

**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:

- (~~C~~) *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]
- (D) *Commercial Tree Species* means trees recognized for commercial production under rules adopted by the State Board of Forestry pursuant to ORS 527.715.
- (~~E~~) *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]
- (~~F~~) *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]
- (~~G~~) *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.
- (H) *Forest Lands* as defined in Goal 4 are those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include:
- (1) Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and
 - (2) Other forested lands that maintain soil, air, water and fish and wildlife resources.
- (~~I~~) *Forest Operation* means any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620(6).
- (J) *Primary processing of forest products* means the initial treatments of logs or other forest plant or fungi materials to prepare them for shipment for further processing or to market, including, but not limited to, debarking, peeling, drying, cleaning, sorting, chipping, grinding, sawing, shaping, notching, biofuels conversion, or other similar methods of initial treatments.
- (~~K~~) *Relative* means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin. [ORS 215.283(1)(e)(A)]
- (~~L~~) *Tract* means one or more contiguous lots or parcels in the same ownership as provided in ORS 215.010(2).

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.

- (E) Uses and activities to conserve soil, air, and water quality and to provide for and manage wildlife and fisheries resources, including, but not limited to creation, restoration, and enhancement of wetlands, fisheries, and wildlife habitat.
- (F) ~~Additional local~~ Local distribution lines within existing public rights-of-way (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g., electric distribution transformers, meter cabinets, terminal boxes, pedestals), ~~and which or equipment that~~ provide service hookups, including water service hookups.
- (G) Temporary portable facility for the primary processing of forest products. The facility shall be removed at the conclusion of the forest operation requiring its use.
- (H) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head as defined in ORS Chapters 517 and 520.
- (L) Disposal site for solid waste that has been ordered established by the Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation. Such site designation shall require owner consent.
- (M) Temporary forest labor camps, without any permanent structures, limited to the duration of the forest operation requiring the use.
- (O) Private fee hunting ~~or~~ and fee fishing operations without any accommodations.
- (Q) Destination resorts pursuant to ORS 197.435 to 197.465 ~~467~~ and upon compliance with Statewide Planning Goal 8.

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]

- (A) Single-family dwelling, as authorized under Section 177.070 of this ordinance and such accessory buildings and uses as are normally associated with a single-family dwelling.
- ~~(B) One manufactured dwelling or the temporary residential use of an existing building in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. As used in this section, "hardship" means a medical hardship or hardships for the care of an aged or infirm person or persons. The application shall be subject to:

 - ~~(1) The general review standards in Sections 177.050(A), (B), (C) and (D);~~
 - ~~(2) The hardship is certified by a licensed physician;~~
 - ~~(3) The applicant agrees to renew the permit every two years.~~
 - ~~(4) Conditions being imposed that require:

 - ~~(a) The manufactured dwelling or existing building converted to residential use is connected to the existing sewage disposal system, unless the Community Development Department 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. Establishment of a separate sewage disposal system does not vest a right to retain the temporary dwelling after the conclusion of the hardship.~~
 - ~~(b) Within 3 months of the end of the hardship, the manufactured dwelling or in the case of an existing building converted to a temporary residential use, shall be removed, demolished, or converted to an approved nonresidential use.~~~~~~

- (c) ~~A temporary residence approved under this section is not eligible for replacement under Section 177.035(C).~~(C) — Alteration, restoration, or replacement of a lawfully established dwelling which has:
- ~~(1) Intact exterior walls and roof structure;~~
 - ~~(2) Interior plumbing, including kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~
 - ~~(3) Interior wiring for interior lights;~~
 - ~~(4) A heating system; and~~
 - ~~(5) The dwelling to be replaced must be removed, demolished or converted to an approved non-residential use, within 3 months of the completion of the replacement dwelling.~~
- (B) A lawfully established dwelling may be altered, restored or replaced under ORS 215.291 and 215.755:
- (1) 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 ORS 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.
- (~~D~~C) 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)(B)(1)(a)~~. 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~~D) 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]

177.040. CONDITIONAL USES. The following conditional uses may be allowed subject to compliance with the procedures and criteria under Chapter 119, the general review standards under 177.050, the general siting standards for dwellings and structures under 177.080, the fire siting standards for dwellings and structures under 177.090, applicable state and federal regulations, and other specific criteria as may be indicated. [Amended by Ordinance 11-03]

- (A) Home occupations, subject to ~~the general review standards under Sections 177.050(A), (B), (C), and (D), and compliance with the following standards and conditions from ORS 215.448:~~
- (1) ~~The home occupation~~It shall be operated by a resident or employee of a resident of the property on which the business is located;

- (2) ~~It shall employ on the site N~~no more than five full or part-time persons ~~are employed by the business;~~
- (3) ~~It shall be operated The business is conducted substantially in:~~
- ~~(a) within †The dwelling; or~~
 - ~~(b) †Other buildings normally associated with the uses permitted in the zone in which the property is located; and~~
- (4) ~~The business will~~It shall not ~~unreasonably~~interfere with ~~other uses permitted in the zone in which the property is located, existing uses on nearby land or with other permitted uses.~~ [Amended by Ordinance 13-05]
- (5) ~~The governing body of the county or its designate may establish additional reasonable conditions of approval for the establishment of a home occupation under this section.~~
- (6) ~~Nothing in this section authorizes the governing body or its designee to permit construction of any structure that would not otherwise be allowed in the zone in which the home occupation is to be established.~~
- (7) ~~The existence of home occupations shall not be used as justification for a zone change.~~
- (B) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under 177.030(H) (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517, ~~subject to compliance with Sections 177.050(A), (B), and (D).~~
- (C) Permanent facility for the primary processing of forest products, ~~subject to compliance with Sections 177.050(A), (B), and (D).~~
- ~~(1) Located in a building or buildings that do not exceed 10,000 square feet in total floor area, or an outdoor area that does not exceed one acre excluding laydown and storage yards, or a proportionate combination of indoor and outdoor areas; and~~
 - ~~(2) Adequately separated from surrounding properties to reasonably mitigate noise, odor and other impacts generated by the facility that adversely affect forest management and other existing uses, as determined by the governing body.~~
- (D) Permanent logging equipment repair and storage, ~~subject to compliance with Sections 177.050(A), (B), and (D).~~
- (E) Log scaling and weigh stations, ~~subject to compliance with Sections 177.050(A), (B), and (D).~~
- (F) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation. Such site designation shall require owner consent, ~~subject to compliance with Sections 177.050(A), (B), and (D).~~
- (G) ~~Private Parks and campgrounds, subject to compliance with Sections 177.050(A), (B), (C) and (D). Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three (3) miles of an urban growth boundary unless an exception to Statewide Planning Goal 4 is approved, pursuant to ORS 197.732 and OAR Chapter 660, Division 4. For the purpose of this title, a campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site that is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A camping site may be occupied by a tent, travel trailer, yurt, or recreational vehicle. Separate~~

sewer, water, or electric service hookups shall not be provided to individual campsites, except that electrical service may be provided to yurts allowed by this subsection. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Campgrounds authorized by this title shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six (6) month period.)

Note: As used in this Section, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up, or internal cooking appliance.

(G) Private parks and campgrounds. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(1) Vacation or recreational purposes. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds devoted to vacation or recreational purposes shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. Campgrounds approved under this subsection must be found to be established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground and designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

(a) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by subsection (3).

(b) Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

(2) Emergency purposes. Emergency campgrounds may be authorized when a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610, has destroyed homes or caused residential evacuations, or both within the county or an adjacent county. Commercial activities shall be limited to mobile commissary services scaled to meet the needs of campground occupants. Campgrounds approved under this section must be removed or converted to an allowed use within 36 months from the date of the Governor's Executive Order. The county may grant two additional 12-month extensions upon demonstration by the applicant that the campground continues to be necessary to support the natural hazard event recovery efforts because permanent housing units replacing those lost to the natural hazard event are not available in sufficient quantities. A county must process applications filed pursuant to this section in the manner identified at ORS 215.416(11).

(a) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer hook-ups shall not be provided to individual camp sites.

(b) Campgrounds shall be located outside of flood, geological, or wildfire hazard areas identified in adopted comprehensive plans and land use regulations to the extent possible.

- (c) A plan for removing or converting the temporary campground to an allowed use at the end of the time-frame specified in subsection (2) shall be included in the application materials and, upon meeting the county's satisfaction, be attached to the decision as a condition of approval. A county may require that a removal plan developed pursuant to this subparagraph include a specific financial agreement in the form of a performance bond, letter of credit or other assurance acceptable to the county that is furnished by the applicant in an amount necessary to ensure that there are adequate funds available for removal or conversion activities to be completed.
- (3) Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the Commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this rule, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.
- (4) For applications submitted under subsection (2), the county may find the criteria of PCZO 177.050 to be satisfied when:
- (a) The Governor has issued an Executive Order declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq.
- (b) The number of proposed campsites does not exceed 12; or
- (c) The number of proposed campsites does not exceed 36; and
- (d) Campsites and other campground facilities are located at least 660 feet from adjacent lands planned and zoned for resource use under Goals 3, 4, or both.
- (H) Public parks including only those uses specified under OAR 660-034-0035, or OAR 660-034-0040, whichever is applicable, ~~subject to compliance with Sections 177.050(A), (B), and (D).~~
- (I) Television, microwave and radio communication facilities and transmission towers, as provided in Section 112.135, ~~subject to compliance with Sections 177.050(A), (B), and (D).~~
- (J) Fire stations for rural fire protection, ~~subject to compliance with Sections 177.050(A), (B), and (D).~~
- (K) Commercial power generating facilities, ~~subject to compliance with Sections 177.050(A), (B), and (D).~~ An exception to the statewide Forest Lands Planning Goal is required where development of the power generating facility removes more than 10 acres from use as a commercial forest operation.
- (L) Aids to navigation and aviation, ~~subject to compliance with Sections 177.050(A), (B), and (D).~~
- (M) Water intake facilities, related treatment facilities, pumping stations, and distribution lines, ~~subject to compliance with Sections 177.050(A), (B), and (D).~~
- (N) Reservoirs and water impoundments, ~~subject to compliance with Sections 177.050(A), (B), (C), and (D).~~
- (O) Firearms training facility as provided in ORS 197.770(2), ~~subject to compliance with Sections 177.050(A), (B), and (D).~~
- (P) Cemeteries, ~~subject to compliance with Sections 177.050(A), (B), and (D).~~

- (Q) Private seasonal accommodations for fee hunting operations, subject to compliance with OAR 660-006-0029, OAR 660-006-0035 ~~Sections 177.050(A), (B), and (D)~~ and the following requirements:
- (1) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - (2) Only minor incidental and accessory retail sales are permitted;
 - (3) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
 - (4) Other conditions, as deemed appropriate.
- (R) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 722.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width. ~~New electric transmission or distribution lines authorized under this section are subject to compliance with Sections 177.050(A), (B), and (D).~~
- (S) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects; ~~subject to compliance with Sections 177.050(A), (B), and (D).~~
- (T) Expansion of existing airports; ~~subject to compliance with Sections 177.050(A), (B), and (D).~~
- (U) The following transportation improvements may be established; ~~subject to compliance with Sections 177.050(A), (B), and (D):~~
- (1) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
 - (2) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
 - (3) Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
 - (4) Accessory transportation improvements for an authorized land use to provide safe and efficient access to the use. Such accessory transportation improvements are subject to the same requirements applicable to the land use to which they are accessory;
 - (5) Channelization;
 - (6) Realignment of roads;
 - (7) Replacement of an intersection with an interchange;
 - (8) Continuous median turn lane;
 - (9) New access roads or collectors within a built or committed exception area, or in other areas consistent with OAR 660-012-0065(3)(g) (i.e., where the function of the road is to reduce local access to or local traffic on a state highway). These roads shall be limited to two travel lanes. Private access and intersections shall be limited to rural needs or provide adequate emergency access.
 - (10) Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road;
 - (11) Park and ride lots;
 - (12) Railroad mainlines and branchlines;
 - (13) Pipelines;
 - (14) Navigation channels;

- (15) Replacement of docks and other facilities without significantly increasing the capacity of those facilities;
- (16) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes; and
- (17) Transportation facilities, services and improvements other than those listed in this section that serve local travel needs. The travel capacity and performance standards~~level of service~~ of facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the acknowledged comprehensive plan or to provide adequate emergency access.
- (V) Private accommodations for fishing occupied on a temporary basis, subject to compliance with OAR 660-060-0029, OAR 660-006-0035 and Sections 177.050(A), (B), (C), and (D), ~~and~~ the following requirements:
- (1) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - (2) Only minor incidental and accessory retail sales are permitted;
 - (3) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;
 - (4) Accommodations must be located within 1/4 mile of fish bearing Class I waters; and
 - (5) A governing body may impose other appropriate conditions.
- (W) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations, ~~subject to compliance with Sections 177.050(A), (B), and (D)~~.
- (X) Youth camp. A youth camp may be established pursuant to the standards and limitations in OAR 660-006-0031 and ORS 215.457. Changes to or expansions of youth camps established prior to June 14, 2000 shall be subject to the provisions of ORS 215.130. [Amended by Ordinances 01-10 and 11-03]
- (Y) Wind energy systems utilizing a tower and meteorological towers within an adopted urban growth boundary up to 100 feet in height that are not commercial power generating facilities, as provided in Sections 112.135 and 112.137. [Amended by Ordinance 09-06]
- (Z) Temporary Medical Hardship Dwelling [OAR 660-006-0025(4)(t)]. 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 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 or recreational vehicle, or building converted to a temporary residential use, shall be removed, demolished, or converted to an approved nonresidential use. Department of Environmental Quality review and removal requirements also apply.
 - (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 177.035(B).
- (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).

177.050. GENERAL REVIEW STANDARDS [OAR 660-006-0025(5) and (6)]. To ensure compatibility with farming and forest activities, the Planning Director or hearings body shall determine that the proposed use meets the following requirements:

- (A) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;
- (B) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel;
- (C) For uses authorized in subsections 177.040(A), (G), (N), (V), and (Z), a written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules ~~for uses authorized in Subsections 177.035(B) and 177.040(A), (G), (N), and (V).~~
- (D) All other requirements contained in the Comprehensive Plan or implementing ordinances, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat.

177.060. LAND DIVISION REQUIREMENTS. In the TC Zoning District, the following standards shall apply:

- (A) The minimum lot or parcel size is 80 acres; or
- (B) Land divisions creating parcels less than 80 acres in size may only be approved for uses listed in ~~Sections 177.030(H), (L), and (Q) and 177.040 (B) through (P)~~ OAR 660-006-0025(3)(m) and (n) and 4(a) through (o), provided that those uses have been approved pursuant to Section 177.050 of this Ordinance. [OAR 660-006-0026(2)(a)] Such divisions shall create a parcel that is the minimum size necessary for the use. Required building setbacks for these parcels will be determined on a case-by-case basis through the conditional use process and may vary from those required under Section 177.140 and 112.430(C) based upon the specific use authorized by the land use decision. The landowner of a parcel created under this subsection shall provide evidence that a restrictive covenant has been recorded with the County Clerk's Office for the subject property. The restrictive covenant shall prohibit the landowner and the landowner's successor's in interest from further dividing the parcel. The restrictive covenant shall be irrevocable unless a statement of release is signed by the Polk County Planning Director indicating that the comprehensive plan designation is no longer applicable to the parcel and that the property is no longer subject to Oregon Statewide Planning Goal 4 (Forest Lands). The restrictive covenant shall also be irrevocable unless the land division is subsequently authorized by law or by change in Statewide Goal 4. The property owner shall also record a deed restriction in the office of the Polk County Clerk as required by Section 177.120.
- (C) A land division creating a parcel for an existing dwelling that has existed since before June, 1, 1995, subject to the following requirements [OAR 660-006-0026(2)(b) and 215.780(2)(b)]:
- (1) The parcel created shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than ten (10) acres; and
- (2) ~~The dwelling existed prior to June 1, 1995;~~

- (3) ~~The remaining parcel, not containing the dwelling, consists of at least 80 acres, or when consolidated with another parcel consists of at least 80 acres;~~
- (4) ~~The remaining parcel that does not containing the dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either; and~~
- ~~(a) Meets the minimum land division standards of the zone; or~~
- ~~(b) Is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone.~~
- (5) ~~The landowner of a parcel created under this subsection shall provide evidence that a restrictive covenant has been recorded with the County Clerk's Office for the subject property. The restrictive covenant shall prohibit the landowner and the landowner's successor's in interest from further dividing the parcel. The restrictive covenant shall be irrevocable unless a statement of release is signed by the Polk County Planning Director indicating that the comprehensive plan designation is no longer applicable to the parcel and that the property is no longer subject to Oregon Statewide Planning Goal 4 (Forest Lands). The restrictive covenant shall also be irrevocable unless the land division is subsequently authorized by law or by change in Goal 4. The property owner shall also record a deed restriction in the office of the Polk County Clerk as required by Section 177.120.~~
- (3) An applicant for the creation of a parcel under this section shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under section (2) of this rule.
- (4) A restriction imposed under this section shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land.
- (D) *A land division of a lot or parcel that contains two or more dwellings* subject to the following requirements [OAR 660-006-0026(2)(d) and ORS 215.780(2)(e)]:
- (1) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
 - (2) Each dwelling complies with the criteria for a replacement dwelling under Section 177.035(CB);
 - (3) Except for one lot or parcel, each lot or parcel created under this section is between two and five acres in size;
 - (4) At least one dwelling is located on each lot or parcel created under this section; and
 - (5) The landowner of a lot or parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the Polk County Clerk. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the Planning Director indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to Oregon Statewide Planning Goal 4 (Forest Lands) unless the land division is subsequently authorized by law or by a change in statewide planning goal for land zoned for forest use. The restrictive covenant shall also be irrevocable unless the land division is subsequently authorized by law or by change in Goal 4. The property owner shall also record a deed restriction in the office of the Polk County Clerk as required by Section 177.120.
 - (6) A lot or parcel may not be divided under this section if an existing dwelling on the lot or parcel was approved under:

- (a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or
- (b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under Goal 4 (Forest Lands). ~~[Amended by Ordinance 11-03]~~
- (E) *A land division to facilitate a forest practice* as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirement of subsection 177.060(A). [OAR 660-006-0026(2)(c) and ORS 215.780(2)(d)]. The applicant shall provide evidence to demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum parcel size requirements of subsection 177.060(A) for the zone in order to conduct the forest practice. Parcels created pursuant to this subsection:
- (1) ~~Shall~~Are not be eligible for siting a new dwelling;
 - (2) ~~Shall~~May not serve as the justification for the siting of a future dwelling on other parcels;
 - (3) May not, as a result of the land division, be used to justify redesignation or rezoning of resource land; and
 - (4) ~~Shall~~May not result in a parcel of less than 35 acres, unless the purpose of the land division is toexcept:
 - (a) ~~Where the purpose of the land division is to f~~Facilitate an exchange of lands involving a governmental agency, or
 - (b) ~~Where the purpose of the land division is to a~~Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forestland in Oregon; ~~and~~
 - (4) If associated with the creation of a parcel where a dwelling is involved, shall not result in a parcel less than the minimum parcel size of the zone.
 - (5) The property owner shall also record a deed restriction in the office of the Polk County Clerk as required by Section 177.120.
 - (6) An applicant for the creation of a parcel under this section shall provide evidence that a restriction on the newly created parcel has been recorded with the county clerk of the county where the property is located. The restriction may not allow a dwelling unless authorized by law or goal on land zoned for forest use except as permitted under this section.
 - (7) A restriction imposed under this subsection is irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forestland.
- (F) ~~A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).~~
- (GF) *Partition along an Urban Growth Boundary* [OAR 660-006-0026(8) and ORS 215.785(3)] A parcel that is located partially within the TC zone and partially within an urban growth boundary and is designated for urban uses, may be partitioned subject to the following criteria:
- (1) The partition occurs along the urban growth boundary; and
 - (2) If the parcel contains a dwelling, the parcel must be large enough to support continued residential use;
 - (3) If the parcel does not contain a dwelling, the parcel:

- (a) Is not eligible for a dwelling, except as authorized by ORS 195.120;
 - (b) May not be considered in approving or denying an application for siting any other dwelling; and
 - (c) May not be considered in approving or redesignation or rezoning of forestlands under the acknowledged comprehensive plan and land use regulations, except for a redesignation or rezoning to allow a public park, open space or other natural resource use.
- (4) The owner of the parcel not containing a dwelling shall record with the County Clerk an irrevocable deed restriction prohibiting the owner and all successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

[Amended by Ordinance 19-01]

(G) A land division to preserve open space or a park [OAR 660-006-0026(2)(e) and ORS 215.783]. A land division may be authorized in a forest zone to create one new parcel if the proposed division of land is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase one of the resulting parcels as provided in this section.

- (1) A parcel created by the land division that is not sold to a provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:
 - (a) If the parcel contains a dwelling or another use allowed under ORS chapter 215, the parcel must be large enough to support continued residential use or other allowed use of the parcel; or
 - (b) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705 to 215.750, based on the size and configuration of the parcel.
- (2) Before approving a proposed division of land under this section, the governing body of a county or its designee shall require as a condition of approval that the provider of public parks or open space, or the not-for-profit land conservation organization, present for recording in the deed records for the county in which the parcel retained by the provider or organization is located an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from:
 - (a) Establishing a dwelling on the parcel or developing the parcel for any use not authorized in a forest zone or mixed farm and forest zone except park or conservation uses; and
 - (b) Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.
- (3) If a proposed division of land under this section results in the disqualification of a parcel for a special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as riparian habitat under ORS 308A.365, the owner must pay additional taxes as provided under ORS 308A.371 or 308A.700 to 308A.733 before the county may approve the division.

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]

- (A) Small Tract, Lot-of-Record Dwelling [OAR 660-006-0027(1) (a), (f), and (g) and ORS 215.705]. A dwelling may be authorized on a lot-of-record. To qualify as a lot-of-record, the parcel must meet the following criteria:
- (1) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in subsection (4) of this section:
 - (a) ~~s~~Since prior to January 1, 1985; or
 - (b) ~~The owner may also qualify if the property was inherited b~~By devise or by intestate secession from a person that who acquired and had owned continuously the lot or lawfully created parcel since prior to January 1, 1985.
 - ~~(2) Based on soil types, the tract is not capable of annually producing 5,000 cu. ft. of commercial tree species, as recognized under rules adopted under ORS 527.715 for commercial production.~~
 - ~~(23) The tract on which the dwelling will be sited does not include a dwelling is currently vacant;~~
 - ~~(43) If t~~The lot or parcel on which the dwelling will be sited was part of a tract existing on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;
 - (4) As used in this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.
 - (5) The dwelling must be located:
 - (a) On a tract that is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species and The tract is located within 1,500 feet of a public road, as defined by ORS 368.001, that provides or will provide access to the subject tract. (Note: The road shall be maintained and either paved or surfaced with rock. The road and shall not be
 - (i) a U.S. Bureau of Land Management road; or
 - (ii) The road shall not be a U.S. Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the U.S. Forest Service and landowners adjacent to the road, Polk County, or a state agency.);
 - (6) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based. The dwelling complies with limitations on density imposed by the Deer and Elk Winter Range; and
 - ~~Where~~When the lot or parcel on which the dwelling is sited on a portion is part of a tract, the remaining portions of the tract shall be under common ownership and consolidated into a single lot or parcel when the dwelling is allowed unit of land.
 - Authorization to establish a single-family dwelling under the provisions of this subsection may be transferred by a person who has qualified under this subsection to any other person after the effective date of the decision.
 - (9) If the lot or parcel is more than 10 acres, the property owner shall submit a stocking survey report to the Polk County Assessor and the Assessor will verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been

~~met. Parcels 10 acres or less in size shall not be required to submit a stocking report prior to receiving a permit for the dwelling as authorized by this subsection.~~

~~Note: As used in this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.~~

(10) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law.

- (B) Large Tract Forest Land Dwelling [OAR 660-006-0027(2) and (78) and ORS 215.740]. A dwelling may be authorized on a tract that does not contain a dwelling and meets the following criteria:
- (1) The tract is at least 160 contiguous acres in size. A tract shall not be considered to consist of less than 160 acres because it is crossed by a public road or a waterway; or,
 - (2) The tract is ~~part of one ownership, at least 200 acres in size, that may be composed of separate vacant tracts of designated forest land in Polk County or its adjacent counties.~~ one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed for all tracts that are used to meet the acreage requirements of this subsection, pursuant to the following provisions:
 - (a) The applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit "A" to OAR 660-006 has been recorded with the County Clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.
 - (b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
 - (c) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.
 - (d) Failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of the property ~~which that~~ is subject to the covenants, conditions and restrictions required by this section.
 - (e) The Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the County deed records pursuant to this section and a map or other record depicting tracts which do not qualify for a siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this section shall be readily available to the public in the Planning Division office.
- (C) Small Tract "Template" Dwelling [OAR 660-006-0027(3) and ORS 215.750]. A dwelling may be authorized on a ~~tract lot or parcel~~ 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 lot or parcel is~~ predominately composed of soils that are capable of annually-producing more than 85 cu. ft. per acre per year 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 on 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 that is to the maximum extent possible, 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 lot or parcel is~~ predominately composed of soils that are capable of ~~annually-producing 50 to 85 cu. ft. per acre per year~~ 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 that is to the maximum extent possible, 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 lot or parcel is~~ predominately composed of soils that are capable of ~~annually-producing 0 to 49 cu. ft. per acre per year~~ 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 that is the maximum extent possible, 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. The tract on which the dwelling will be sited does not include a dwelling.~~
- (4) ~~No dwellings are allowed on other lots or parcels that make up the tract. The tract is not subject to and deed restrictions established under OAR 660-006-0027(68) and Section 177.070(B)(2) of this Ordinance for the other lots or parcels that make up the tract are met.~~
- (5) The lot or parcel on which the dwelling will be sited was lawfully established.
- (56) ~~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. If the lot or parcel is more than 10 acres, the property owner shall submit a stocking survey report to the Polk County Assessor and the Assessor will verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.~~
- (67) ~~Lots or parcels within urban growth boundaries may not be used to satisfy the eligibility requirements under this section).~~
- (78) ~~Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192.~~
- (9) ~~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~~
- (10) ~~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]

(11) It will comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, and other provisions of law.

(D) Large Tract "Template" Dwelling [OAR 660-006-0027(5) and ORS 215.750]. 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~~ lot or parcel is predominately composed of soils that are capable of ~~annually~~ producing more than 85 cu. ft. per acre per year 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~~ As used in this section, "center of the subject tract" means the mathematical centroid of the tract; 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~~ lot or parcel is predominately composed of soils that are capable of ~~annually~~ producing 50 to 85 cu. ft. per acre per year 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~~ lot or parcel is predominately composed of soils that are capable of ~~annually~~ producing 0 to 49 cu. ft. per acre per year 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. 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 that is to the maximum extent possible, aligned with the road or stream. As used in this section, "center of the subject tract" means the mathematical centroid of the tract. However, one of the three required dwellings must be on the same side of the road or stream as the tract, and:

- (a) Be located within a 160-acre rectangle that is one mile long one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or
 - (b) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.
- (4) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.
- (45) The tract on which the dwelling will be sited does not include a dwelling. The tract contains no dwellings on other lots or parcels that make up the tract.
- (56) No dwellings are allowed on other lots or parcels that make up the tract is not subject to and deed restrictions established under OAR 660-006-0027(68) and Section 177.070(B)(2) of this Ordinance for the other lots or parcels that make up the tract are met.
- (7) The lot or parcel on which the dwelling will be sited was lawfully established.
- (68) Lots or parcels within urban growth boundaries may not be used to satisfy the eligibility requirements under subsections 177.070(D) this section.
- (9) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192.
- (10) 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
- (11) 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(D). [Amended by Ordinance 23-01]

- (12) It will comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, and other provisions of law.
- (13) If the lot or parcel is more than 10 acres, the property owner shall submit a stocking survey report to the Polk County Assessor and the Assessor will verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
- (E) New Single Family Accessory Dwelling Unit to Support Family Forestry [OAR 660-006-0027(9) and ORS 215.757]. A new dwelling unit may be authorized on a lot or parcel that meets the following criteria:

- (1) The new single-family dwelling unit will be on a lot or parcel no smaller than the minimum size allowed under OAR 660-006-0026(1) and ORS 215.780;
- (2) The new single-family dwelling unit will be on a lot or parcel that contains exactly one existing single-family dwelling unit that was lawfully;
 - (a) In existence before November 4, 1993; or
 - (b) Approved under this rule, ORS 215.130(6), 215.705, 215.720, 215.740, 215.755 or OAR 660-006-0025(3)(o).
- (3) The shortest distance between any portion of the new single-family dwelling unit and any portion of the existing single-family dwelling unit is no greater than 200 feet;
- (4) The lot or parcel is within a rural fire protection district organized under ORS chapter 478;
- (5) The new single-family dwelling unit complies with the Oregon residential specialty code relating to wildfire hazard mitigation;
- (6) As a condition of approval of the new single-family dwelling unit, in addition to the requirements of OAR 660-006-0029(5)(e) and ORS 215.293, the property owner agrees to acknowledge and record in the deed records for the county in which the lot or parcel is located, one or more instruments containing irrevocable deed restrictions that;
 - (a) Prohibit the owner and the owner's successors from partitioning the property to separate the new single-family dwelling unit from the lot or parcel containing the existing single-family dwelling unit; and
 - (b) Require that the owner and the owner's successors manage the lot or parcel as a working forest under a written forest management plan, as defined in ORS 526.455 that is attached to the instrument.
- (7) The existing single-family dwelling is occupied by the owner or a relative;
- (8) The new single-family dwelling unit will be occupied by the owner or a relative;
- (9) The owner or a relative occupies the new single-family dwelling unit to allow the relative to assist in the harvesting, processing or replanting of forest products or in the management, operation, planning, acquisition, or supervision of forest lots or parcels of the owner; and
- (10) If a new single-family dwelling unit is constructed under this section, a county may not allow the new or existing dwelling unit to be used for vacation occupancy as defined in ORS 90.100.
- (11) As used in this section, "owner or a relative" means the owner of the lot or parcel, or a relative of the owner or the owner's spouse, including a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin of either.

177.120. NON-REMONSTRANCE DEED RESTRICTION. Pursuant to OAR 660-006-0026(6) and OAR 660-006-0029(45)(e), for any dwelling, residential facility, private park, reservoir or water impoundment, home occupation, or private fishing or hunting accommodations approved under sections 177.035, 177.040, and 177.070, and partitions approved under subsections 177.060(B)-(G), (C), (D) and (E), the landowner for the property shall be required to sign and record a deed restriction binding the landowner and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 to 30.937. [Amended by Ordinance 11-03]

177.210. PERIOD OF VALIDITY FOR RESIDENTIAL USES. [OAR 660-033-0140 and ORS 215.417] A land-use application authorizing a dwelling pursuant to the provisions of Polk

County Zoning Ordinance Sections 177.035(A), (B), and (C), and Section 177.070(A) — (D) shall be valid four (4) years from the effective date of the land use decision. The land use application authorizing such use to be established shall be void at the end of the validity period if development action is not initiated in that period. An extension request shall be submitted to the Planning Director on the form provided by the Planning Division. An extension shall be granted upon submission of a written request for an extension prior to the expiration of the approval period. An extension of the validity period shall be approved for two additional years. Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision. A land use decision granted herein does not vest (guarantee) the right of the property owner to use the property as authorized in the land use decision in perpetuity. The property owner is responsible for completing required conditions and establishing and continuing the use in order to retain a vested right. The property owner is advised to consult with an attorney to determine the appropriate actions necessary to obtain and retain rights of use authorized by a land use decision.

- (A) If a permit is approved for a proposed residential development on forest land outside of an urban growth boundary, the permit shall be valid for four years.
- (B) An extension of a permit described in subsection (A) is valid for two years. A county may approve no more than five additional one-year extensions of a permit if:
- (1) The applicant makes a written request for the additional extension prior to the expiration of the extension;
 - (2) The applicable residential development statute has not been amended following the approval of the permit, except the amendments to ORS 215.750 by Oregon Laws 2019, chapter 433, section 1; and
 - (3) An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.
- (C) As used in this section, "residential development" only includes the dwellings provided for under ORS 215.705(1) to (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3).

177.220. PERIOD OF VALIDITY FOR NON-RESIDENTIAL DISCRETIONARY USES.
[OAR 660-033-0140]

- (A) A discretionary decision, except for a land division, shall be valid for two (2) years from the effective date of the land use decision. An extension of the validity period shall extend the validity period for one (1) additional year, if:
- (1) The applicant makes a written request for an extension of the development approval validity period;
 - (2) The written request is submitted to the Polk County Planning Division, on the form provided by the Planning Division, prior to the expiration of the approval period;
 - (3) The applicant states the reasons that prevented the applicant from beginning or continuing development with the approval period;
 - (4) The applicant states the reasons that prevented the applicant from beginning or continuing development during the approval period for reasons for which the applicant was not responsible.
- (B) The Planning Director may authorize additional one-year extensions where the applicable criteria for the decision have not changed. Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision. [OAR 660-033-0140(1) through (4)]