

**Amendments to Polk County Zoning Ordinance Chapter 136;
Exclusive Farm Use (EFU) Zoning District**

Additions are double underlined

Deletions are in ~~strikethrough~~

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:

- (I) Replacement Dwelling [~~OAR 660-033-0130(8) and temporary provisions relating to replacement dwellings are compiled as notes following ORS 215.291]. A lawfully established dwelling may be altered, restored or replaced under ORS 215.283(1)(p).~~
- (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) ~~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) ~~For replacement of a lawfully established dwelling under 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.~~

(3) ~~Notwithstanding subsection (2)(b)(i) of this section, 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.~~

(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 (2) of this section, including a copy of the deed restrictions filed under subsection (2)(c) of this section.~~

(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 (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.~~

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)(e)(B)]~~

~~(2) These temporary provisions to ORS 215.291 sunset on January 2, 2024. [Amended by Ordinance 18-01 and 23-01]~~

- (1) A lawfully established dwelling may be altered, restored or replaced under ORS 215.283(1)(p) if the county determines that the dwelling to be altered, restored or replaced:
- (a) 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) Unless the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation since the later of:
 - (i) Five years before the date of the application; or
 - (ii) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment; or
 - (c) If the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:
 - (i) Five years before the date of the destruction or demolition; or
 - (ii) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.
- (2) For replacement of a lawfully established dwelling under this section:
- (a) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055.
 - (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 either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
- (3) 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 (2) of this section, including a copy of the deed restrictions filed under subsection (2)(c) of this section.
- (4) If an applicant is granted a deferred replacement permit under this section:
- (a) The deferred replacement permit:
- (i) Does not expire but 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.
- (5) An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed under subsection (1)(a) of this section.
- (6) Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.

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

- (G) Temporary Medical 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, subject to compliance with Section 136.060, provided that: [Amended by Ordinance 23-03]
- (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 to serve the additional dwelling; 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) As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.
- (6) A temporary residence approved under this section is not eligible for replacement under Section 136.040(I).
- (7) If the temporary hardship dwelling is located within a big game habitat significant resource area, it shall be subject to the requirements listed in

Chapter 182, but shall not be subject to the public hearing requirements listed under Section 182.040(B).