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

In the matter of Legislative Amendment)
LA 23-03; amendments to the Polk County)
Zoning Ordinance Chapters 136 and 177 to)
bring the local ordinance into compliance)
with State law, and to adopt optional)
changes for uses that could be permitted in)
the Exclusive Farm Use and Timber)
Conservation Zoning Districts)

ORDINANCE NO. 24-02

WHEREAS, on September 19, 2023, the Polk County Board of Commissioners initiated Legislative Amendment 23-03 to evaluate updates to the text of Polk County Zoning Ordinance Chapter 177 in order to bring the local ordinance into compliance with State law and to consider optional changes for uses that could be permitted in the Timber Conservation (TC) Zoning District; and

WHEREAS, on February 6, 2024, the Polk County Planning Commission conducted a duly noticed public hearing for Legislative Amendment 23-03 and received public testimony; and

WHEREAS, the Polk County Planning Commission deliberated at the February 6, 2024 public hearing and recommended that the Polk County Board of Commissioners amend Polk County Zoning Ordinance Chapter 136 and 177 in order to comply with State law and to adopt additional standards for uses that could be permitted in the EFU and TC Zoning Districts, as recommended by Planning Staff; and

WHEREAS, the Board of Commissioners conducted a duly noticed public hearing on March 13, 2024, and provided an opportunity for the submission of public testimony. The Board of Commissioners deliberated at the March 13, 2024 public hearing and passed a motion to approve Legislative Amendment 23-03 as recommended by the Planning Commission and Planning Staff; now therefore

THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Sec. 1 That Polk County Adopts the findings in support of Polk County Legislative Amendment 23-03 contained in Section III of the March 5, 2024 Staff Memorandum as Attachment A hereto.

Sec. 2 That Polk County Adopts amendments to the Polk County Zoning Ordinance as set forth in Attachments B hereto.


Sec. 3 That Polk County Adopts amendments to the Polk County Zoning Ordinance as set forth in Attachments C hereto.

Sec. 4 This ordinance is not effective until 21 days after mailing of the decision, as required by Polk County Zoning Ordinance 115.040(C).

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Dated this 17th day of April, 2024 at Dallas, Oregon.

POLK COUNTY BOARD OF COMMISSIONERS



Craig Pope, Chair

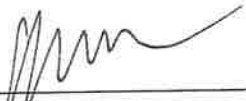


Lyle Mordhorst, Commissioner



Jeremy Gordon, Commissioner

Approved as to Form



Morgan Smith
County Counsel

First Reading: 4/17/24

Second Reading: n/a

Recording Secretary: _____

Ordinance 24-02
Findings in Support of Legislative Amendment (LA) 23-03

III. CRITERIA FOR LEGISLATIVE AMENDMENTS

A legislative amendment to the text of the PCZO may be approved provided that the request is based on substantive information and factual basis to support the change. In amending the PCZO, Polk County shall demonstrate compliance with PCZO 115.060. The applicable review and decision criteria are listed in bold, followed by staff's analysis and findings.

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

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

Staff Findings: The proposed text amendments are intended to bring PCZO Chapters 136 and 177 into conformance with State law where required, and to evaluate and consider adopting optional changes for uses which may be permitted in the EFU and TC Zoning Districts. While a portion of these text amendments are included under subsection (A) of this criteria, not all of the changes are for the purpose of conforming PCZO Chapter 136 and 177 to new requirements found in Oregon Revised Statutes, Statewide Planning Goals, or Oregon Administrative Rules, but rather to consider adopting optional changes. Therefore, staff has determined that the proposed text amendments shall be processed under the procedures and criteria for a legislative comprehensive plan amendment described in PCZO Chapter 115.

The Polk County Board of Commissioners initiated this legislative amendment process on September 19, 2023. Staff sent notice of the proposed text amendments to the Oregon Department of Land and Conservation Development (DLCD) on January 2, 2024. Staff sent notice of the Planning Commission Public Hearing to all interested parties on January 11, 2024, more than 20 days prior to the hearing. Notice of the Planning Commission public hearing was also published in the January 17, 2024 publication of the *Itemized Observer* newspaper and was posted on the Planning Division page of the Polk County website on January 17, 2024. Pursuant to PCZO 115.040, the Planning Commission conducted a public hearing on February 6, 2024 and made a

recommendation to the Board of Commissioners to adopt staff's recommendation of the proposed amendments to PCZO Chapters 136 and 177.

Staff sent notice of the March 13, 2024 Board of Commissioners public hearing to all interested parties on February 20, 2024, more than 20 days prior to the hearing. Notice of the Board of Commissioners public hearing was also published in the February 21, 2024 publication of the *Itemized Observer* newspaper and was posted on the Planning Division page of the Polk County website on February 20, 2024. No comments have been received as of the writing of this report.

2. Compliance with Oregon Revised Statutes, and the statewide planning goals and related administrative rules. If an exception to one or more of the goals is necessary, Polk County shall adopt findings which address the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4; [PCZO 115.060(A)]

- (B) **A local government shall amend its acknowledged comprehensive plan or acknowledged regional framework plan and land use regulations implementing either plan by a self-initiated post-acknowledgment process under ORS 197.610 to 197.625 to comply with a new requirement in land use statutes, statewide land use planning goals or rules implementing the statutes or the goals. [ORS 197.646(1)]**
- (C) **When a local government does not adopt amendments to an acknowledged comprehensive plan, an acknowledged regional framework plan or land use regulations implementing either plan, as required by subsection (1) of this section, the new requirements apply directly to the local government's land use decisions. The failure to adopt amendments to an acknowledged comprehensive plan, an acknowledged regional framework plan or land use regulations implementing either plan required by subsection (1) of this section is a basis for initiation of enforcement action pursuant to ORS 197.319 to 197.335. [ORS 197.646(3)]**

General Findings: 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 OAR directly to land use applications. Some changes in State law are not mandated to be adopted by the local government but rather allow the local government the opportunity to be more restrictive than State law.

OAR Chapter 660 Division 33 pertains to agricultural lands and the administrative rules that govern land uses that are consistent with Oregon Statewide Planning Goal 3. OAR Chapter 660 Division 6 pertains to forest lands and the administrative rules that govern land uses that are consistent with Oregon Statewide Planning Goal 4. ORS 215 pertains to uses that may be allowed in the EFU and TC zones. This text amendment is intended to add the changes found in OAR Chapter 660 Division 33, OAR Chapter 660 Division 6, and ORS 215 to the PCZO where required by the State. Many of these changes are not substantive but are rather minor changes intended to make the language found in the PCZO verbatim to State law. In other cases, some of the changes would add additional provisions that have not been adopted by the County but have been applied directly to land use applications. Because these required changes are not substantive but rather are for the sake of conformance, staff will not detail these changes in the findings. The full text amendment with all changes can be found in Attachments A and B.

This report will be primarily concentrated on the evaluation of the changes found in OAR Chapter 660 Division 33, OAR Chapter 660 Division 6, and ORS 215 that are not required to be adopted by the County and allow local governments to be more restrictive than State law. Due to changes in State law, PCZO Chapter 136 and 177 are currently more restrictive, less restrictive, or differentiate from State law in its regulation of some land uses that may be allowed in the EFU and TC zones. As part of this process, the Board of Commissioners could adopt the optional text amendments as proposed by Staff, adopt those text amendments with further restrictions, or choose to not adopt

those text amendments. These changes will be referred to in this report as “optional changes,” and are discussed in further detail below along with staff’s recommendation for each change.

In other cases, there have been changes in State law to optional uses which have resulted in the PCZO being less restrictive in some sections. Although these uses are optional, the changes are required to be added to the PCZO in order to continue to be in compliance with State law. These changes will be referred to in this report as “mandatory changes,” and are discussed in further detail below.

Temporary Medical Hardship Dwellings: Optional Change

PCZO 177.035(B) currently permits “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,” subject to an administrative review. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle must be removed or demolished, or returned to an allowed nonresidential use. Temporary medical hardship dwellings are authorized by the State pursuant to ORS 215.755(2) and OAR 660-006-0025(4)(t). State law indicates that a converted building can be converted back to an approved nonresidential use, while a manufactured dwelling or RV must be removed or demolished.

The Planning Division currently authorizes manufactured dwellings that were used as a temporary medical hardship dwelling to be “removed” by converting them to an otherwise approved use. In some instances, the intended use could require the property owner to obtain a change of use building permit, including inspections from the Building Division. In other instances, the intended use could require a new planning authorization. Ultimately, if the intended use of the manufactured dwelling is otherwise permitted by the zone, staff finds that it is not necessary to physically remove the manufactured dwelling from the subject property, so long as all necessary permits are obtained to formally convert and/or re-authorize the structure for an approved use. This process is intended to limit the burdens placed on property owners while also meeting the requirements found in State law. For these reasons, staff recommends not adopting this text amendment as it is written in statute.

Procedure for Temporary Medical Hardship Dwellings: Mandatory Change

State law indicates that temporary medical hardship dwellings should be processed under a conditional use review, as this use is listed under OAR 660-006-0025(4). As discussed above, temporary medical hardship dwellings are currently processed through an administrative review process. Staff currently applies the general review standards listed under PCZO 177.050 to all conditional use applications. The purpose of this criteria is to ensure that the proposal would not force a significant change or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. Staff already applies PCZO 177.050 to applications for temporary medical hardship dwellings; therefore, changing this process from administrative review to a conditional use review would not alter staff’s evaluation for a temporary medical hardship dwelling. This amendment would change this application from a Type A notification procedure to a Type B notification procedure, as specified in PCZO 111.240. This would require staff to send notice of a complete application to all neighboring property owners located within a 750 foot buffer surrounding the subject property prior to the issuance of the decision. Because this change would be required, staff began processing temporary medical hardship dwellings under a Type B procedure in 2023. Based on the information discussed above, staff finds that this text amendment is a mandatory change.

Temporary Medical Hardship Dwellings: Optional Change

In some instances, temporary medical hardship dwelling applications also require a significant resource management plan if the dwelling would be sited within the inventoried Deer and Elk Habitat Area, which is a Goal 5 protected resource.

Within the Deer and Elk Habitat area, “residential development” is considered a conflicting use. Pursuant to PCZO 182.040(A), when a permitted use in the underlying zone is listed as a conflicting

use, the management plan review type is ministerial. However, pursuant to PCZO 182.040(B), when a conditional use is identified as a conditional use, a public hearing is required.

Since the mandatory change identified above includes changing temporary medical hardship dwellings to be a conditional use rather than an administrative review process, staff recommends that clarifying text be added to the temporary hardship dwelling criteria that specifies the requirements of Chapter 182 are applicable, but are not subject to the public hearing requirements listed in 182.040(B). When PCZO Chapter 182 was adopted, temporary hardship dwellings were not conditional uses. Therefore, staff finds that it was never Polk County's intent to require a public hearing for temporary medical hardship dwellings that are within the Deer and Elk Habitat area. Staff recommends adopting the optional text amendment for temporary hardship dwellings included in Attachments A and B.

Replacement Dwelling: Part Mandatory Changes, Part Optional Changes

The Oregon Legislature recently amended ORS 215.291 through the passage of House Bill 2192 (2023), which pertains to replacement dwellings in resource zones. The proposed changes would include updating the replacement dwelling criteria for Polk County's EFU and TC zones, while updates to the Farm/Forest zone would be completed through a future legislative amendment process that focuses on updates PCZO Chapter 138.

Staff has identified a discrepancy in ORS 215.291(2)(b)(C), which may require a future legislative correction. ORS 215.291(2)(b)(C) states:

(2) For replacement of a lawfully established dwelling under this section:

(b) The replacement dwelling:

(C) Must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:

(i) The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or

(ii) No statewide map of wildfire risk has been adopted.

These criteria reference a "statewide map of wildfire risk" described in ORS 477.490 and has additional development standards for properties located within the "high" and "extreme" risk categories. However, the map described in ORS 477.490 is called a "statewide wildfire hazard map" and does not include an "extreme" risk category, but rather only has three risk categories including "low", "moderate", and "high". Staff reviewed a draft of this map and found that Polk County does not contain any "high" wildfire risk areas. For these reasons, staff recommends that the amended criteria found in ORS 215.291(2)(b)(C) not be adopted locally at this time. Instead, staff can apply this statute directly as a condition of development that would require the applicant to determine the applicability of these standards at the time of development.

Staff recommends that all other mandatory changes found in ORS 215.291 be adopted to provide consistency with State law. The replacement dwelling criteria currently found in PCZO Chapters 136 and 177 is both more restrictive and less restrictive than State law and the proposed changes would provide parity.

Home Occupations: Optional Change

PCZO 177.040(A) currently permits home occupations that are operated by a resident of the property in which the business is located, subject to review and approval of a conditional use permit. Home occupations are authorized by the State pursuant to ORS 215.448 and OAR 660-006-0025(4)(s). State law currently authorizes home occupations to be operated by a resident or an employee of a resident of the property on which the business is located.

Under the current criteria listed in PCZO 177.040(A), home occupations must be operated by a resident of the property in which the business is located, but may employ up to five (5) employees.

This proposed amendment would authorize home occupations to be operated by an employee of the resident, although, it could not result in any additional employees and would not permit any uses or a size and scale that could not otherwise be permitted under the current criteria. Based on this information, staff finds that PCZO 177.040(A) could be interpreted as being more restrictive than State law. For these reasons, staff recommends adopting the proposed text amendment, as shown in Attachment B.

New Single Family Accessory Dwelling Unit to Support Family Forestry: Optional Change

Pursuant to ORS 215.757 and OAR 660-006-0027(9), counties may choose to allow a new single family accessory dwelling unit to support family forestry in the TC zone subject to a review and approval when the dwelling would be occupied by an owner or a relative of the owner to assist with the forestry operation on the property. The PCZO does not currently list this as a permitted use in the TC zone. Adopting this text amendment would authorize single family accessory dwelling units to support family forestry in the TC zone. To provide clear parameters regarding the manner in which this use may be authorized in the TC zone, staff recommends adopting this text amendment, as shown in Attachment B.

A land division to preserve open space or a park: Optional Change

Pursuant to ORS 215.783 and OAR 660-006-0026(2)(e), counties may choose to adopt standards to allow land divisions to preserve open space or a park in the TC zone. A land division under this criteria would require the purchaser of one of the resulting parcels to be a provider of public parks or open space, or a not-for-profit land conservation organization. Land divisions under this section would still be subject to the partition standards listed in Polk County Subdivision and Partition Ordinance (PCSO) Chapter 91. For these reasons, staff recommends adopting this text amendment, as shown in Attachment B.

Period of Validity for Residential Uses: Mandatory Change

Currently, the PCZO states that land use approvals for residential uses are valid for four (4) years. A single two (2) year extension to this period of validity may be approved upon submission of a written request for an extension prior to the expiration of the approval.

Pursuant to OAR 660-003-00140(5), a permit approved for residential development on agricultural or forest land outside of an urban growth boundary may receive an additional five (5) one-year extensions upon written requests prior to the expiration of the previous extension. Such extensions may only be approved when 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 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. The proposed text amendments would allow the County to grant applicants additional extensions for residential land use applications. For these reasons, staff recommends adopting this text amendment, as shown in Attachment B.

Land Division Requirements: Optional Change

Currently, land partitions in the TC zone must be exercised within two (2) years of the effective date pursuant to PCZO 177.060(F). Staff has not found any provisions in state law which require the period of validity for land partitions in the TC zone to be two (2) years. In this way, the PCZO is more restrictive than state law. Adopting the proposed text amendments would allow the County to give applicants more or less time to exercise approved land divisions. For these reasons, staff recommends adopting this text amendment, as shown in Attachment B.

General Findings: The recommended amendments to PCZO 136 and 177, which would comply with and implement the applicable amendments to State law, are included as Attachments A and B. Consequently, this update process would be consistent with ORS 197.646(1). An exception to the Oregon Statewide Planning Goals is not required to approve any of these amendments. Staff concludes that the proposed text amendments to the PCZO would comply with this criterion.

(B) Conformance with the Comprehensive Plan (PCCP) goals, policies and intent, and any plan map amendment criteria in the plan; [PCZO 115.060(B)]

Findings: The Polk County Comprehensive Plan (PCCP) is implemented by the provisions in the PCZO and Polk County Subdivision and Partition Ordinance (PCSO). Section 7 of the PCCP, Implementation Techniques, states: “in theory, the zoning ordinance is a legislative expression of the Comprehensive Plan and must satisfy certain standards set out by statute.” The PCCP is implemented within the bounds provided by State law. The PCCP can set goals and policies, which through implementation by the PCZO or PCSO, are more restrictive than State law. However, the provisions of the PCZO or PCSO may not be less restrictive than State law. Where Polk County requirements and ORS conflict, the County is required to apply the more restrictive of the two standards.

As discussed above, ORS 197.646 requires that Polk County update its local code to implement changes to State law. Until such changes are made, the County must implement the new provisions of State law directly. Planning Staff is currently applying State law directly to applications for many of the proposed changes. In light of the changes to State law, Polk County has an opportunity to evaluate and consider adopting these changes to PCZO Chapter 136 and 117. As discussed, some of these changes are required and other changes are optional. Many of the changes are not substantive but are rather intended to provide parity between the local ordinance and the language found in State law.

The proposed text amendments would include changes to PCZO 177.030, which pertains to uses that are outright permitted in the TC zone. These changes are mandatory and would add the language from ORS Chapter 215 and OAR Chapter 660 Division 6 verbatim in order to provide parity with State law. The intent of this is to afford citizens the right to uses that have little or no impact on neighboring properties without requiring a land use application or license. By adopting the language found in State law verbatim, the County would be permitting all such uses that are outright permitted uses and authorized by ORS Chapter 215 and OAR Chapter 660, Division 6. The County does not have deference over any of these changes.

The proposed text amendments would also include changes to PCZO 136.040 and 177.035, which pertain to uses that are subject to administrative review land use application. Similar to PCZO 136.030, these changes are mandatory and are intended to provide parity with State law by adopting the language found in the applicable ORSs and OARs verbatim. Many of these changes have been applied by County staff directly to land use applications. Therefore, the intent of these changes is simply to add the language from State law to the local ordinance rather than applying the provisions directly from State law.

The proposed text amendments could include changes to PCZO 136.050 and 177.040, 177.060, and 177.070, which are uses that the county may be more restrictive in implementing. Changes to these sections that are more restrictive than State law are not mandatory; however, the County may not be less restrictive than State law. As discussed in the previous section, the Planning Commission has made a recommendation to the Board of Commissioners regarding the adoption of each of these changes to the PCZO as provided in Attachments A and B. The proposed amendments to the PCZO were designed to directly implement State law and adopt uses that are not currently permitted by the PCZO. The Board of Commissioners could choose to adopt more restrictive standards in such cases where the Planning Commission has recommended adoption.

Conformance with specific PCCP goals, policies and intent are discussed below.

1. **Polk County will strive to permit those uses that have little or no impact on neighboring properties without requiring a land use determination or limited land use determination.** [PCCP Section 2, Element A, Goal 1.3]
2. **Polk County will permit those farm and nonfarm uses in agricultural areas authorized by Oregon Revised Statutes Chapter 215 and Oregon Administrative Rules Chapter 660, Division 33.** [PCCP Section 2, Element B, Agricultural Lands

Policy 1.4]

- 3. Polk County will permit farm-related and non-farm residential use in agricultural areas consistent with Oregon Revised Statutes Chapter 215 and Oregon Administrative Rules Chapter 660, Division 33.** [PCCP Section 2, Element B, Agricultural Lands Policy 1.6]

Findings: As discussed, some of the proposed text amendments would directly implement ORS Chapter 215 and OAR Chapter 660, Division 33. These text amendments would be consistent with PCCP Section 2, Element B, Policy 1.4, which states that Polk County will permit those farm and nonfarm uses in agricultural areas authorized by ORS Chapter 215 and OAR 660-033. The proposed text amendments to PCZO Chapter 136 for hardship dwellings in the EFU zone would also be consistent with PCCP Section 2, Element B, Agricultural Lands Policy 1.6, which states that Polk County will permit farm-related and non-farm residential use in agricultural areas consistent with Oregon Revised Statutes Chapter 215 and Oregon Administrative Rules Chapter 660, Division 33. In addition, the required text amendments, specifically the outright permitted uses listed in PCZO 136.030, would be consistent with PCCP Section 2, Element A, Goal 1.3, which states Polk County will strive to permit those uses that have little or no impact on neighboring properties without requiring a land use determination or limited land use determination.

- 4. Polk County will discourage the development of nonfarm uses in agricultural areas.** [PCCP Section 2, Element B, Agricultural Lands Policy 1.5]

Findings: The proposed text amendments would include amendments to nonfarm uses. PCCP Section 2, Element B, Agricultural Lands Policy 1.5 is intended to discourage nonfarm uses in the EFU zone, although, it is acknowledged that some nonfarm uses are permitted subject to review and approval of an administrative or conditional use application. As mentioned, in such cases where additional nonfarm uses could be permitted or where there have been changes to State law pertaining to nonfarm uses, staff has designed the proposed amendments to the PCZO to directly implement State law. Because such nonfarm uses are subject to review and approval from the Planning Division, limitations and conditions can be imposed to limit the impacts of those nonfarm uses. For this reason, staff finds the proposed text amendments would be consistent with PCCP Section 2, Element B, Agricultural Lands Policy 1.5.

- 5. Polk County shall zone forest lands for uses allowed pursuant to Oregon Administrative Rules Chapter 660, Division 6. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in Oregon Revised Statute 527.722, Polk County shall allow in the forest environment the following general types of uses:**
- a. Uses related to, and in support of, forest operations;
 - b. Uses to conserve soil, water and air quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate for the forest lands;
 - c. Locally dependent uses such as communication towers, mineral and aggregate resources use, etc.;
 - d. Forest management dwellings as provided for in Oregon Administrative Rule 660-06-027; and e. Other dwellings under prescribed conditions. [PCCP Section 2, Element C, Forest Lands Policy 1.4]
- 6. Polk County will permit new dwellings and structures on designated forest lands consistent with Oregon Revised Statutes Chapter 215 and Oregon Administrative Rules Chapter 660, Division 6.** [PCCP Section 2, Element C, Forest Lands Policy 1.5]

Findings: As previously discussed, the proposed text amendments would directly implement Chapter 215 and OAR Chapter 660, Division 06 for uses in the TC zone. These text amendments

would be consistent with PCCP Section 2, Element C, Forest Lands Policies 1.4 and 1.5, which state that Polk County will permit those uses, including the new Single Family Accessory Dwelling Unit to Support Family Forestry Use, on forest lands authorized by ORS Chapter 215 and OAR 660-006.

- 7. Polk County shall provide the opportunity to establish single-family dwellings on designated forest lands that comply with lot-of-record provisions established under state law consistent with Oregon Revised Statutes, Chapter 215, and Oregon Administrative Rules, Chapter 660, Division 6.** [PCCP Section 2, Element C, Forest Lands Policy 1.6]

Findings: The proposed text amendments would include amendments to lot-of-record dwelling criteria listed in PCZO 177.070(A) in order to provide conformity with ORS Chapter 215 and OAR Chapter 660, Division 06. These text amendments would be consistent with PCCP Section 2, Element C, Forest Lands Policy 1.6 which states that Polk County shall provide the opportunity to establish single-family dwellings on forest lands that comply with lot-of-record provisions found in ORS Chapter 215 and OAR Chapter 660, Division 06.

- 8. Polk County will review all requests for the division of land in forest land areas and will permit only those which meet the following criteria:**
- a. For forest operations and practices, the minimum lot size will be at least 80 acres.**
 - b. For non-forest parcels, the proposed division is consistent with Oregon Revised Statutes, Chapter 215, and Oregon Administrative Rules, Chapter 660, Division 6 and complies with all applicable requirements of the zoning and partitioning ordinances.** [PCCP Section 2, Element C, Forest Lands Policy 1.7]

Findings: Some of the proposed text amendments would directly implement ORS Chapter 215 and OAR Chapter 660, Division 06 by providing parity between the language in these chapters, and the PCZO. The proposed text amendments also include a new set of criteria under which an applicant could divide their land to preserve open space or a park in the TC zone pursuant to OAR 660-006-0026(2)(e). These text amendments would be consistent with PCCP Section 2, Element C, Forest Lands Policy 1.7, which states that Polk County will only permit land division requests in forest land when the minimum parcel size is at least 80 acres or the proposed division is consistent with ORS Chapter 215 and OAR Chapter 660, Division 06.

- (C) That the proposed change is in the public interest and will be of general public benefit; and**

Findings: The purpose of this legislative amendment is to update the PCZO in order to reflect changes in State law or discrepancies found between State law and the PCZO. The proposed amendments would be in the public interest because they would provide continuity between the requirements of State law and the PCZO. Currently, the Planning Division must apply ORS 215, OAR Chapter 660 Division 6, and OAR Chapter 660 Division 33 directly to some types of land use applications. This situation makes it difficult for applicants and property owners to understand what provisions apply to their property. The proposed text amendments would resolve that issue. This continuity would benefit both applicants and other property owners seeking to understand their property rights.

This process also provides the opportunity for the Board of Commissioners to consider how to regulate specific optional uses where the county can be more restrictive than State law. For those optional changes discussed in this report, the Board of Commissioners could adopt the text amendments as proposed by Staff and recommended by the Planning Commission, apply those text amendments with further restrictions, or choose to not adopt the text amendments. In some cases, there have been changes in State law to optional uses which have resulted in the PCZO being less restrictive in some sections. Although these uses are optional, the changes are required to be

adopted in order to continue to be in compliance with State law. For such changes, the Board of Commissioners shall adopt those changes as required to no longer be less restrictive than State law, which would alleviate the need to apply State law directly to land use applications.

Staff believes that adopting the language from State law directly rather than being more restrictive than State law would be in the public interest and of general public benefit because it remove certain restrictions and would afford property owners certain property rights that are authorized by the State and which are not currently permitted in the TC zone. As discussed above, staff and the Planning Commission have also recommended that some optional changes should not be adopted. For those changes, staff believes that adoption would be unnecessary and it would be in the public interest and would be of general public benefit to not adopt those changes at this time. Staff's and the Planning Commission's recommendations on the specific optional changes are discussed in further detail above.

(D) Compliance with the provisions of any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land.

Findings: Polk County has adopted intergovernmental agreements (IGAs) with each of the cities that have urban growth boundaries (UGB) that extend outside of city limits and into Polk County's planning jurisdiction. These cities are Salem, Dallas, Monmouth, Independence, and Willamina. The Falls City UGB is entirely located within city limits; therefore, Polk County does not have an IGA regarding UGB land use management with Falls City.

The proposed text amendments to the PCZO would amend the standards for some uses that are outright permitted and some uses that are subject to review and approval of an administrative review or conditional use application in the EFU and TC zones. While most properties in the UGB are zoned Suburban Residential (SR), where these text amendments would not apply, some properties in UGBs are zoned EFU. None of the proposed text amendments would impact the existing terms of any IGA's with any cities. Polk County will continue to provide notice to cities when the county receives land use applications for property located within an adopted UGB.

Staff finds that the proposed text amendments would comply with this criterion.

**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:

- (1) 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. [Amended by Ordinance 24-02]

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). [Amended by Ordinance 24-02]

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

Additions are double underlined

Deletions are in ~~strikethrough~~

SINGLE-FAMILY RESIDENCES	AUTHORIZATION
Forest land "Lot of Record" Dwelling	AR
Large Tract Forest land Dwelling	AR
"Template" Forest land Dwelling	AR
Temporary Dwelling for Medical Hardship	AR CUP
Caretaker Residence for Parks and Hatcheries	P
Replacement Dwelling	AR
Accessory Dwelling Unit to Support Family Forestry	AR
COMMERCIAL	AUTHORIZATION
Home Occupation, per ORS 215.448	CUP
Destination resorts pursuant to ORS 197.435 to 197.465 7 and Statewide Planning Goal 8	P

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. [~~Amended by Ordinance 24-02~~]
- (~~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.
- [~~Amended by Ordinance 24-02~~]

- (~~FI~~) *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. [Amended by Ordinance 24-02]
- (GK) *Relative* means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin. [ORS 215.283(1)(e)(A)]
- (HL) *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.~~~~
- ~~(e) 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. [Amended by Ordinance 24-02]
- (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)(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]

- (ED) 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 is 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 ~~No~~ 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) ~~o~~ 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. [Amended by Ordinance 24-02]
- (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. [Amended by Ordinance 24-02]

- (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. ~~Amended by Ordinance 24-02~~
- (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). [Amended by Ordinance 24-02]

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. [Amended by Ordinance 24-02]
- (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(CEB);
- (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
 - (3) ~~4) Shall~~May not result in a parcel of less than 35 acres, unless the purpose of the land division is to ~~except:~~
 - (a) ~~Where the purpose of the land division is to~~ Facilitate an exchange of lands involving a governmental agency, or
 - (b) ~~Where the purpose of the land division is to~~ 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) ~~5) 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.
 - (6) The property owner shall also record a deed restriction in the office of the Polk County Clerk as required by Section 177.120.
 - (7) 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.

(8) 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. [Amended by Ordinance 24-02]

~~(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. [Amended by Ordinance 24-02]

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) Since prior to January 1, 1985; or
 - (b) The owner may also qualify if the property was inherited by devise or by intestate succession 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.
 - (2) The tract on which the dwelling will be sited does not include a dwelling is currently vacant;
 - (4) If 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~~

(7) ~~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 are consolidated into a single lot or parcel when the dwelling is allowed unit of land.~~

(8) 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. [Amended by Ordinance 24-02]~~

(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 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 subsections 177.070(C).~~
- (78) ~~Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192.~~
- (89) ~~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~~
- (910) ~~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. [Amended by Ordinance 23-01 and 24-02]~~

(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 subtract 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. 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.~~
- (79) ~~Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192.~~

- (810) 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
- (911) 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. [Amended by Ordinance 23-01 and 24-02]

(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)(c).
- (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. [Amended by Ordinance 24-02]

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). [Amended by Ordinance 24-02]

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)]