

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

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

ORDINANCE NO. 23-01

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

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

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

WHEREAS, HB 3616 (2003) repealed ORS 215.800 to 215.808, which permitted Wildlife Habitat Conservation and Management plans for special assessment programs in PCZO Chapters 136 and 138; and

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

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

THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

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

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

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

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

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

Dated this 10th day of May, 2023 at Dallas, Oregon.

POLK COUNTY BOARD OF COMMISSIONERS

Jeremy Gordon, Chair

Lyle Mordhorst, Commissioner

Craig Pope, Commissioner

Approved as to Form

Morgan Smith
County Counsel

First Reading: _____

Second Reading: _____

Recording Secretary: _____

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

Additions are double underlined

Deletions are in ~~strikethrough~~

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

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

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

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

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

(a) Worship services.

(b) Religion classes.

(c) Weddings.

(d) Funerals.

(e) Meal programs.

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

(2) A county may:

(a) Subject real property described in Section 136.030(K)(1) to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or

(b) Prohibit or restrict the use of real property by a place of worship described in Section 136.030(K)(1) if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in Section 136.030(K)(1). [Amended by Ordinance 23-01]

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

SINGLE-FAMILY RESIDENCES

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

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

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

(i) Intact exterior walls and roof structure;

(ii) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(iii) Interior wiring for interior lights; and

(iv) A heating system; and

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

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

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

- (3)(2) For replacement of a lawfully established dwelling under ORS 215.283 (1)(p) this section:
 - (a) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
 - (i) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
 - (ii) If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued.
 - (b) The replacement dwelling:
 - (i) May be sited on any part of the same lot or parcel.

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

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

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

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

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

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

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

Additions are double underlined

Deletions are in ~~strike through~~

138.015 DEFINITIONS

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

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

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

EXHIBIT B

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

COMMERCIAL	AUTHORIZATION	PCZO
On-site Filming and Accessory Activities for 45-days or less (ORS 215.306).	P	040(L)(K)
Single Day Agri-Tourism/Commercial Event	P	040(N)(M)
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(M)(L) & 050(E)
Commercial Activity In Conjunction with Farm Use	CUP	060(H)

EXHIBIT B

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

MINERAL AND AGGREGATE OPERATIONS	AUTHORIZATION	PCZO
Exploration and Production of Geothermal, gas, oil, and other associated hydrocarbons, (ORS 517.750)	P	040(O)(<u>N</u>)
Exploration for Mineral and Aggregate as defined by ORS 517.750	P	040(P)(<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)

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

EXHIBIT B

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

UTILITIES AND SOLID WASTE DISPOSAL FACILITIES	AUTHORIZATION	PCZO
Utility Facility Service Lines	P	040(V)(<u>U</u>)
Non-Commercial Wind Energy Systems, Meteorological Towers and Photovoltaic Systems	P	040(W)(<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)

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

EXHIBIT B

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

RESIDENTIAL USES	AUTHORIZATION	PCZO
Replacement Dwelling	AR	050(ML)
Replacement of Historic Dwelling	AR	050(NM)
Temporary Hardship Dwelling	AR	050(ON)
Residential Home (ORS 197.660)	CUP	060(PP)
Room and Board Arrangements	CUP	060(QQ)

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

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

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

RESOURCE USES

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

COMMERCIAL

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

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

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

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

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

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

MINERAL AND AGGREGATE OPERATIONS

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

TRANSPORTATION

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

UTILITIES AND SOLID WASTE DISPOSAL FACILITIES

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

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

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

- ~~(X)~~(W) Uninhabitable Structures Accessory to Fish and Wildlife Enhancement.
- ~~(Y)~~(X) Private Fee Hunting Operations without any accommodations.
- ~~(Z)~~(Y) Caretaker Residence for a Public Park or Public Fish Hatchery.
- (AA)(Z) Firearms Training Facility pursuant to ORS 197.770.
- (AA) Churches and cemeteries in conjunction with churches pursuant to ORS 215.283(1)(a). The applicant shall obtain a permit that is subject to ministerial review from the Polk County Planning Division prior to the establishment of a church or a cemetery in conjunction with churches.
- (1) If a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under state law and rules and local zoning ordinances and regulations, a county shall allow the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including:
- (a) Worship services.
 - (b) Religion classes.
 - (c) Weddings.
 - (d) Funerals.
 - (e) Meal programs.
 - (f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education.
- (2) A county may:
- (a) Subject real property described in Section 138.040(AA)(1) to reasonable regulations, including site review or design review, concerning the physical characteristics of the uses authorized under subsection (1) of this section; or
 - (b) Prohibit or restrict the use of real property by a place of worship described in Section 138.040(AA)(1) if the county finds that the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the place of worship described in Section 138.040(AA)(1). [Amended by Ordinance 23-01]

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

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

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

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

RESIDENTIAL USES

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

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

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

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

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

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

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

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

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

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

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

- (ii) From the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.
- ~~(2)~~ The dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the dwelling meets the requirements of subsection (1)(a) of this section, the dwelling does not meet the requirement of subsection (1)(b) of this section, and the applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner.
- (3)(2) For replacement of a lawfully established dwelling under ~~ORS 215.283~~ 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)~~(c)(B)]

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

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

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

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

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

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

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

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

DWELLINGS

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

- (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
- (d) The tract is composed of soils that are capable of annually producing 0 to 49 cu. ft. per acre of wood fiber if:
 - (i) All or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible; and
 - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
- (e) The tract contains no dwellings on other lots or parcels that make up the tract;
- (f) The tract is not subject to deed restrictions established under OAR 660-006-0027(6) and Section 138.080(B)(2)(b) of this Ordinance;
- (g) Parcels 10 acres or less in size shall not be required to submit a stocking report prior to receiving a permit for the dwelling as authorized by this subsection;
- (h) Lots or parcels within urban growth boundaries ~~shall may~~ not be used to satisfy the eligibility requirements under subsections 138.080(B)(4)(3);
- (i) The lot or parcel on which the dwelling will be sited was lawfully established;
- (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)(1) for a dwelling under PCZO 138.080(B)(3). [Amended by Ordinance 23-01]
- (4) *Large Tract "Template" Dwelling [OAR 660-006-0027(5)]*. A dwelling may be authorized on a tract that meets the following criteria:
 - (a) The tract is 60 acres or larger in size;
 - (b) The tract meets one of the following:
 - (i) The tract is composed of soils that are capable of annually producing more than 85 cu. ft. per acre of wood fiber if:
 - (ii) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and

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

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

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

2. The lot or parcel qualifies, notwithstanding PCZO 138.080(B)(4)(1) for a dwelling under PCZO 138.080(B)(4). [Amended by Ordinance 23-01]

138.110 GENERAL SITING STANDARDS FOR DWELLINGS AND STRUCTURES
[OAR 660-006-0029]. The following standards apply to all new dwellings and structures: [Amended by Ordinance 11-03 and 23-01]

- (A) ~~All new dwellings and structures authorized under the provisions of this Ordinance are subject to the siting standards in this Section. Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify the building site which:~~ The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. Dwellings and structures shall be sited on the parcel so that:
- (1) ~~Has the least impact on nearby or adjacent lands zoned for forest or agricultural use~~ They have the least impact on nearby or adjoining forest or agricultural lands;
 - (2) ~~Ensures that forest operations and accepted farming practices will not be curtailed or impeded~~ The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 - (3) ~~Minimizes the amount of forest lands used for the building sites, road access and service corridors~~ The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
 - (4) ~~Consistent with the provisions of Section 138.120 minimizes the risk associated with wildfire.~~ The risks associated with wildfire are minimized.
 - (5) ~~Is consistent with other requirements contained in the Comprehensive Plan or implementing ordinances, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat.~~
- (B) Siting criteria satisfying subsection (A) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.
- (B)(C) ~~The applicant shall provide evidence consistent with OAR 660-006-0029(A), that the domestic water supply, if any, is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class F stream as defined in the Forest Practices Rule (OAR 629-024-0101(3)). If the water supply is unavailable from public sources or sources located entirely on the subject property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.~~ The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR chapter 629). For purposes of this section, evidence of a domestic water supply means:
- (1) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
 - (2) A water use permit issued by the Water Resources Department for the use described in the application; or

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

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

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

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

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

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

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

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

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

Additions are double underlined

Deletions are in ~~striketrough~~

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

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

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

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

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

- (D) A lawfully established dwelling that is destroyed by wildfire may be replaced within 60 months when:
- (1) The county finds, based on substantial evidence, that the dwelling to be replaced contained those items listed at subsection (C)(1) through (5). For the purposes of this subsection, substantial evidence includes, but is not limited to, county assessor data.
 - (2) The property owner of the record at the time of the wildfire may reside on the subject property in an existing building, tent, travel trailer, yurt, recreational vehicle, or similar accommodation unit replacement has been completed or the time for replacement has expired. [Amended by Ordinance 23-01]
- (E)(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: [Amended by Ordinance 23-01]

- (C) Small Tract "Template" Dwelling [OAR 660-006-0027(3)]. A dwelling may be authorized on a tract that meets the following criteria:
- (1) The tract is less than 60 acres in size;
 - (2) The tract meets one of the following:
 - (a) The tract is composed of soils that are capable of annually producing more than 85 cu. ft. per acre of wood fiber if:
 - (i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract (Note: If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible.); and
 - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
 - (b) The tract is composed of soils that are capable of annually producing 50 to 85 cu. ft. per acre of wood fiber if:
 - (i) All or part of at least seven (7) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract (Note: If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible.); and
 - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
 - (c) The tract is composed of soils that are capable of annually producing 0 to 49 cu. ft. per acre of wood fiber if:
 - (i) All or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract (Note: If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile

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

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

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

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

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

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

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

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

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

177.080. GENERAL SITING STANDARDS FOR DWELLINGS AND STRUCTURES

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

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

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

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

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

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

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

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

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