any accommodations.	P	040( <del>Y</del> )( <u>X</u> )
Caretaker Residence for Parks and Hatcheries	P	040( <del>Z</del> )( <u>Y</u> )

## EXHIBIT B

Firearms Training Facility (ORS 197.770)	P	040(AA)(Z)
Model Aircraft Takeoff and Landing Sites	AR	050(J)
<del>Churches and Associated Cemeteries**</del>	<del>AR</del>	<del>050(K)</del>
<u>Churches and cemeteries in conjunction with churches</u>	<u>P</u>	<u>040(AA)</u>
Destination Resorts pursuant to ORS 197.435 to 197.465 and Statewide Planning Goal 8**	AR	050(L)(K)
Parks, Private, including Playgrounds, Hunting/Fishing Preserves and Campgrounds**	CUP	060(FF)
Parks, Public or Nonprofit, including Playgrounds or Community Centers**	CUP	060(GG)
Private Seasonal Accommodations for Fee Hunting Operations	CUP	060(HH)
Private Seasonal Accommodations for Fee Fishing Operations	CUP	060(II)
Expansion of an Existing County Fairgrounds	CUP	060(JJ)
Golf Courses and accessory uses**	CUP	060(KK)
Cemeteries	CUP	060(LL)
Community Centers	CUP	060(MM)
Living History Museum	CUP	060(NN)
Schools, Public or Private (K-12) that serve the residents of the rural area**	CUP	060(OO)

RESIDENTIAL USES	AUTHORIZATION	PCZO
Replacement Dwelling	AR	050(M <del>L</del> )
Replacement of Historic Dwelling	AR	050(N <del>M</del> )
Temporary Hardship Dwelling	AR	050(O <del>N</del> )
Residential Home (ORS 197.660)	CUP	060(PP)
Room and Board Arrangements	CUP	060(QQ)

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

Youth Camp	CUP	090(B)(1)
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\*\* Use requires a determination of soil classes

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

## RESOURCE USES

~~(K)~~ ~~*Wildlife Habitat Conservation and Management Plan*~~ pursuant to ORS 215.800 to 215.808.

## COMMERCIAL

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

~~(M)~~(L) *Farm Stand* [OAR 660-033-0130(23)], subject to the following requirements:

- (1) The structures are temporary, do not require building permits under the Oregon Structural Specialty Code, and are used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in Oregon, including the sale of retail incidental items to promote the sale of farm crops or livestock sold at the farm stand, if the annual sales of the incidental items do not make up more than 25 percent of the total annual sales of the farm stand; and
- (2) If retail incidental items are offered for sale, they shall be offered for sale at the same time and location as the farm crops and livestock sold by the farm stand.
- (3) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.
- (4) As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in Oregon. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items. Notwithstanding the foregoing, a farm stand used in conjunction with a marijuana crop is not permitted.
- (5) Farms stands that would include fee based activities to promote the sale of farm crops or livestock sold at the farm stand shall be reviewed under PCZO 138.050(C)  
[Amended by Ordinance 13-05 and 16-01]

~~(N)~~(M) *Single Agri-Tourism or Other Commercial Event or Activity*. A single, one-day agri-tourism or other commercial event or activity may be permitted on a tract in a calendar year. The applicant shall obtain a permit that is subject to ministerial review for each event or activity from the Polk County Planning Division prior to the event or activity. Authorization shall be personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The event or activity:

- (1) Must be incidental and subordinate to existing farm use on the tract;
- (2) May not begin before 6 a.m. or end after 10 p.m.;
- (3) May not involve more than 100 attendees or 50 vehicles;
- (4) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;

- (5) May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;
- (6) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and
- (7) Must comply with applicable health and fire and life safety requirements. [Amended by Ordinance 13-05]

## MINERAL AND AGGREGATE OPERATIONS

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

## TRANSPORTATION

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

## UTILITIES AND SOLID WASTE DISPOSAL FACILITIES

- ~~(V)~~(U) Utility Facility Service Lines [OAR 660-033-0130(32)], and facilities or structures that end at a point where the utility service is received by the customer and that are located on one or more of the following:
  - (1) A public right of way; or
  - (2) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
  - (3) The property to be served by the utility.
- ~~(W)~~(V) Wind Energy Systems, Meteorological Towers, and Photovoltaic Systems That are not Commercial Power Generating Facilities, but not including wind energy systems utilizing a tower and meteorological towers that require tower lighting, are located in an adopted urban growth boundary, or that would require modification to the height or type of construction standards described in Section 112.135(C)(1). Wind energy systems utilizing towers and meteorological towers are subject to standards listed in Sections 112.135 and 112.137. Roof-mounted, building-integrated, building-mounted and

architectural wind energy systems that extend no more than an additional 5 feet above the highest ridge of the building's roof or 15 feet above the highest eave, whichever is higher, and do not exceed the height limitation of the zone, are subject to the standards listed in Section 112.137. Photovoltaic systems are subject to the standards described in Section 112.138. [Amended by Ordinance 09-06]

## PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

~~(X)~~(W) Uninhabitable Structures Accessory to Fish and Wildlife Enhancement.

~~(Y)~~(X) Private Fee Hunting Operations without any accommodations.

~~(Z)~~(Y) Caretaker Residence for a Public Park or Public Fish Hatchery.

(AA)(Z) Firearms Training Facility pursuant to ORS 197.770.

(AA) Churches and cemeteries in conjunction with churches pursuant to ORS 215.283(1)(a). The applicant shall obtain a permit that is subject to ministerial review from the Polk County Planning Division prior to the establishment of a church or a cemetery in conjunction with churches.

(1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.

(2) A county may:

(a) Subject real property described in Section 138.040(AA)(1) to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or restrict the use of real property by a place of worship described in Section 138.040(AA)(1) if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in Section 138.040(AA)(1). [Amended by Ordinance 23-01]

**138.050 USES SUBJECT TO ADMINISTRATIVE REVIEW** The following uses are permitted, subject to review and approval under the prescriptive standards specified herein, the general siting standards for dwellings and structures under Section 138.110, the fire siting standards for dwellings and structures under 138.120, and as may otherwise be indicated by federal, state and local permits or regulations. [Amended by Ordinance 11-03 and 23-01]

## PARKS/PUBLIC/QUASI-PUBLIC FACILITIES



~~(K)~~ *Churches and Associated Cemeteries consistent with ORS 215.441 [ORS 215.283(1)(a)]*. New churches and associated cemeteries are not authorized on lands classified as high-value. New churches and associated cemeteries on not high-value farmland, or the expansion of existing churches and associated cemeteries on all farmlands, shall be subject to the standards listed in Section 138.105. ~~[Amended by Ordinance 11-03]~~

~~(L)~~ (K) *Destination Resort [ORS 215.283(2)(i)]*, subject to compliance with the requirements of ORS 197.435 to 197.467 and Oregon Statewide Planning Goal 8. (Note: destination resorts are not authorized on lands classified as high-value.)

## RESIDENTIAL USES

~~(M)~~ (L) *Replacement Dwelling [OAR 660-033-0130(8) and temporary provisions relating to replacement dwellings are compiled as notes following ORS 215.306291]*. A lawfully established dwelling may be altered, restored or replaced under ORS 215.283(1)(p) in the manner provided by either subsection (1) or (2) of this section.

(1) The dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the permitting authority:

(a) Finds to the satisfaction of the permitting authority that the dwelling to be altered, restored or replaced has, or formerly had:

- (i) Intact exterior walls and roof structure;
- (ii) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- (iii) Interior wiring for interior lights; and
- (iv) A heating system; and

~~(b) Finds that the dwelling was assessed as a dwelling for purposes of ad valorem taxation for the lesser of:~~

- ~~(i) The previous five property tax years unless the value of the dwelling was eliminated as a result of the destruction, or demolition in the case of restoration, of the dwelling; or~~
- ~~(ii) From the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010 unless the value of the dwelling was eliminated as a result of the destruction, or demolition in the case of restoration, of the dwelling.~~

(b) If the dwelling was removed, destroyed or demolished:

- (i) The dwelling's tax lot does not have a lien for delinquent ad valorem taxes; and
- (ii) Any removal, destruction or demolition occurred on or after January 1, 1973;

(c) If the dwelling is currently in such a state of disrepair that the dwelling is unsafe for occupancy or constitutes an attractive nuisance, the dwelling's tax lot does not have a lien for delinquent ad valorem taxes; or

(d) A dwelling not described in subparagraph (b) or (c) of this paragraph was assessed as a dwelling for purposes of ad valorem taxation:

- (i) For the previous five property tax years; or

- (ii) From the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.
- ~~(2)~~ The dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the dwelling meets the requirements of subsection (1)(a) of this section, the dwelling does not meet the requirement of subsection (1)(b) of this section, and the applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner.
- ~~(3)~~(2) For replacement of a lawfully established dwelling under ORS 215.283 ~~(1)(p)~~this section:
  - (a) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
    - (i) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
    - (ii) If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued.
  - (b) The replacement dwelling:
    - (i) May be sited on any part of the same lot or parcel.
    - (ii) Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
  - (c) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
- ~~(4)~~(3) Notwithstanding subsection ~~(32)~~(b)(i) of this section, ~~subsection 5 of this section applies when a replacement dwelling under 215.283 (1)(p) qualifies for replacement:~~
  - ~~(a) Under subsection (1) of this section because the dwelling formerly had the features described in subsection (1) of this section; or~~
  - ~~(b) Under subsection (2) of this section.~~
- ~~(5)~~ The replacement dwelling must be sited on the same lot or parcel:
  - (a) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and
  - (b) If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.

~~(6)~~(4) The county planning director, or the director's designee, shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under subsection ~~(3)~~(2) of this section, including a copy of the deed restrictions filed under subsection ~~(3)~~(2)~~(c)~~ of this section.

~~(7)~~(5) If an applicant is granted a deferred replacement permit under this section:

(a) The deferred replacement permit:

(i) Does not expire but, notwithstanding subsection ~~(3)~~(2)(a)(i) of this section, the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and

(ii) May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

(b) The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.

~~(8)~~ As used in this section, "improperly removed" means, with respect to a dwelling removed from the tax roll, that:

~~(a) The dwelling has taxable value in its present state, or had taxable value when the dwelling:~~

~~(i) Was first removed from the tax roll; or~~

~~(ii) Was destroyed by fire or other act of God; and~~

~~(iii) The county stopped assessing the dwelling even though the current owner did not request removal of the dwelling from the tax roll.~~

Notes: (1) A replacement dwelling permit that is issued under ORS 215.283(1)(p) is not subject to the time to act limits of ORS 215.417 [OAR 660-0033-0130(8)~~(d)~~(e)(B)]

(2) These temporary provisions to ORS 215.283~~291~~ sunset on January 2, 2024. [Amended by Ordinance 18-01 and 23-01]

~~(N)~~(M) *Replacement of Historic Dwelling [ORS 215.283(1)(o)]*. A dwelling listed on the Polk County Historic Inventory and on the National Register of Historic Places which has been partitioned from the farm tract as provided by ORS 215.263(9)(b), may be replaced on a portion of the farm tract.

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

(1) The hardship is certified by a licensed physician;

(2) The manufactured home or existing building converted to residential use is connected to the existing sewage disposal system; except when the County Sanitarian finds the existing system to be inadequate and that it cannot be repaired or is not physically available; If the manufactured home will use a public sanitary system, such condition will not be required.

- (3) The applicant agrees to renew the permit every two years.
- (4) Within 3 months of the end of the hardship, the manufactured dwelling, recreational vehicle, or building converted to a temporary residential use, shall be removed, demolished, or converted to an approved nonresidential use.
- (5) The dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (6) The dwelling will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.
- (7) As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.
- (8) A temporary residence approved under this section is not eligible for replacement under Section 138.050~~(J)~~(L).

**138.080 USES SUBJECT TO ADMINISTRATIVE REVIEW AND BASED ON THE DETERMINATION OF PREDOMINATE USE OF TRACT IN ACCORDANCE WITH SECTION 138.070** The following uses are permitted, subject to review and approval under the prescriptive standards specified herein, the general siting standards for dwellings and structures under Section 138.110, the fire siting standards for dwellings and structures under 138.120, and as may otherwise be indicated by federal, state and local permits or regulations. [Amended by Ordinance 11-03 and 23-01]

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

## DWELLINGS

- (3) Small Tract "Template" Dwelling [OAR 660-006-0027(3)]. A dwelling may be authorized on a tract that meets the following criteria:
  - (a) The tract is less than 60 acres in size;
  - (b) The tract meets one of the following:
    - (i) The tract is composed of soils that are capable of annually producing more than 85 cu. ft. per acre of wood fiber if:
      - (A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible; and
      - (B) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
  - (c) The tract is composed of soils that are capable of annually producing 50 to 85 cu. ft. per acre of wood fiber if:
    - (i) All or part of at least seven (7) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible; and

- (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
- (d) The tract is composed of soils that are capable of annually producing 0 to 49 cu. ft. per acre of wood fiber if:
  - (i) All or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible; and
  - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
- (e) The tract contains no dwellings on other lots or parcels that make up the tract;
- (f) The tract is not subject to deed restrictions established under OAR 660-006-0027(6) and Section 138.080(B)(2)(b) of this Ordinance;
- (g) Parcels 10 acres or less in size shall not be required to submit a stocking report prior to receiving a permit for the dwelling as authorized by this subsection;
- (h) Lots or parcels within urban growth boundaries ~~shall~~ may not be used to satisfy the eligibility requirements under subsections 138.080(B)(4)(3);
- (i) The lot or parcel on which the dwelling will be sited was lawfully established;
- (i) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
- (k) Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
- (l) If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.

Note: Prior to November 1, 2023, a county may allow the establishment of a single-family dwelling on a lot or parcel that was part of a tract on January 1, 2021, if:

1. No more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract; and
  2. The lot or parcel qualifies, notwithstanding PCZO 138.080(B)(3)(l) for a dwelling under PCZO 138.080(B)(3). [Amended by Ordinance 23-01]
- (4) Large Tract "Template" Dwelling [OAR 660-006-0027(5)]. A dwelling may be authorized on a tract that meets the following criteria:
- (a) The tract is 60 acres or larger in size;
  - (b) The tract meets one of the following:
    - (i) The tract is composed of soils that are capable of annually producing more than 85 cu. ft. per acre of wood fiber if:
    - (ii) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and

- (iii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
- (c) The tract is composed of soils that are capable of annually producing 50 to 85 cu. ft. per acre of wood fiber if:
  - (i) All or part of at least seven (7) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and
  - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
- (d) The tract is composed of soils that are capable of annually producing 0 to 49 cu. ft. per acre of wood fiber if:
  - (i) All or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160 acre centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and
  - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; and,
- (e) If the tract is situated such that the road or stream crosses the tract, at least one (1) of the three (3) required dwellings shall be on the same side of the road or stream as the proposed dwelling, and within the 160-acre rectangle or within 1/4 mile from the edge of the tract where the dwelling will be located, but not outside the length of the rectangle.
- (f) The tract contains no dwellings on other lots or parcels that make up the tract.
- (g) The tract is not subject to deed restrictions established under OAR 660-006-0027(6) and Section 138.080(B)(2)(b) of this Ordinance;
- (h) Lots or parcels within urban growth boundaries ~~shall~~ may not be used to satisfy the eligibility requirements under subsections 138.080(B)(4);
- (i) The lot or parcel on which the dwelling will be sited was lawfully established;
- (j) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
- (k) Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
- (l) If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract. [Amended by Ordinance 21-01]

Note: Prior to November 1, 2023, a county may allow the establishment of a single-family dwelling on a lot or parcel that was part of a tract on January 1, 2021, if:

1. No more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract; and



2. The lot or parcel qualifies, notwithstanding PCZO 138.080(B)(4)(I) for a dwelling under PCZO 138.080(B)(4). [Amended by Ordinance 23-01]

### **138.110 GENERAL SITING STANDARDS FOR DWELLINGS AND STRUCTURES**

[OAR 660-006-0029]. The following standards apply to all new dwellings and structures: [Amended by Ordinance 11-03 and 23-01]

(A) All new dwellings and structures authorized under the provisions of this Ordinance are subject to the siting standards in this Section. Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify the building site which: The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. Dwellings and structures shall be sited on the parcel so that:

- (1) Has the least impact on nearby or adjacent lands zoned for forest or agricultural use They have the least impact on nearby or adjoining forest or agricultural lands;
- (2) Ensures that forest operations and accepted farming practices will not be curtailed or impeded The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
- (3) Minimizes the amount of forest lands used for the building sites, road access and service corridors The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
- (4) Consistent with the provisions of Section 138.120 minimizes the risk associated with wildfire. The risks associated with wildfire are minimized.
- (5) Is consistent with other requirements contained in the Comprehensive Plan or implementing ordinances, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat.

(B) Siting criteria satisfying subsection (A) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.

(B)(C) The applicant shall provide evidence consistent with OAR 660-006-0029(A), that the domestic water supply, if any, is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class F stream as defined in the Forest Practices Rule (OAR 629-024-0101(3)). If the water supply is unavailable from public sources or sources located entirely on the subject property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners. The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:

- (1) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
- (2) A water use permit issued by the Water Resources Department for the use described in the application; or

(3) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.

~~(C)~~(D) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

~~(D)~~(E) Approval of a dwelling on a parcel or tract which is larger than 10 acres in size shall be subject to the following requirements:

- (1) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in the Department of Forestry administrative rules.
- (2) The Planning Department shall notify the Polk County Assessor of the above condition at the time the dwelling is approved.
- (3) The property owner shall submit a stocking survey report to the Polk County Assessor and the Assessor shall verify that the minimum stocking requirements have been met by the time required by the Department of Forestry Rules. ~~The Assessor shall inform the Department of Forestry in cases where the property owner has not submitted a stocking survey or where the survey report indicates that minimum stocking requirements have not been met.~~
- (4) Upon notification by the Assessor, the Department of Forestry ~~shall~~ will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department determines that the tract does not meet those requirements, the department ~~shall~~ will notify the owner and the Assessor that the land is not being managed as forest land. The Assessor ~~shall~~ will then remove the forest land designation pursuant to ORS 321.359 and impose additional tax ~~pursuant to ORS 321.372.~~

**138.120 FIRE SITING STANDARDS FOR DWELLINGS AND STRUCTURES [OAR 660-006-0035].** The following standards apply to all new dwellings and structures: [Amended by Ordinance 11-03 ~~and 23-01~~]

- (A) ~~If a water supply is available and suitable for fire protection, such as a swimming pool, pond, stream, or lake, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall~~



provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

- (B) Road access to the structure shall meet the County road design standards.
- (C) ~~A primary fuel break shall be constructed on land surrounding the dwelling that is owned and controlled by the owner, no less than 30 feet wide. The primary fuel break could include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall also be removed.~~
- (D) ~~A secondary fuel break shall also be constructed, on land surrounding the dwelling that is owned or controlled by the owner, of not less than 50 feet outside the primary fuel break. Dead fuels shall be removed from the fuel break area. It may be advisable to increase the secondary fuel break if the dwelling is located on a slope.~~
- (C) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.
- (E) ~~No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.~~
- (F) ~~The applicant shall obtain an address from the County, and shall display that number in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less than three inches in height, in a contrasting or visible color and shall comply with all other applicable standards for signs.~~
- (G)(D) The dwelling shall meet the following requirements:
  - (1) The dwelling has a fire retardant roof.
  - (2) The dwelling will not be sited on a slope of greater than 40 percent.
  - (3) ~~Evidence is provided that the domestic water supply is from a source authorized by the Water Resources Department and not from a Class F stream as designated by the State Board of Forestry.~~
  - (4) ~~The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract.~~
  - (5) ~~If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district.~~
- (6)(3) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.
- (H) ~~If meeting the requirements of Section 138.120 (H) would be impracticable, alternative means for protecting the dwelling from fire hazards may be considered. The means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions.~~

**Amendments to Polk County Zoning Ordinance Chapter 177;  
Timber Conservation (TC) Zoning District**

Additions are double underlined

Deletions are in ~~strikethrough~~

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

- (A) *Auxiliary.* As used in Section 177.030, "auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- (B) Definitions contained in ORS 197.015 and the Statewide Planning Goals.
- (C) *Cubic Foot Per Acre Per Year* means the average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey. [Amended by Ordinance 11-03]
- (D) *Cubic Foot Per Tract Per Year* means the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey. [Amended by Ordinance 11-03]
- (E) *Date of Creation and Existence.* When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.
- (F) *Forest Operation* means any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620(6).
- (G) Relative means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin. [ORS 215.283(1)(e)(A)]
- (H) Tract means one or more contiguous lots or parcels in the same ownership.
- (I) *Center of the Subject Tract.* As used in Section 177.070, "center of the subject tract" means the mathematical centroid of the tract. [Amended by Ordinance 23-01]

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

- (P) Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans including public road and highway projects as described in ~~ORS 215.213(1)(m) through (p) and ORS 215.283(1)(k) through (n).~~

**177.035. USES SUBJECT TO ADMINISTRATIVE REVIEW.** The following uses are permitted, subject to review and approval under the prescriptive standards specified herein, the dwelling standards under 177.070, the general siting standards for dwellings and structures under Section 177.080, the fire siting standards for dwellings and structures under 177.090, and as may otherwise be indicated by federal, state and local permits or regulations. [Amended by Ordinance 11-03 and 23-01]

(D) A lawfully established dwelling that is destroyed by wildfire may be replaced within 60 months when:

- (1) The county finds, based on substantial evidence, that the dwelling to be replaced contained those items listed at subsection (C)(1) through (5). For the purposes of this subsection, substantial evidence includes, but is not limited to, county assessor data.
- (2) The property owner of the record at the time of the wildfire may reside on the subject property in an existing building, tent, travel trailer, yurt, recreational vehicle, or similar accommodation unit replacement has been completed or the time for replacement has expired. [Amended by Ordinance 23-01]

~~(E)~~ Wind energy systems utilizing a tower and meteorological towers outside of an adopted urban growth boundary that are not commercial power generating facilities that would utilize a tower(s) that requires lighting or that requires modification to the height or type of construction standards described in Section 112.135(C)(1), as provided in Sections 112.135 and 112.137. [Amended by Ordinance 09-06]

**177.070. STANDARDS FOR DWELLINGS.** Dwellings are authorized in the Timber Conservation Zoning District, subject to the siting requirements under Section 177.080 and 177.090 of the Ordinance, and the following criteria: [Amended by Ordinance 23-01]

(C) Small Tract "Template" Dwelling [OAR 660-006-0027(3)]. A dwelling may be authorized on a tract that meets the following criteria:

- (1) The tract is less than 60 acres in size;
- (2) The tract meets one of the following:
  - (a) The tract is composed of soils that are capable of annually producing more than 85 cu. ft. per acre of wood fiber if:
    - (i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract (Note: If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible.); and
    - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
  - (b) The tract is composed of soils that are capable of annually producing 50 to 85 cu. ft. per acre of wood fiber if:
    - (i) All or part of at least seven (7) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract (Note: If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible.); and
    - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
  - (c) The tract is composed of soils that are capable of annually producing 0 to 49 cu. ft. per acre of wood fiber if:
    - (i) All or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract (Note: If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile

long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible.); and

- (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
- (3) The tract contains no dwellings on other lots or parcels that make up the tract.
- (4) The tract is not subject to deed restrictions established under OAR 660-006-0027(6) and Section 177.070(B)(2) of this Ordinance.
- (5) Parcels 10 acres or less in size shall not be required to submit a stocking report prior to receiving a permit for the dwelling as authorized by this subsection.
- (6) Lots or parcels within urban growth boundaries ~~shall~~ may not be used to satisfy the eligibility requirements under subsections 177.070(C).
- (7) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192.
- (8) Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
- (9) If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.

Note: Prior to November 1, 2023, a county may allow the establishment of a single-family dwelling on a lot or parcel that was part of a tract on January 1, 2021, if:

- 1. No more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract; and
- 2. The lot or parcel qualifies, notwithstanding PCZO 177.070(C)(9) for a dwelling under PCZO 177.070(C). [Amended by Ordinance 23-01]

(D) Large Tract "Template" Dwelling [OAR 660-006-0027(5)]. A dwelling may be authorized on a tract that meets the following criteria:

- (1) The tract is 60 acres or larger in size;
- (2) The tract meets one of the following:
  - (a) The tract is composed of soils that are capable of annually producing more than 85 cu. ft. per acre of wood fiber if:
    - (i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and
    - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
  - (b) The tract is composed of soils that are capable of annually producing 50 to 85 cu. ft. per acre of wood fiber if:
    - (i) All or part of at least seven (7) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and

- (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
- (c) The tract is composed of soils that are capable of annually producing 0 to 49 cu. ft. per acre of wood fiber if:
  - (i) All or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160 acre centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and
  - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; and,
- (3) If the tract is situated such that the road or stream crosses the tract, at least one (1) of the three (3) required dwellings shall be on the same side of the road or stream as the proposed dwelling, and within the 160-acre rectangle or within 1/4 mile from the edge of the tract where the dwelling will be located, but not outside the length of the rectangle.
- (4) The tract contains no dwellings on other lots or parcels that make up the tract.
- (5) The tract is not subject to deed restrictions established under OAR 660-006-0027(6) and Section 177.070(B)(2) of this Ordinance.
- (6) Lots or parcels within urban growth boundaries ~~shall~~ may not be used to satisfy the eligibility requirements under subsections 177.070(~~C~~)(D).
- (7) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192.
- (8) Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
- (9) If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.

Note: Prior to November 1, 2023, a county may allow the establishment of a single-family dwelling on a lot or parcel that was part of a tract on January 1, 2021, if:

1. No more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract; and
2. The lot or parcel qualifies, notwithstanding PCZO 177.070(D)(9) for a dwelling under PCZO 177.070(CD). [Amended by Ordinance 23-01]

#### **177.080. GENERAL SITING STANDARDS FOR DWELLINGS AND STRUCTURES**

[OAR 660-006-0029]. The following standards apply to all new dwellings and structures: [Amended by Ordinance 11-03 and 23-01]

- (A) All new dwellings and structures authorized under the provisions of this Ordinance are subject to the siting standards in this Section. Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify the building site which: The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. Dwellings and structures shall be sited on the parcel so that:



- (1) ~~Has the least impact on nearby or adjacent lands zoned for forest or agricultural use~~ They have the least impact on nearby or adjoining forest or agricultural lands;
  - (2) ~~Ensures that forest operations and accepted farming practices will not be curtailed or impeded~~ The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
  - (3) ~~Minimizes the amount of forest lands used for the building sites, road access and service corridors~~ The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
  - (4) ~~Consistent with the provisions of Section 177.090 minimizes the risk associated with wildfire.~~ The risks associated with wildfire are minimized.
  - (5) ~~Is consistent with other requirements contained in the Comprehensive Plan or implementing ordinances, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat.~~
- (B) Siting criteria satisfying subsection (A) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.
- ~~(B)(C)~~ The applicant shall provide evidence consistent with OAR 660-006-0029(A), that the domestic water supply, if any, is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class F stream as defined in the Forest Practices Rule (OAR 629-024-0101(3)). If the water supply is unavailable from public sources or sources located entirely on the subject property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners. The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:
- (1) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
  - (2) A water use permit issued by the Water Resources Department for the use described in the application; or
  - (3) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.
- ~~(C)(D)~~ As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
- ~~(D)(E)~~ Approval of a dwelling on a parcel or tract which is larger than 10 acres in size shall be subject to the following requirements:
- (1) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet

Department of Forestry stocking requirements at the time specified in the Department of Forestry administrative rules.

- (2) The Planning Department shall notify the Polk County Assessor of the above condition at the time the dwelling is approved.
- (3) The property owner shall submit a stocking survey report to the Polk County Assessor and the Assessor shall verify that the minimum stocking requirements have been met by the time required by the Department of Forestry Rules. ~~The Assessor shall inform the Department of Forestry in cases where the property owner has not submitted a stocking survey or where the survey report indicates that minimum stocking requirements have not been met.~~
- (4) Upon notification by the Assessor, the Department of Forestry ~~shall~~ will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department determines that the tract does not meet those requirements, the department ~~shall~~ will notify the owner and the Assessor that the land is not being managed as forest land. The Assessor ~~shall~~ will then remove the forest land designation pursuant to ORS 321.359 and impose additional tax ~~pursuant to ORS 321.372.~~

**177.090. FIRE SITING STANDARDS FOR DWELLINGS AND STRUCTURES [OAR 660-006-0035].** The following standards apply to all new dwellings and structures [Amended by Ordinance 23-01]

- (A) ~~If a water supply is available and suitable for fire protection, such as a swimming pool, pond, stream, or lake, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.~~
- (B) Road access to the structure shall meet the County road design standards.
- (C) A primary fuel break shall be constructed on land surrounding the dwelling that is owned and controlled by the owner, no less than 30 feet wide. The primary fuel break could include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall also be removed.
- (D) A secondary fuel break shall also be constructed, on land surrounding the dwelling that is owned or controlled by the owner, of not less than 50 feet outside the primary fuel break.

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

- (C) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.
- (E) ~~No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.~~
- (F) ~~The applicant shall obtain an address from the County, and shall display that number in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less than three inches in height, in a contrasting or visible color and shall comply with all other applicable standards for signs.~~
- (G)(D) The dwelling shall meet the following requirements:
  - (1) The dwelling has a fire retardant roof.
  - (2) The dwelling will not be sited on a slope of greater than 40 percent.
  - (3) ~~Evidence is provided that the domestic water supply is from a source authorized by the Water Resources Department and not from a Class F stream as designated by the State Board of Forestry.~~
  - (4) ~~The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract.~~
  - (5) ~~If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district.~~
  - (6)(3) If the dwelling has a chimney or chimneys, each chimney has a spark arrester. [Amended by Ordinance 23-01]
- (H) ~~If meeting the requirements of Section 177.090(G)(H) would be impracticable, alternative means for protecting the dwelling from fire hazards may be considered. The means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions.~~



**CONTRACT**

THIS CONTRACT, made and entered into in triplicate this \_\_\_\_\_ day of \_\_\_\_\_ 2023, by and between POLK COUNTY, a political subdivision of the State of Oregon, acting by and through its Board of Commissioners, and the below named company, herein called the "Contractor" for the Project entitled **2023 Striping**, Project No. 1225.

Company Name: Hicks Striping & Curbing, LLC  
 Address: PO Box 9127  
 Brooks, OR 97305

1. **CONTRACTOR'S SERVICES:** Contractor, hereby agrees to supply the following labor, materials and/or services:  
Schedule A: All Temporary Traffic Control and 450,000 feet Hi-Build, Sprayed, Surface paint.  
Schedule B: All Temporary Traffic Control and 4,870,000 feet Longitudinal Pavement Markings – Paint.  
 at the unit prices shown on the attached Quote Sheet and to perform and complete the work herein described and provided for and to furnish all necessary machinery, tools, apparatus, equipment, supplies, materials and labor, and do all things in accordance with the applicable General and Special Provisions for the above named project, and in accordance with such alterations and modifications of the same as may be made by Polk County. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Contractor.
2. **CONTRACT CONTENTS:** The entire Contract consists of the following documents:
  - a. Contract
  - b. Quote Sheet
  - c. Special Provisions
  - d. Any amendments made by subsequent written instrument and signed by both parties.

To the extent that there are inconsistencies between this contract and the attachments, interpretations shall be based on the following order of precedence: (1) This Agreement, (2) The Quote Sheet, (3) The Special Provisions and (4) Appendix A.

3. **CONTRACT TIME:** The anticipated work schedule is as follows:

Schedule A: July 31 – October 15, 2023

Schedule B: July 31 – October 15, 2023

Contractor agrees to have equipment and personnel available to supply and apply the designated quantities of emulsion during these work windows. The contract time may be modified by written amendment.

4. **LAWS AND REGULATIONS:** Polk County and Contractor agree to comply with the Ordinances and regulations of Polk County; applicable provisions in any contract between Polk County and the State of Oregon relating to the services to be provided under this Agreement by the Contractor; and all provisions of Federal and State Law, rules and regulations relating to Contractor's performance of services under this Agreement. Specific laws and regulations that apply are incorporated into the General 2021 Oregon Standard Specifications for Construction under Part 00100, General Requirements subject to the modifications of the Special Provisions of this Agreement.
5. **HOLD HARMLESS:** Contractor shall defend, indemnify and save harmless Polk County, its Boards of Commissioners, officers, agents, and employees from all suits, actions, or claims of any character brought because of any injuries or damage received or sustained by any person, persons, or property on account of the operations of Contractor, his subcontractors or the employees of either; or on account of or in consequence of any neglect in safeguarding the work; or because of any act or omission, neglect, or misconduct of Contractor; or because of any claims or amounts arising or recovered under any Worker's Compensation law or any other law, ordinance, order or decree; and so much of the money due Contractor if any by virtue of this Contract as may be considered necessary by Polk County for such purpose may be retained for the use of Polk County; or, in case no money is due, Contractor's surety may be held until such suit or suits, action or actions, claim or claims for injuries or damages as aforesaid shall have been settled and suitable evidence to that effect furnished to Polk County; except that money due Contractor will not be withheld when Contractor produces satisfactory evidence that Contractor is adequately protected by general liability and property damage insurance, and that said insurance expressly identifies Polk County and its agents as additional insured.
6. **MONITORING:** Contractor agrees that services provided under this contract by Contractor; facilities used in conjunction with such services; Contractor's policies, procedures, performance data, financial records, and other similar documents and records of Contractor; that may pertain to services under this contract, shall be open for inspection by Polk County's agents at any reasonable time during business hours. Contractor agrees to retain such records and documents for a period of seven (7) years, or such longer period as may be prescribed for such records and documents by the State Archivist of Oregon.
7. **PAYMENTS/CONSIDERATION:** In consideration of the faithful performances of all of the obligations, both general and special, herein set out, and in consideration of the faithful performance of the work as set forth in this Contract, Quote Sheet, General Provisions, Schedule of Prices, Special Provisions and all general and detailed Specifications and Drawings which are a part hereof, and in accordance with the directions of Polk County and to its satisfaction, Polk County agrees to pay Contractor the amount earned, as determined from the actual quantities of work performed and the prices and other basis of payment specified, and taking into consideration any amounts that may be deductible under the terms of the Contract and to make such payments in the manner and at the times provided in the applicable Standard Specifications, Special Provisions, and the Schedule of Contract Prices.

8. **BOLI Public Works Bond:** Pursuant to ORS 279C.836, the Contractor shall:
- Have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836 (4), (7), (8) or (9).
  - Include in every subcontract a provision requiring the subcontractor to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836 (4), (7), (8) or (9).
9. **PREVAILING WAGE REQUIREMENTS (PWR):** Oregon Bureau of Labor and Industries (BOLI) "Prevailing Wage Rates for Public Works Contracts in Oregon" apply to this Project. For the correct wage rates, go to BOLI's website at:
- [http://www.oregon.gov/boli/whd/pwr/pages/pwr\\_state.aspx](http://www.oregon.gov/boli/whd/pwr/pages/pwr_state.aspx) and refer to the publication dated January 5, 2023 and amendment dated January 11, 2023.
- Contractor must pay the current prevailing wage rates as established by BOLI and in accordance with ORS 279C.800 – ORS279C.870 and contained herein, including daily, weekly, weekend and holiday overtime as required.
10. **RETAINAGE:** Pursuant to ORS 279C.845(7), if a Contractor is required to file certified payroll statements and fails to do so, Polk County shall retain 25 percent of any amount earned by the Contractor until the Contractor has filed such statements with Polk County. Polk County will pay the Contractor the amount retained due to failure to submit certified payrolls within 14 days after the Contractor files the certified statements.
11. **PUBLIC WORKS CONTRACT:** Contractor must comply with all conditions of OAR 839-025-0020 for this public works project.
12. **WITHHOLDING PAYMENTS/LIQUIDATED DAMAGES:** Notwithstanding any other payment provision of this contract, if Contractor fails to submit required reports when due, or fails to perform or document the performance of contracted services, Polk County may immediately withhold payments under this contract and/or assess liquidated damages as described in the Special Provisions.
13. **INSURANCE:** Contractor shall obtain, and at all times keep in effect, comprehensive liability insurance and property damage insurance covering activities and operations of Contractor. Contractor may satisfy this requirement for general liability insurance in any manner allowed by ORS 30.282. No work will be allowed until an insurance certificate naming Polk County and its agents as an additional insured has been received by Polk County. Such liability insurance, whatever the form, shall not be less than the limits of public body tort liability specified in ORS 30.269 or the project Special Provisions, whichever is higher with provision for increased coverage as such limits are increased by legislative action. Contractor and/or his insurance company shall provide advance notification as described in Section 170.70(e) of the project Special Provisions.

14. **TERMINATION:** All or part of this contract may be terminated by mutual consent of both parties; or by Polk County at any time after 30 days notice in writing. In addition, Polk County may terminate all or part of this contract for any one or more of the reasons specified below:
- a. After 10 days notice, if funding to Polk County from Federal, State or other sources is not obtained or is not continued at levels sufficient to allow for purchase of the indicated quantity of services. Polk County will give more notice whenever possible.
  - b. After 30 days notice, if Federal or State regulations are changed in such a way that services no longer are allowable under this contract.
  - c. Immediately, on notice of denial, revocation or non-renewal of any letter of approval, license or certificate required by law, rule or regulation to be held by Contractor to provide a service under this contract.
  - d. Immediately, if Contractor fails to provide services, or fails to meet any performance standards as specified by Polk County in this contract (or subsequent modifications of this contract) within the time therein specified, or any extensions thereof.
  - e. Immediately, if Polk County has evidence that Contractor has endangered or is endangering the health and safety of clients, residents, staff or the public.
  - f. Immediately, upon failure of Contractor to comply with the provisions of this contract and all applicable Federal, State and local laws, rules and regulations.
  - g. Termination, or the withholding of payments or reduction of obligation under 00195.70, shall be without prejudice to any other obligation or liability of either party accrued prior thereto.
15. **SETTLEMENT OF DISPUTES:** Differences between a Contractor and Polk County, or between Contractors, will be resolved when possible at appropriate management levels. Polk County has ultimate responsibility and authority for resolution of disagreements among subcontract agencies.
16. **DISPUTES:** All disputes, and all claims for alleged breach of contract shall, within ten (10) days of the commencement of dispute be presented in writing to Polk County for decision; but in the meanwhile, Contractor shall proceed with the work as directed.
- a. Contractor shall submit in detail, the claim and proof thereof. Polk County, with reasonable promptness, shall render its decision to the Contractor in writing.
  - b. If Contractor does not agree with any decision of Polk County, Contractor shall except that decision from the final release.
  - c. If Contractor has (1) given notice of any dispute within the limit stated above; (2) taken exception to Polk County's decision in the release; and (3) brought suit by way

of arbitration proceeding pursuant to ORS 36.300 through 36.365 within 120 days after receipt of final payment under this contract or within six months of a written request by Polk County that Contractor submit a final voucher and release, whichever time is the lesser; then Polk County's decision shall not be final and conclusive but the dispute shall be tried in arbitration on its merits. If the above conditions precedent have not been met, Contractor agrees that his non-compliance with the conditions precedent constitutes a waiver of right to assert a claim.

17. **ATTORNEY FEES:** If an action, suit or proceeding, including appeal therefrom, is brought for failure to observe any terms for this contract, the prevailing party of said action is entitled to the recovery of reasonable attorney fees.
18. **CAPTIONS:** The heading or captions in this contract are solely for convenience of the reader, and do not have legal effect.
19. **CHOICE OF LAW:** This contract shall be governed by the laws of the State of Oregon.
20. **VENUE:** Venue relating to this contract shall be in the Circuit Court of the State of Oregon for Polk County, located in Dallas, Oregon.
21. **SEVERABILITY:** If any provision of this contract is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.
22. **CONFIDENTIALITY:** Contractor understands and agrees that some records that will be made available are or may be considered confidential under ORS 308.290 and 308.413. Contractor agrees to comply with any and all confidentiality laws and regulations and will sign a confidentiality agreement if provided by Polk County.

THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATION, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. CONTRACTOR, BY SIGNATURE BELOW, HEREBY ACKNOWLEDGES THAT HE/SHE HAS READ THIS AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

Dated this 1st day of May 2023.

  
Contractor Signature

91-1796826  
Tax ID Number

Approved by the Polk County Board of Commissioners at their regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Chairman, Polk County Board of Commissioners

\_\_\_\_\_

Approved as to Form:

\_\_\_\_\_

Polk County Counsel

**Polk County**  
**2023 Striping - Schedule A - Tabulation of Quotes**

Item	Description	Qty	Unit	SPECIALIZED PAVEMENT MARKINGS, LLC		HICKS STRIPING AND CURBING, LLC	
				Unit Price	Total	Unit Price	Total
a	Mobilization	1	LS	\$ 2,800.00	\$ 2,800	\$ 2,550.00	\$ 2,550
b	Temporary Traffic Control, Complete	1	LS	\$ 18,500.00	\$ 18,500	\$ 8,400.00	\$ 8,400
c	Hi-Build, Sprayed, Surface	450,000	FOOT	\$ 0.160	\$ 72,000	\$ 0.166	\$ 74,700
Total					\$ 93,300		\$ 85,650
Ackn. Addenda					YES		YES
% diff.					8.9%		0.0%

**Polk County**  
**2023 Striping - Schedule B - Tabulation of Quotes**

Item	Description	Qty	Unit	SPECIALIZED PAVEMENT MARKINGS, LLC		HICKS STRIPING AND CURBING, LLC	
				Unit Price	Total	Unit Price	Total
d	Mobilization	1	LS	\$ 12,500.00	\$ 12,500	\$ 29,400.00	\$ 29,400
e	Temporary Traffic Control, Complete	1	LS	\$ 147,000.00	\$ 147,000	\$ 70,000.00	\$ 70,000
f	Longitudinal Pavement Markings - Paint	4,870,000	FOOT	\$ 0.090	\$ 438,300	\$ 0.102	\$ 496,740
Total					\$ 597,800		\$ 596,140
Ackn. Addenda					YES		YES
% diff.					0.3%		0.0%