



### MEMORANDUM

**TO:** Board of Commissioners  
**FROM:** Michael Burns, Assistant Planner  
**DATE:** January 12, 2023  
**SUBJECT:** Updates to the Polk County Zoning Ordinance to be consistent with changes in State law.

**Tuesday Agenda – January 17, 2023**

#### RECOMMENDATION:

Planning staff recommends that the Board of Commissioners direct staff to prepare an ordinance to adopt updates to Polk County Zoning Ordinance (PCZO) Chapters 136, 138, and 177, in order to bring those Chapters into compliance with changes found in State law.

#### ISSUE:

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

#### BACKGROUND:

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

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

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

- Currently, PCZO 136.040(Z) and 138.050(K) permits churches within the EFU, FF and FFO Zoning Districts, but they are subject to an administrative review land use application. ORS 215.283(1)(a) and ORS 215.441(2) amended criteria for churches, making it clear that churches are outright permitted, but are subject to certain development standards. The amendments made to implement ORS 215.441 are not intended to adopt additional development standards for churches, but are to provide

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

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

Staff has prepared draft versions of amended sections PCZO Chapters 136, 138, and 177 that reflect these changes, which are included as Exhibits A - C.

PCZO 111.215 allows the County to amend the PCZO text without holding a public hearing or written findings when the amendments are solely for the purpose of conforming the ordinance to new requirements in State law. Ordinance text amendments can be adopted on the Board of Commissioner's Consent agenda. Utilizing this provision would result in significant cost savings to the County when compared to taking these amendments through the legislative amendment process.

Staff concludes that updating the PCZO to be consistent with changes in State law would be in the public interest because the proposed amendments would provide continuity between the requirements of State law and the PCZO.

#### **DISCUSSION / ALTERNATIVES:**

1. Determine that adopting updates to the Polk County Zoning Ordinance to be consistent with State law would be in the public interest and of general public benefit and direct staff to prepare an ordinance for adoption by the Board through the consent agenda; or
2. Other.

#### **FISCAL IMPACTS:**

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

#### **ATTACHMENTS:**

EXHIBIT A - Draft Proposed Amendments to PCZO Chapter 136: Exclusive Farm Use Zone

EXHIBIT B - Draft Proposed Amendments to PCZO Chapter 138: Farm Forest and Farm Forest Overlay Zones

EXHIBIT C - Draft Proposed Amendments to PCZO Chapter 177: Timber Conservation Zone

EXHIBIT D - Applicable ORS and OAR criteria

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

Additions are double underlined

Deletions are in ~~strikethrough~~

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

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

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

- (K) Wildlife Habitat Conservation and Management Plan pursuant to ORS 215.800 to 215.808. Churches and cemeteries in conjunction with churches pursuant to ORS 215.283(1)(a). The applicant shall obtain a permit that is subject to ministerial review from the Polk County Planning Division prior to the establishment of a church or a cemetery in conjunction with churches.
- (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:
- (a) Worship services.
  - (b) Religion classes.
  - (c) Weddings.
  - (d) Funerals.
  - (e) Meal programs.
  - (f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.
  - (g) Providing housing or space for housing in a building or buildings that are detached from the place of worship, provided:
    - (i) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;
    - (ii) The real property is in an area zoned for residential use that is located within the urban growth boundary; and
    - (iii) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.
- (2) A county may:
- (a) Subject real property described in Section 136.030(K)(1) to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or
  - (b) Prohibit or restrict the use of real property by a place of worship described in Section 136.030(K)(1) if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in Section 136.030(K)(1).

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

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

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

- (1) The dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the permitting authority:
- (a) Finds to the satisfaction of the permitting authority that the dwelling to be altered, restored or replaced has, or formerly had:
    - (i) Intact exterior walls and roof structure;
    - (ii) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
    - (iii) Interior wiring for interior lights; and
    - (iv) A heating system; and
  - ~~(b) Finds that the dwelling was assessed as a dwelling for purposes of ad valorem taxation for the lesser of:~~
    - ~~(i) The previous five property tax years unless the value of the dwelling was eliminated as a result of the destruction, or demolition in the case of restoration, of the dwelling; or~~
    - ~~(ii) From the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010 unless the value of the dwelling was eliminated as a result of the destruction, or demolition in the case of restoration, of the dwelling.~~
  - (b) If the dwelling was removed, destroyed or demolished:
    - (i) The dwelling's tax lot does not have a lien for delinquent ad valorem taxes; and
    - (ii) Any removal, destruction or demolition occurred on or after January 1, 1973;
  - (c) If the dwelling is currently in such a state of disrepair that the dwelling is unsafe for occupancy or constitutes an attractive nuisance, the dwelling's tax lot does not have a lien for delinquent ad valorem taxes; or
  - (d) A dwelling not described in subparagraph (b) or (c) of this paragraph was assessed as a dwelling for purposes of ad valorem taxation:
    - (i) For the previous five property tax years; or
    - (ii) From the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.
- ~~(2) The dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the dwelling meets the requirements of subsection (1)(a) of this section, the dwelling does not meet the requirement of subsection (1)(b) of this section, and the applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner.~~
- (3)(2) For replacement of a lawfully established dwelling under ORS 215.283 (1)(p) this section:
- (a) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
    - (i) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or

- (ii) If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued.
  - (b) The replacement dwelling:
    - (i) May be sited on any part of the same lot or parcel.
    - (ii) Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
  - (c) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
- ~~(4)(3)~~ Notwithstanding subsection ~~(3)(b)(i)~~ of this section, the replacement dwelling must be sited on the same lot or parcel; subsection 5 of this section applies when a replacement dwelling under 215.283 (1)(p) qualifies for replacement:
- ~~(a) Under subsection (1) of this section because the dwelling formerly had the features described in subsection (1) of this section; or~~
  - ~~(b) Under subsection (2) of this section.~~
- ~~(5) The replacement dwelling must be sited on the same lot or parcel:~~
- ~~(a) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and~~
  - ~~(b) If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.~~
- ~~(6)(4)~~ The County Planning Director, or the Director's designee, shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under subsection ~~(3)(2)~~ of this section, including a copy of the deed restrictions filed under subsection ~~(3)(2)(c)~~ of this section.
- ~~(7)(5)~~ If an applicant is granted a deferred replacement permit under this section:
- (a) The deferred replacement permit:
    - (i) Does not expire but, notwithstanding subsection ~~(3)(2)(a)(i)~~ of this section, the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and
    - (ii) May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

- (b) The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
- (8) As used in this section, “improperly removed” means, with respect to a dwelling removed from the tax roll, that:
  - (a) ~~The dwelling has taxable value in its present state, or had taxable value when the dwelling:~~
    - (i) ~~Was first removed from the tax roll; or~~
    - (ii) ~~Was destroyed by fire or other act of God; and~~
    - (iii) ~~The county stopped assessing the dwelling even though the current owner did not request removal of the dwelling from the tax roll.~~

- Notes:
- (1) A replacement dwelling permit that is issued under ORS 215.283(1)(p) is not subject to the time to act limits of ORS 215.417 [OAR 660-0033-0130(8)(d)(e)(B)]
  - (2) These temporary provisions to ORS 215.283~~291~~ sunset on January 2, 2024. [Amended by Ordinance 18-01 and 22-XX]

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

- ~~(Z) Churches and Associated Cemeteries consistent with ORS 215.441 [ORS 215.283(1)(a)]. New churches and associated cemeteries are not authorized on lands classified as high value. New churches and associated cemeteries on not high value farmland, or the expansion of existing churches and associated cemeteries on all farmlands, shall be subject to the standards listed in Section 136.065. [Amended by Ordinance 11-03]~~
- (AA)(Z) Firearms training facility as provided in ORS 197.770, subject to the standards listed in Section 136.065.



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

Additions are double underlined

Deletions are in ~~strikethrough~~

**138.015 DEFINITIONS**

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

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

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



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

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

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

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

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

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

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

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

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

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

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

|            |     |           |
|------------|-----|-----------|
| Youth Camp | CUP | 090(B)(1) |
|------------|-----|-----------|

\*\* Use requires a determination of soil classes

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

**RESOURCE USES**

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

**COMMERCIAL**

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

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

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

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

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

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

## MINERAL AND AGGREGATE OPERATIONS

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

## TRANSPORTATION

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

## UTILITIES AND SOLID WASTE DISPOSAL FACILITIES

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

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

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

- ~~(X)~~(W) Uninhabitable Structures Accessory to Fish and Wildlife Enhancement.
- ~~(Y)~~(X) Private Fee Hunting Operations without any accommodations.
- ~~(Z)~~(Y) Caretaker Residence for a Public Park or Public Fish Hatchery.
- ~~(AA)~~(Z) Firearms Training Facility pursuant to ORS 197.770.
- (AA) Churches and cemeteries in conjunction with churches pursuant to ORS 215.283(1)(a). The applicant shall obtain a permit that is subject to ministerial review from the Polk County Planning Division prior to the establishment of a church or a cemetery in conjunction with churches.
- (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:
- (a) Worship services.
  - (b) Religion classes.
  - (c) Weddings.
  - (d) Funerals.
  - (e) Meal programs.
  - (f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.
  - (g) Providing housing or space for housing in a building or buildings that are detached from the place of worship, provided:
    - (i) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;
    - (ii) The real property is in an area zoned for residential use that is located within the urban growth boundary; and
    - (iii) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.
- (2) A county may:
- (a) Subject real property described in Section 138.040(BB)(1) to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or



- (b) Prohibit or restrict the use of real property by a place of worship described in Section 136.030(K)(1) if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in Section 138.040BB)(1).

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

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

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

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

### **RESIDENTIAL USES**

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

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

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

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

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

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

- (b) If the dwelling was removed, destroyed or demolished:
  - (i) The dwelling's tax lot does not have a lien for delinquent ad valorem taxes; and
  - (ii) Any removal, destruction or demolition occurred on or after January 1, 1973;
- (c) If the dwelling is currently in such a state of disrepair that the dwelling is unsafe for occupancy or constitutes an attractive nuisance, the dwelling's tax lot does not have a lien for delinquent ad valorem taxes;  
or
- (d) A dwelling not described in subparagraph (b) or (c) of this paragraph was assessed as a dwelling for purposes of ad valorem taxation:
  - (i) For the previous five property tax years; or
  - (ii) From the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.

~~(2)~~ The dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the dwelling meets the requirements of subsection (1)(a) of this section, the dwelling does not meet the requirement of subsection (1)(b) of this section, and the applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner.

~~(3)~~(2) For replacement of a lawfully established dwelling under ORS 215.283 ~~(1)(p)~~this section:

- (a) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
  - (i) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
  - (ii) If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued.
- (b) The replacement dwelling:
  - (i) May be sited on any part of the same lot or parcel.
  - (ii) Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
- (c) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

~~(4)(3)~~ Notwithstanding subsection ~~(3)(b)(i)~~ of this section, ~~subsection 5 of this section applies when a replacement dwelling under 215.283 (1)(p) qualifies for replacement:~~

~~(a) Under subsection (1) of this section because the dwelling formerly had the features described in subsection (1) of this section; or~~

~~(b) Under subsection (2) of this section.~~

~~(5) The replacement dwelling must be sited on the same lot or parcel:~~

~~(a) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and~~

~~(b) If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.~~

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

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

~~(a) The deferred replacement permit:~~

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

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

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

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

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

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

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

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

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

(2) These temporary provisions to ORS 215.283~~291~~ sunset on January 2, 2024. [Amended by Ordinance 18-01 and ~~21-XX~~]

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

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

- (1) The hardship is certified by a licensed physician;
- (2) The manufactured home or existing building converted to residential use is connected to the existing sewage disposal system; except when the County Sanitarian finds the existing system to be inadequate and that it cannot be repaired or is not physically available; If the manufactured home will use a public sanitary system, such condition will not be required.
- (3) The applicant agrees to renew the permit every two years.
- (4) Within 3 months of the end of the hardship, the manufactured dwelling, recreational vehicle, or building converted to a temporary residential use, shall be removed, demolished, or converted to an approved nonresidential use.
- (5) The dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (6) The dwelling will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.
- (7) As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.
- (8) A temporary residence approved under this section is not eligible for replacement under Section 138.050(~~F~~)(L).

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

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

## DWELLINGS

- (3) Small Tract "Template" Dwelling [OAR 660-006-0027(3)]. A dwelling may be authorized on a tract that meets the following criteria:
  - (a) The tract is less than 60 acres in size;
  - (b) The tract meets one of the following:
    - (i) The tract is composed of soils that are capable of annually producing more than 85 cu. ft. per acre of wood fiber if:

- (A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible; and
  - (B) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
- (c) The tract is composed of soils that are capable of annually producing 50 to 85 cu. ft. per acre of wood fiber if:
    - (i) All or part of at least seven (7) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible; and
    - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
  - (d) The tract is composed of soils that are capable of annually producing 0 to 49 cu. ft. per acre of wood fiber if:
    - (i) All or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible; and
    - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
  - (e) The tract contains no dwellings on other lots or parcels that make up the tract;
  - (f) The tract is not subject to deed restrictions established under OAR 660-006-0027(6) and Section 138.080(B)(2)(b) of this Ordinance;
  - (g) Parcels 10 acres or less in size shall not be required to submit a stocking report prior to receiving a permit for the dwelling as authorized by this subsection;
  - (h) Lots or parcels within urban growth boundaries ~~shall~~ may not be used to satisfy the eligibility requirements under subsections 138.080(B)(4)(3);
  - (i) The lot or parcel on which the dwelling will be sited was lawfully established;
  - (j) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
  - (k) Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
  - (l) If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.

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

1. No more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract; and
  2. The lot or parcel qualifies, notwithstanding PCZO 138.080(B)(3)(I) for a dwelling under PCZO 138.080(B)(3).
- (4) Large Tract "Template" Dwelling [OAR 660-006-0027(5)]. A dwelling may be authorized on a tract that meets the following criteria:
- (a) The tract is 60 acres or larger in size;
  - (b) The tract meets one of the following:
    - (i) The tract is composed of soils that are capable of annually producing more than 85 cu. ft. per acre of wood fiber if:
    - (ii) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and
    - (iii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
  - (c) The tract is composed of soils that are capable of annually producing 50 to 85 cu. ft. per acre of wood fiber if:
    - (i) All or part of at least seven (7) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and
    - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
  - (d) The tract is composed of soils that are capable of annually producing 0 to 49 cu. ft. per acre of wood fiber if:
    - (i) All or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160 acre centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and
    - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; and,
  - (e) If the tract is situated such that the road or stream crosses the tract, at least one (1) of the three (3) required dwellings shall be on the same side of the road or stream as the proposed dwelling, and within the 160-acre rectangle or within 1/4 mile from the edge of the tract where the dwelling will be located, but not outside the length of the rectangle.
  - (f) The tract contains no dwellings on other lots or parcels that make up the tract.
  - (g) The tract is not subject to deed restrictions established under OAR 660-006-0027(6) and Section 138.080(B)(2)(b) of this Ordinance;



- (h) Lots or parcels within urban growth boundaries ~~shall~~ may not be used to satisfy the eligibility requirements under subsections 138.080(B)(4);
- (i) The lot or parcel on which the dwelling will be sited was lawfully established;
- (j) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
- (k) Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
- (l) If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract. [Amended by Ordinance 21-XX]

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:

- 3. No more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract; and
- 4. The lot or parcel qualifies, notwithstanding PCZO 138.080(B)(4)(l) for a dwelling under PCZO 138.080(B)(4).

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

[OAR 660-006-0029]. The following standards apply to all new dwellings and structures: [Amended by Ordinance 11-03 and 21-XX]

- (A) ~~All new dwellings and structures authorized under the provisions of this Ordinance are subject to the siting standards in this Section. Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify the building site which:~~ The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. Dwellings and structures shall be sited on the parcel so that:
  - (1) ~~Has the least impact on nearby or adjacent lands zoned for forest or agricultural use~~ They have the least impact on nearby or adjoining forest or agricultural lands;
  - (2) ~~Ensures that forest operations and accepted farming practices will not be curtailed or impeded~~ The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
  - (3) ~~Minimizes the amount of forest lands used for the building sites, road access and service corridors~~ The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
  - (4) ~~Consistent with the provisions of Section 177.090 minimizes the risk associated with wildfire.~~ The risks associated with wildfire are minimized.
  - (5) ~~Is consistent with other requirements contained in the Comprehensive Plan or implementing ordinances, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat.~~
- (B) Siting criteria satisfying subsection (A) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.



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

- (1) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
- (2) A water use permit issued by the Water Resources Department for the use described in the application; or
- (3) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.

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

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

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

**138.120 FIRE SITING STANDARDS FOR DWELLINGS AND STRUCTURES** [OAR 660-006-0035]. The following standards apply to all new dwellings and structures: [Amended by Ordinance 11-03 and 21-XX]

- (A) If a water supply is available and suitable for fire protection, such as a swimming pool, pond, stream, or lake, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
- (B) Road access to the structure shall meet the County road design standards.
- (C) A primary fuel break shall be constructed on land surrounding the dwelling that is owned and controlled by the owner, no less than 30 feet wide. The primary fuel break could include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall also be removed.
- (D) A secondary fuel break shall also be constructed, on land surrounding the dwelling that is owned or controlled by the owner, of not less than 50 feet outside the primary fuel break. Dead fuels shall be removed from the fuel break area. It may be advisable to increase the secondary fuel break if the dwelling is located on a slope.
- (C) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.
- (E) No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.
- (F) The applicant shall obtain an address from the County, and shall display that number in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less than three inches in height, in a contrasting or visible color and shall comply with all other applicable standards for signs.
- (G)(D) The dwelling shall meet the following requirements:
  - (1) The dwelling has a fire retardant roof.
  - (2) The dwelling will not be sited on a slope of greater than 40 percent.

- (3) Evidence is provided that the domestic water supply is from a source authorized by the Water Resources Department and not from a Class F stream as designated by the State Board of Forestry.
- (4) The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract.
- ~~(5) If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district.~~
- ~~(6)~~(3) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.
- (H) If meeting the requirements of Section 138.120 (H) would be impracticable, alternative means for protecting the dwelling from fire hazards may be considered. The means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions.

DRAFT

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

Additions are double underlined

Deletions are in ~~strikethrough~~

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

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

**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]

- (D) A lawfully established dwelling that is destroyed by wildfire may be replaced within 60 months when:
  - (1) The county finds, based on substantial evidence, that the dwelling to be replaced contained those items listed at subsection (C)(1) through (5). For the purposes of this subsection, substantial evidence includes, but is not limited to, county assessor data.
  - (2) The property owner of the record at the time of the wildfire may reside on the subject property in an existing building, tent, travel trailer, yurt, recreational vehicle, or similar

accommodation unit replacement has been completed or the time for replacement has expired.

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

**177.070. 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:

- (C) Small Tract "Template" Dwelling [OAR 660-006-0027(3)]. A dwelling may be authorized on a tract that meets the following criteria:
- (1) The tract is less than 60 acres in size;
  - (2) The tract meets one of the following:
    - (a) The tract is composed of soils that are capable of annually producing more than 85 cu. ft. per acre of wood fiber if:
      - (i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract (Note: If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible.); and
      - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
    - (b) The tract is composed of soils that are capable of annually producing 50 to 85 cu. ft. per acre of wood fiber if:
      - (i) All or part of at least seven (7) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract (Note: If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible.); and
      - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
    - (c) The tract is composed of soils that are capable of annually producing 0 to 49 cu. ft. per acre of wood fiber if:
      - (i) All or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract (Note: If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible.); and
      - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
  - (3) The tract contains no dwellings on other lots or parcels that make up the tract.
  - (4) The tract is not subject to deed restrictions established under OAR 660-006-0027(6) and Section 177.070(B)(2) of this Ordinance.



- (1) 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.
- (2) Lots or parcels within urban growth boundaries ~~shall~~ may not be used to satisfy the eligibility requirements under subsections 177.070(C).
- (7) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192.
- (8) Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
- (9) If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract. [Amended by Ordinance 21-XX]

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).

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

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

be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and

- (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; and,
- (3) If the tract is situated such that the road or stream crosses the tract, at least one (1) of the three (3) required dwellings shall be on the same side of the road or stream as the proposed dwelling, and within the 160-acre rectangle or within 1/4 mile from the edge of the tract where the dwelling will be located, but not outside the length of the rectangle.
- (4) The tract contains no dwellings on other lots or parcels that make up the tract.
- (5) The tract is not subject to deed restrictions established under OAR 660-006-0027(6) and Section 177.070(B)(2) of this Ordinance.
- (6) Lots or parcels within urban growth boundaries ~~shall may~~ not be used to satisfy the eligibility requirements under subsections 177.070(C)(D).
- (7) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192.
- (8) Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
- (9) If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract. [Amended by Ordinance 21-XX]

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

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

**177.080. GENERAL SITING STANDARDS FOR DWELLINGS AND STRUCTURES**  
[OAR 660-006-0029]. The following standards apply to all new dwellings and structures: [Amended by

Ordinance 11-03 and 23-XX]

- (A) ~~All new dwellings and structures authorized under the provisions of this Ordinance are subject to the siting standards in this Section. Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify the building site which:~~ The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. Dwellings and structures shall be sited on the parcel so that:
  - (1) ~~Has the least impact on nearby or adjacent lands zoned for forest or agricultural use~~ They have the least impact on nearby or adjoining forest or agricultural lands;
  - (2) ~~Ensures that forest operations and accepted farming practices will not be curtailed or impeded~~ The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;



- (3) ~~Minimizes the amount of forest lands used for the building sites, road access and service corridors~~ The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
- (4) ~~Consistent with the provisions of Section 177.090 minimizes the risk associated with wildfire.~~ The risks associated with wildfire are minimized.
- (5) ~~Is consistent with other requirements contained in the Comprehensive Plan or implementing ordinances, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat.~~

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

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

- (1) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
- (2) A water use permit issued by the Water Resources Department for the use described in the application; or
- (3) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.

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

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

- (1) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in the Department of Forestry administrative rules.
- (2) The Planning Department shall notify the Polk County Assessor of the above condition at the time the dwelling is approved.

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

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

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

Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.

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

**Applicable Oregon Revised Statute (ORS) Sections and Oregon Administrative Rules (OAR) that are the basis for this proposed amendments:**

**ORS 215.291 Alteration, restoration or replacement of lawfully established dwelling; conditions; siting; deferral.**

- (1) A lawfully established dwelling may be altered, restored or replaced under ORS 215.213 (1)(q) or 215.283 (1)(p) if the county determines that:
  - (a) The dwelling to be altered, restored or replaced has, or formerly had:
    - (A) Intact exterior walls and roof structure;
    - (B) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
    - (C) Interior wiring for interior lights; and
    - (D) A heating system; and
  - (b)
    - (A) 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;
    - (B) 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
    - (C) A dwelling not described in subparagraph (A) or (B) 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:
    - (A) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
    - (B) If the dwelling to be replaced is, in the discretion of the county, 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 county that is not less than 90 days after the replacement permit is issued.
  - (b) The replacement dwelling:
    - (A) May be sited on any part of the same lot or parcel.
    - (B) 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) Notwithstanding subsection (2)(b)(A) of this section, a replacement dwelling under this section 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:
    - (A) Does not expire but, notwithstanding subsection (2)(a)(A) 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
    - (B) 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.

**ORS 215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties; rules.**

- (1) The following uses may be established in any area zoned for exclusive farm use:
  - (a) Churches and cemeteries in conjunction with churches.

**ORS 215.441 Use of real property for religious activity; county regulation of real property used for religious activity.**

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

- (e) Meal programs.
  - (f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.
  - (g) Providing housing or space for housing in a building or buildings that are detached from the place of worship, provided:
    - (A) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;
    - (B) The real property is in an area zoned for residential use that is located within the urban growth boundary; and
    - (C) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.
- (2) A county may:
- (a) Subject real property described in subsection (1) of this section to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or
  - (b) Prohibit or restrict the use of real property by a place of worship described in subsection (1) of this section if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in subsection (1) of this section.
- (3) Notwithstanding any other provision of this section, a county may allow a private or parochial school for prekindergarten through grade 12 or higher education to be sited under applicable state law and rules and local zoning ordinances and regulations.
- (4) Housing and space for housing provided under subsection (1)(g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of a building or any residential unit contained in a building from selling or renting any residential unit described in subsection (1)(g)(A) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy. [2001 c.886 §2; 2017 c.745 §7; 2019 c.640 §19]

**ORS 215.750 Alternative forestland dwelling; criteria.**

- (1) As used in this section, “center of the subject tract” means the mathematical centroid of the tract.
- (2) In western Oregon, a governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:
  - (a) Capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:
    - (A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
    - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels;



- (b) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:
  - (A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
  - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels; or
- (c) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:
  - (A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
  - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels.
- (3) In eastern Oregon, a governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:
  - (a) Capable of producing 0 to 20 cubic feet per acre per year of wood fiber if:
    - (A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
    - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels;
  - (b) Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:
    - (A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
    - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels; or
  - (c) Capable of producing more than 50 cubic feet per acre per year of wood fiber if:
    - (A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
    - (B) At least three dwellings existed on January 1, 1993, on the other lots or parcels.
- (4) Lots or parcels within urban growth boundaries may not be used to satisfy the eligibility requirements under subsection (2) or (3) of this section.
- (5) A proposed dwelling under this section is allowed only if:
  - (a) It will comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations and other provisions of law;
  - (b) It complies with the requirements of ORS 215.730;
  - (c) No dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under ORS 215.740 (3) for the other lots or parcels that make up the tract are met;
  - (d) The tract on which the dwelling will be sited does not include a dwelling;



- (e) The lot or parcel on which the dwelling will be sited was lawfully established;
  - (f) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
  - (g) 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
  - (h) 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.
- (6) Except as described in subsection (7) of this section, if the tract under subsection (2) or (3) of this section abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.
- (7) (a) If a tract 60 acres or larger described under subsection (2) or (3) of this section abuts a road or perennial stream, the measurement shall be made in accordance with subsection (6) of this section. 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 and one-fourth 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.
- (b) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings must be on the same side of the road as the proposed dwelling.
- (8) Notwithstanding subsection (5)(a) of this section, if the acknowledged comprehensive plan and land use regulations of a county require that a dwelling be located in a 160-acre square or rectangle described in subsection (2), (3), (6) or (7) of this section, a dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the 160-acre square or rectangle. [1993 c.792 §4(6),(7),(8); 1999 c.59 §58; 2005 c.289 §1; 2019 c.433 §1]

**Note:** Sections 2, 3 and 4, chapter 433, Oregon Laws 2019, provide:

**Sec. 2.** 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 ORS 215.750 (5)(h), for a dwelling under ORS 215.750. [2019 c.433 §2]

**Sec. 3.** (1) The amendments to ORS 215.750 by section 1 of this 2019 Act apply:

(a) On and after the effective date of this 2019 Act [January 1, 2020] in Clackamas, Jackson, Lane and Polk Counties.

(b) On and after November 1, 2021, in Columbia, Coos, Curry, Deschutes, Douglas, Josephine, Linn, Marion, Washington and Yamhill Counties.

(c) On and after November 1, 2023, in Baker, Benton, Clatsop, Crook, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Multnomah, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler Counties.

(2) A county may not apply any administrative rule adopted to implement the amendments to ORS 215.750 by section 1 of this 2019 Act until on or after the applicable date for that county under subsection (1) of this section.

(3) Section 2 of this 2019 Act applies:

(a) On and after the effective date of this 2019 Act in Clackamas, Jackson, Lane and Polk Counties.

(b) On and after November 1, 2021, in Columbia, Coos, Curry, Deschutes, Douglas, Josephine, Linn, Marion, Washington and Yamhill Counties. [2019 c.433 §3]

**Sec. 4.** Section 2 of this 2019 Act is repealed on January 2, 2024. [2019 c.433 §4]

#### **OAR 660-006-0025 Uses Authorized in Forest Zones**

(1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in ORS 527.722, the Commission has determined that five general types of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards in the goal and in this rule. These general types of uses are:

- (a) Uses related to and in support of forest operations;
- (b) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment;
- (c) Locationally-dependent uses, such as communication towers, mineral and aggregate resources, etc;
- (d) Dwellings authorized by ORS 215.705 to 215.757 (ORS 215.757); and
- (e) Other dwellings under prescribed conditions.

(2) The following uses pursuant to the Forest Practices Act (ORS chapter 527) and Goal 4 shall be allowed in forest zones:

- (a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;
- (b) Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation;
- (c) Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities; and
- (d) For the purposes of section (2) of this rule "auxiliary" means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

- (3) The following uses may be allowed outright on forest lands:
- (a) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources;
  - (b) Farm use as defined in ORS 215.203;
  - (c) Local distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups;
  - (d) Temporary portable facility for the primary processing of forest products;
  - (e) Exploration for mineral and aggregate resources as defined in ORS chapter 517;
  - (f) Private hunting and fishing operations without any lodging accommodations;
  - (g) Towers and fire stations for forest fire protection;
  - (h) Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans and public road and highway projects as described in ORS 215.213(1) and 215.283(1);
  - (i) Water intake facilities, canals and distribution lines for farm irrigation and ponds;
  - (j) Caretaker residences for public parks and public fish hatcheries;
  - (k) Uninhabitable structures accessory to fish and wildlife enhancement;
  - (l) Temporary forest labor camps;
  - (m) 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;
  - (n) Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.467 and Goal 8;
  - (o) Alteration, restoration or replacement of a lawfully established dwelling that:
    - (A) Has intact exterior walls and roof structures;
    - (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
    - (C) Has interior wiring for interior lights;
    - (D) Has a heating system; and
    - (E) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling;
  - (p) A lawfully established dwelling that is destroyed by wildfire may be replaced within 60 months when the county finds, based on substantial evidence, that the dwelling to be replaced contained those items listed at subsection (o)(A) through (E). For purposes of this subsection, substantial evidence includes, but is not limited to, county assessor data. The property owner of 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 until replacement has been completed or the time for replacement has expired.

- (q) An outdoor mass gathering as defined in ORS 433.735, subject to the provisions of ORS 433.735 to 433.770;
  - (r) Dump truck parking as provided in ORS 215.311; and
  - (s) An agricultural building, as defined in ORS 455.315, customarily provided in conjunction with farm use or forest use. A person may not convert an agricultural building authorized by this section to another use.
  - (t) Temporary storage site for nonhazardous debris resulting from recovery efforts associated with damage caused by a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610 subject to Department of Environmental Quality requirements and all other applicable provisions of law.
- (4) The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule:
- (a) Permanent facility for the primary processing of forest products that is:
    - (A) 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
    - (B) 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;
  - (b) Permanent logging equipment repair and storage;
  - (c) Log scaling and weigh stations;
  - (d) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation;
  - (e) 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.
    - (A) 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.

(i) 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 paragraph (4)(e)(C) of this rule.

(ii) 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.

(B) 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).

(i) 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.

(ii) 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.

(iii) A plan for removing or converting the temporary campground to an allowed use at the end of the time-frame specified in paragraph (4)(e)(B) 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.

(C) 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.

(D) For applications submitted under paragraph (B) of this rule, the county may find the criteria of section (5) to be satisfied when:

- (i) The Governor has issued an Executive Order declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, *et seq.*
  - (ii) The number of proposed campsites does not exceed 12; or
  - (iii) The number of proposed campsites does not exceed 36; and
  - (iv) 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.
- (f) Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable;
  - (g) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS chapter 520, and not otherwise permitted under subsection (3)(m) of this rule (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS chapter 517;
  - (h) Television, microwave and radio communication facilities and transmission towers;
  - (i) Fire stations for rural fire protection;
  - (j) Commercial utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR chapter 660, division 4;
  - (k) Aids to navigation and aviation;
  - (l) Water intake facilities, related treatment facilities, pumping stations, and distribution lines;
  - (m) Reservoirs and water impoundments;
  - (n) Firearms training facility as provided in ORS 197.770(2);
  - (o) Cemeteries;
  - (p) Private seasonal accommodations for fee hunting operations may be allowed subject to section (5) of this rule, OAR 660-006-0029, and 660-006-0035 and the following requirements:
    - (A) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
    - (B) Only minor incidental and accessory retail sales are permitted;
    - (C) Accommodations are occupied temporarily for the purpose of hunting during either or both game bird or big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
    - (D) A governing body may impose other appropriate conditions.
  - (q) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width;
  - (r) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects;
  - (s) Home occupations as defined in ORS 215.448;
  - (t) Temporary hardship residence in conjunction with an existing dwelling. As used in this section, "hardship" means a medical hardship or hardship for the care of an



aged or infirm person or persons experienced by the existing resident or relative as defined in ORS chapter 215. "Hardship" also includes situations where a natural hazard event has destroyed homes, caused residential evacuations, or both, and resulted in an Executive Order issued by the Governor declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, *et seq.* A temporary residence approved under this section is not eligible for replacement under ORS 215.213(1)(q) or 215.283(1)(p).

- (A) For a medical hardship or hardship for the care of an aged or infirm person or persons experienced by the existing resident or relative as defined in ORS chapter 215 the temporary residence may include a manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building. A manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. Governing bodies shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. Department of Environmental Quality review and removal requirements also apply.
- (B) For hardships based on a natural hazard event described in this subsection, the temporary residence may include a recreational vehicle or the temporary residential use of an existing building. Governing bodies shall review the permit authorizing such temporary residences every two years. Within three months of the temporary residence no longer being necessary, the recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. Department of Environmental Quality review and removal requirements also apply.
- (C) For applications submitted under paragraph (B), the county may find that the criteria of section (5) are satisfied when:
  - (i) The temporary residence is established within an existing building or, if a recreational vehicle, is located within 100 feet of the primary residence; or
  - (ii) The temporary residence is located further than 250 feet from adjacent lands planned and zoned for resource use under Goals 3, 4, or both.
- (u) Expansion of existing airports;
- (v) Public road and highway projects as described in ORS 215.213(2)(p) through (r) and (10) and 215.283(2)(q) through (s) and (3);
- (w) Private accommodations for fishing occupied on a temporary basis may be allowed subject to section (5) of this rule, OAR 600-060-0029 and 660-006-0035 and the following requirements:
  - (A) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - (B) Only minor incidental and accessory retail sales are permitted;
  - (C) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;

- (D) Accommodations must be located within 1/4 mile of fish-bearing Class I waters; and
- (E) A governing body may impose other appropriate conditions.
- (x) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations; and
- (y) An outdoor mass gathering:
  - (A) Of more than 3,000 persons, any part of which is held outdoors and which continues or can reasonably be expected to continue for a period exceeding that allowable for an outdoor mass gathering as defined in ORS 433.735. In addition to the review standards in section (5) of this rule, the county must make findings required by ORS 433.763(1)(c).
  - (B) As defined by ORS 433.735, for which a county decides that a land use permit is required. In addition to findings required by ORS 433.763(1), a county may, when determining review standards, include all, some, or none of the review standards in section (5) of this rule.
- (z) Storage structures for emergency supplies to serve communities and households that are located in tsunami inundation zones, if:
  - (A) Areas within an urban growth boundary cannot reasonably accommodate the structures;
  - (B) The structures are located outside tsunami inundation zones and consistent with evacuation maps prepared by Department of Geology and Mineral Industries (DOGAMI) or the local jurisdiction;
  - (C) Sites where the structures could be co-located with an existing use approved under this section are given preference for consideration;
  - (D) The structures are of a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served;
  - (E) The structures are managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public; and
  - (F) Written notification has been provided to the County Office of Emergency Management of the application for the storage structures.
- (5) A use authorized by section (4) of this rule may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands:
  - (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; and
  - (c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that 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 (4)(e), (m), (s), (t) and (w) of this rule.

- (6) Nothing in this rule relieves governing bodies from complying with other requirement contained in the comprehensive plan or implementing ordinances such as the requirements addressing other resource values (e.g., Goal 5) that exist on forest lands.

**OAR 660-006-0029 Siting Standards for Dwellings and Structures in Forest Zones**

The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. A governing body shall consider the criteria in this rule together with the requirements OAR 660-0060-0035 to identify the building site:

- (1) Dwellings and structures shall be sited on the parcel so that:
  - (a) They have the least impact on nearby or adjoining forest or agricultural lands;
  - (b) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
  - (c) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
  - (d) The risks associated with wildfire are minimized.
- (2) Siting criteria satisfying section (1) of this rule may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.
- (3) The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:
  - (a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
  - (b) A water use permit issued by the Water Resources Department for the use described in the application; or
  - (c) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.
- (4) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
- (5) Approval of a dwelling shall be subject to the following requirements:
  - (a) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in department of Forestry administrative rules;
  - (b) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;

- (c) If the lot or parcel is more than 10 acres in western Oregon or more than 30 acres in eastern Oregon, the property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules;
- (d) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If that department determines that the tract does not meet those requirements, that department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax; and
- (e) The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document 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 or 30.937.

#### **OAR 660-006-0035 Fire-Siting Standards for Dwellings and Structures**

The following fire-siting standards or their equivalent shall apply to all new dwelling or structures in a forest or agriculture/forest zone:

- (1) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
- (2) Road access to the dwelling shall meet road design standards described in OAR 660-006-0040.
- (3) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.
- (4) The dwelling shall have a fire retardant roof.
- (5) The dwelling shall not be sited on a slope of greater than 40 percent.

(6) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

**OAR 660-006-0040 Fire Safety Design Standards for Roads**

The governing body shall establish road design standards, except for private roads and bridges accessing only commercial forest uses, which ensure that public roads, bridges, private roads and driveways are constructed so as to provide adequate access for fire fighting equipment. Such standards shall address maximum grade, road width, turning radius, road surface, bridge design, culverts, and road access taking into consideration seasonal weather conditions. The governing body shall consult with the appropriate Rural Fire Protection District and Forest Protection District in establishing these standards.