

CHAPTER 110

GENERAL PROVISIONS AND DEFINITIONS

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110.001. SHORT TITLE. This ordinance shall be known as the Polk County Zoning Ordinance, hereinafter referred to as the PCZO, and may be so cited and pleaded.

DEFINITIONS

110.005. GENERAL DEFINITIONS. For the purpose of this ordinance, words used in the present tense include the future, the singular number includes the plural, the word "shall" is mandatory and not directory, the word "building" includes structures.

110.007. ACCESS. The connection of any existing or proposed road or bike facility to a county or state road; for example, a private driveway or public road, for ingress or egress to property.

[Amended by Ordinance 98-5]

110.010. ACCESSORY BUILDING. A detached, subordinate building or portion of a main building, the use of which is incidental to that of the main building or to the use of the land.

110.012. ACCESSORY TRANSPORTATION IMPROVEMENTS. Transportation improvements that are incidental to a land use to provide safe and efficient access to the use.

[Amended by Ordinance 01-10]

110.015. ACCESSORY USE. A use incidental, appropriate, and subordinate to the main use of a lot or building.

110.020. APPEARANCES OF INTERESTED PERSONS; REMONSTRANCES. Any person or persons desiring to be heard for or against the subject of the hearing may file with the governing body, Hearings Office or the Planning Commission, whichever holds the hearing, a statement in writing, or may appear and respond orally at the hearing, either in person or by authorized representative. An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal. Such issues shall be raised with sufficient specificity as to afford the hearings body, and the parties, an adequate opportunity to respond to each issue. [Amended by Ordinance 89-17]

110.025. AIR CONTAMINANT. Any dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter or any combination thereof.

110.030. AIR CONTAMINATION SOURCE. Any source at, from, or by reason of which there is emitted into the atmosphere any air contaminant, regardless of who the person may be who owns or operates the building, premises or other property in, at, or on which such source is located, or the facility, equipment or other property by which the emission is caused or from which the emission comes.

110.040. AIRPORT. A landing area, runway or other facility designed, used, or intended to be used for the landing and taking off of aircraft, aircraft storage, hangars, and other necessary buildings and open spaces.

110.045. ALLEY. A public space or thoroughfare not more than 20 feet, but not less than 10 feet in width which has been dedicated or deeded to the public for public use providing a secondary means of access.

110.148. CHANNELIZATION. The separation or regulation of conflicting traffic movements into definite paths of travel by traffic islands or pavements markings to facilitate the safe and orderly movements of both vehicles and pedestrians. Examples include, but are not limited to, left turn refuges, right turn refuges including the construction of islands at intersections to separate traffic, and raised medians at driveways or intersections to permit only right turns. "Channelization" does not include continuous median turn lands. [Amended by Ordinance 01-10]

110.050. ALTERATION, STRUCTURAL. Any change or repair which would affect or materially change a supporting member of a building, such as a bearing wall, column, beam, or girder.

110.055. APARTMENT. An apartment shall mean a dwelling unit as defined in this ordinance.

110.060. APARTMENT HOTEL. A building or portion thereof designed for or containing both individual guest rooms or suites or rooms and dwelling units.

110.162. CORRIDOR REFINEMENT PLAN OR REFINEMENT PLAN. - An amendment to the Polk County transportation systems plan, which resolves, at a systems level, determinations on function, mode or general location which were deferred during transportation system planning because detailed information needed to make those determinations could not reasonably be obtained during that process. [Amended by Ordinance 01-10]

110.065. APARTMENT HOUSE. A building or portion thereof designed, built, rented, leased, let or hired out to be occupied, or which is occupied or is the home or residence of three or more families living independently of each other and doing their own cooking in said building, and shall include flats and apartments.

110.070. ARTERIAL STREET (ROAD). A roadway intended to carry large volumes of traffic (typically 1,000 ADT or more outside of an urban growth boundary) and connect major traffic generators, cities, recreational areas, and major segments of transportation networks. High capacity is achieved through allowing higher speed, limited access, wider roadway and movement preference at intersections with lesser standard roadways.

“Principal arterials” are major urban and rural highways connecting communities towns, and cities. The principal arterial provides for through traffic movement and distribution to lower order roadways.

“Minor arterials” connect areas of principal traffic generation to major urban and rural highways. The minor arterial network provides for through traffic movement to the major arterials and distribution into the network of collector and local streets. [Amended by Ordinance 98-5]

110.075. AUTOMOBILE SERVICE STATION. A premises used for retail sales directly to the consumer for the supplying of gasoline, oil, minor accessories and services for automobiles, trucks, and/or motor vehicles.

110.080. AUTOMOBILE OR TRAILER SALES AREA. A lot used for display, sale, or rental of new or used automobiles, trucks, and/or motor vehicles or trailers, where no repair work is done except minor, incidental repairs of automobiles or trailers to be displayed, sold or rented on the premises.

110.085. AUTOMOBILE/TRAILER CAMP. See Trailer Park, Mobile Home Park.

110.090. AUTOMOBILE WRECKING YARD; JUNK YARD. A premises used for the storage or sale of used automobile, truck, and/or motor vehicle parts or for the storage, dismantling, or abandonment of junk, obsolete automobiles, trailers, trucks, machinery, or parts thereof.

110.095. AWNING. A movable shelter supported entirely from the exterior wall of a building and of a type, which can be retracted, folded or collapsed against the face of a supporting building.

110.100. AWNING, MOBILE HOME, TRAILER. A stationary structure, permanent or demountable, used in conjunction with a mobile home or trailer, other than a window awning, for the purpose of providing shelter from the sun and rain, and having a roof with supports and not more than one wall or storage cabinet substituting for a wall.

110.105. BASEMENT. That portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling. If such portion of a building is not a basement, then it shall be considered a story.

110.110. BLOCK. The properties abutting on one side of a street between either:

(A) 2 Cross streets;

- (B) Or between the city limits and the nearest cross streets;
- (C) Or when there is only 1 cross street;
 - (1) Between a cross street and the dead-end of a street;
 - (2) Between a cross street and a line projected from the centerline of an intersecting street, such as a "T" intersection;
 - (3) Between a cross street and a point 600 feet from the particular property under consideration when there is no other cross street or intersecting street within 600 feet;
- (D) Or when there are no cross streets, then the block shall be between the points 600 feet from each side of the property under consideration and along the street.

110.112. BOARD. The Polk County Board of Commissioners.

110.115. BOARDING HOUSE. A building or portion thereof used for the purpose of providing meals or meals and lodging for pay or compensation of any kind to persons other than members of the family occupying such dwelling.

110.120. BUILDING. A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

110.125. CABANA. A stationary, light-weight structure which may be prefabricated or demountable, with two or more walls, used adjacent to and in conjunction with a mobile home or trailer to provide additional living space and designed to be moved with the trailer or mobile home.

110.130. CAMPGROUNDS. A premises under one ownership where persons camp or live in any manner other than in a permanent building constructed entirely of wood or more lasting materials, excepting mobile home parks, and trailer parks.

110.135. CARPORT. A stationary structure consisting of a roof with its supports and not more than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

110.140. CELLAR. See Basement.

110.145. CEMETERY. Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including a columbarium, crematory, mausoleum, or mortuary, when operated in conjunction with and within the boundary of such cemetery.

110.147. CHANGE OF USE. Any change of a structure, land, waterway, activity within a building, or use of the land in such a way as to substantially alter or affect the land or waterway. See DEVELOPMENT. [Amended by Ordinance 219]

110.150. CLUB. An organization, group, or association supported by the members thereof, the purpose of which is to render a service primarily for members and their guests, but shall not include any organization, group, or association the chief activity of which is to render a service customarily carried on as a business.

110.152. COMMERCIAL POWER GENERATING FACILITY. A “commercial power generating facility” is a facility that converts energy into a usable form of energy (such as electricity) and conveys that energy to the public. Commercial power generating facilities typically convert mechanical energy into electrical energy. A “commercial power generating facility” does not include a net metered facility as defined in ORS 757.300 or a facility (either grid-connected or stand-alone) that produces an equal amount or less energy than is consumed by the use(s) to which the facility is accessory over the course of a calendar year, provided that the power generating facility is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management. [Amended by Ordinance 09-06]

110.155. COMMISSION(S). The Polk County Planning Commission and/or any other Commission established by the Polk County Board of Commissioners. [Amended by Ordinance 219]

110.157. COMMUNICATION TOWER. A “communication tower” includes any tower designed to support commercial radio, television, and/or telecommunications receiving or broadcasting antennas, dishes, buildings and associated commercial equipment used to transmit or receive radio, microwave, wireless communications, and other electronic signals. [Amended by Ordinance 09-06]

110.160. CONVALESCENT HOME. See Nursing Home.

110.165. COURT. A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on 3 or more sides by walls of a building.

110.167. CULTURED CHRISTMAS TREES. "Cultured Christmas trees" refers to trees which are:

- (A) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;
- (B) Of a marketable species;
- (C) Managed to produce trees meeting U. S. No. 2 or better standards for Christmas trees as specified for the Agricultural Marketing Services of the U. S. Department of Agriculture; and
- (D) Evidencing periodic maintenance practices of shearing for Douglas Fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, and irrigation. [Amended by Ordinance 89-17]

110.170. DAY NURSERY. An institution, establishment, or place, not a part of the public school system, in which are commonly received at one time 3 or more children, not of common parentage, under the age of 14 years, for a period or periods not exceeding 12 hours per day for the purpose of being given board, care, or training, apart from their parents or guardians for compensation or reward.

110.172. DEVELOPMENT. Any change in the use of land, of a waterway, or of a structure, which substantially alters or affects the land or waterway.

- (A) For the purpose of this ordinance, the term development shall include the following:
 - (1) Any use or activity, which requires a building, permit under the provisions of the Uniform Building Code.
 - (2) Any use or activity which requires a manufactured home placement permit.
 - (3) Any use or activity which requires a permit from the Oregon State Division of Lands.
 - (4) Any use or activity which requires a permit under the provisions of the Oregon Forestry Practices Act.
 - (5) Any use or activity which requires a permit for sub-surface on-site disposal of sewage from the Polk County Division of Environmental Health.
 - (6) Any use or activity which requires a conditional use permit or floodplain development permit under the provisions of this ordinance.
- (B) For the purpose of this ordinance, the term development shall exclude the following:
 - (1) Landscaping.
 - (2) Construction or placement of accessory structures that are usual and necessary for the use and enjoyment of existing improvements.

- (3) Construction of driveways.
- (4) Maintenance and repair usual and necessary for continuance of an existing use or activity. [Amended by Ordinance 256]

110.175. DIRECTOR. The Polk County Planning Director or designated representative.
[Amended by Ordinance 219]

110.180. DORMITORY. A building other than a hotel, boarding or rooming house, used primarily for sleeping purposes.

110.185. [Repealed by Ord. 89-17, Sec. 2]

110.186. DWELLING. "Dwelling" means a building or portion thereof which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily, but excluding hotels and motels. [Amended by Ordinance 89-17]

110.190. DWELLING UNIT. One or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating, excluding hotels, motels, or recreational vehicles.

110.195. DWELLING, SINGLE FAMILY. A detached building designed exclusively for occupancy by one family.

110.200. DWELLING, TWO-FAMILY (DUPLEX). A building designed exclusively for occupancy by two families living independently of each other.

110.205. DWELLING, MULTIPLE FAMILY. A building or portion thereof designed for occupancy by 3 or more families, living independently of each other.

110.210. EDUCATIONAL INSTITUTION. A college or university supported by public funds or by contributions or endowments and giving general academic instruction, excluding elementary and high schools and trade or commercial schools.

110.215. ENFORCEMENT OFFICER. The Director or other persons designated by the Board of Commissioners to assist the Director in enforcing this ordinance. [Amended by Ordinance 88-16]

110.220. FAMILY. An individual or 2 or more persons living together in a dwelling unit.

110.223. FARM USE. "Farm use" means the current employment of land [including that portion of such lands under buildings supporting accepted farming practices] for the primary purpose[s] of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the product of, livestock, poultry, furbearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including, but not limited to, providing riding lessons, training clinics, and schooling shows. "Farm use" also includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in Section 110.167, or land described in ORS 321.267 (1)(e) or 321.415 (5).

"Current employment" of land for farm use includes:

- (A) Farmland, the operation or use of which is subject to any farm-related government program;
- (B) Land lying fallow for one year as a normal and regular requirement of good animal agricultural husbandry;
- (C) Land planted in orchards or other perennials, other than land specified in paragraph (D) of this section, prior to maturity;

- (D) Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
- (E) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable or grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
- (F) Land under buildings supporting accepted farm practices;
- (G) Water impoundments lying in or adjacent to and in common ownership with farm use land; and
- (H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued at true cash value for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
- (I) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such illness results in death;
- (J) Any land described in ORS 321.267(1)(e); and,
- (K) Any land in an exclusive farm use zone used for the storage of agricultural products that would otherwise be disposed of through open field burning or propane flaming.
[Amended by Ordinance 89-17]

110.225. FENCE. An unroofed barrier or an unroofed, enclosing structure such as masonry, ornamental iron, woven wire, wood pickets or solid wood or any other material used as an unroofed barrier to light, sight, air or passage.

110.230. FRATERNITY, SORORITY, STUDENT HOME. A residential building in which living accommodations are furnished to students.

110.232. FRONTAGE ROAD. Also known as “Marginal Access Road.” A service road generally parallel and adjacent to an arterial, and which provides access to abutting properties, but protected from through traffic. Also known as “Access Road.” A low volume public road that principally provides access to property. [Amended by Ordinance 00-10]

110.235. GARAGE. A building or portion thereof in which a motor vehicle is stored, repaired or kept.

110.240. GARAGE, PRIVATE. A detached accessory building or portion of a main building for the parking or temporary storage of automobiles in which no business, occupation, or services is provided for or is in any way conducted.

110.245. GARAGE, PUBLIC. A building, other than private garage, used for the care, repair, or equipping of motor vehicles, or where such vehicles are parked or stored for compensation, hire, or sale.

110.247. GOVERNING BODY. Polk Board of Commissioners.

110.250. GRADE (GROUND LEVEL). The lowest point of elevation of the finished surface of the ground between the exterior wall of a building, or the lowest structural component of a free standing tower, and a point 5 feet distant from said wall or free standing tower, or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building or free standing tower and the property line whichever is nearest to said wall or free standing tower.

In case walls or free standing towers are parallel to and within 5 feet of a public sidewalk, alley or other public way, the grade shall be the elevation of the sidewalk, alley or public way. [Amended by Ordinance 09-06]

110.255. GROUP CARE HOME. A home or private institution maintained and operated for the care, boarding and training of one or more physically handicapped persons, or one or more mentally retarded persons who, because of well established retarded intellectual development, require special care by a person who is not the parent or guardian of, and who is not related by blood or marriage to such persons, but does not include foster homes, correctional homes, or detention facilities.

110.257. HEARINGS OFFICER. The Polk County Hearings Officer.

110.260. HEIGHT OF BUILDING. The vertical distance from the "grade" to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.

110.261. HEIGHT OF WIND ENERGY SYSTEM. The "height of a wind energy system" shall be the vertical distance from the grade to the tip of a wind generator blade when the tip is at its highest point. [Amended by Ordinance 09-06]

110.262. HELIPORT. A heliport is an area used or to be used for landing or take-off of helicopters or other vertical take-off or landing aircraft capable of hovering and may include any or all of the area or buildings which are appropriate to accomplish these functions.

110.265. HOMES FOR THE AGED AND INFIRM. Any home or other institution that maintains facilities for rendering board and domiciliary care for compensation to 3 or more aged persons not related to the operator by blood or marriage. An aged person is a person of the age of 65 or more, or a person of less than 65 years who by reasons of infirmity requires domiciliary care.

110.270. HOME OCCUPATION. An occupation which may be carried on by the resident of a dwelling house as a secondary use. In residential zones, home occupations are outright permitted uses when no assistants are employed, no commodities are sold other than services, no structural alterations are made to accommodate such occupations and the residential character of the building remains unchanged, and not more than one-half of the floor area of one-story is devoted to such use. Other home occupations which provide various services and commodities may be permitted outright or as conditional uses pursuant to the standards of Chapter 116 of the Zoning Ordinance.

110.275. HOSPITAL. An institution devoted primarily to the rendering of healing, curing and nursing care, which maintains and operates facilities for the diagnosis, treatment or care of two or more non-related individuals suffering from illness, injury or deformity, or where obstetrical or other healing or nursing care is rendered over a period exceeding 24 hours.

110.280. HOSPITAL, VETERINARY. A building or premises for the medical or surgical treatment of domestic animals or pets.

110.285. HOTEL. Any building containing guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes by guests.

110.286. INOPERABLE VEHICLE.

- (A) A dismantled, unserviceable, inoperable, junked, or abandoned vehicle or any vehicle legally or physically incapable of being operated for a period exceeding 30 days unless such vehicle, or parts thereof, is completely enclosed within a building, or stored on property lawfully designated under the zoning ordinances of Polk County as a place where such vehicles may be stored.
- (B) An inoperable vehicle shall not mean a licensed or unlicensed camper trailer, utility trailer, or licensed or unlicensed operable vehicle which are used on private property for the production, propagation or harvesting of agricultural or forest products grown or raised on such lands or which are used in the extraction or processing of mineral and aggregate products. [Amended by Ordinance 219]

110.287. INTENSIFICATION. The addition to or expansion of a structure or existing use of land or a waterway in such a way as to substantially alter or affect the land or waterway. See DEVELOPMENT.

110.290. JUNK CAR. See AUTOMOBILE WRECKING YARD.

110.295. KINDERGARTEN. See DAY NURSERY. [Section 110.300 repealed by Ordinance 91-15 dated July 24, 1991.]

110.301. KENNEL, KENNEL (COMMERCIAL). A facility for the keeping of dogs which have a set of permanent canine teeth or have become six months of age if:

- (A) The facility receives more than \$250 in gross receipts during a year for the sheltering of dogs which are not the property of the operator of the facility;
- (B) The facility is privately operated as animal shelter, whether for profit or not for profit;
- (C) The facility is operated for the production or sheltering of dogs which are to be offered for commercial sale. [Amended by Ordinance 91-15]

110.303. LIMITED LAND USE DECISION.

- (A) Means a final decision or determination pertaining to a site within an urban growth boundary which concerns:
 - (1) The approval or denial of a subdivision or partition, as described in ORS Chapter 92.
 - (2) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including, but not limited to, site review and design review.
- (B) Does not mean a final decision made by a local government pertaining to a site within an urban growth boundary that concerns approval or denial of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan. [Amended by Ordinance 10-04]

110.305. LIQUID WASTE. Any waste oils, septic tank pumpings, industrial wastes and other similar materials.

110.310. LOADING SPACE. An off-street space or berth on the same lot with a building, or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access.

110.315. LOT. A unit of land that is created by a subdivision of land. A lot so created shall remain a discrete lot, unless the lot lines are vacated, or the lot is further divided, as provided by law.

110.320. LOT AREA. The total area measured on a horizontal plane within the lines of a lot.

110.325. LOT DEPTH. The horizontal distance between the front lot line and the rear lot line measured at a point halfway between the side lot lines.

110.330. LOT INTERIOR. A lot other than a corner lot.

110.335. LOT LINE. The lines bounding a lot as defined herein.

110.340. LOT LINE, FRONT. In the case of an interior lot, a line separating the lot from the street; and in the case of a corner lot, a line separating the lot from the street on which the improvement or contemplated improvement will face.

110.345. LOT LINE, REAR. A lot line which is opposite and most distant from the front lot line. In the case of a triangular shaped lot, the rear lot line, for building purposes, shall be

assumed to be a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line.

110.350. LOT LINE, SIDE. Any lot line which is not a front or rear lot line.

110.360. LOT OF RECORD. A lot which is part of a subdivision or a lot or parcel described by metes and bounds, which has been recorded in the office of the County Recorder. In the Exclusive Farm Use, Timber Conservation, Farm Forest, and Farm Forest Overlay zones, a lot of record refers to a lot or parcel which was lawfully created and acquired by the present owner prior to January 1, 1985, where a dwelling may be allowed subject to compliance with the applicable lot-of-record provisions in each zone.

110.367. MANUFACTURED HOME. Except as provided in Section 178.015, "manufactured home" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. Based on the standards of the Uniform Building Code, such a home constructed prior to 1976 is defined as a "mobile home". Such a home constructed after 1976 is defined as a "manufactured home". For purposes of this ordinance the terms "manufactured home" and "mobile home" are interchangeable. [Amended by Ordinance 89-17]

110.370. MARQUEE. A permanent roofed structure attached to and supported by the building and projecting over public property.

110.371 MARIJUANA USES. Recreational marijuana production, processing, laboratories, retailing and wholesaling as defined in OAR 845-025-1015; marijuana research described in OAR 845-025-5300; and, medical marijuana dispensaries registered under ORS 475.314. Marijuana uses shall only occur where specifically enumerated in a zone. Discrete marijuana uses are defined below:

- (A) *Marijuana Production.* The commercial manufacture, planting, cultivation, growing or harvesting of recreational marijuana for wholesale and retail trade consistent with OAR 845-025-1230, or marijuana research related to production, consistent with OAR 845-025-5300. A person designated to produce marijuana by a registry identification cardholder under ORS 475.304 who produces marijuana for a registry identification cardholder at an address other than the address where the registry identification cardholder resides, or at an address where more than 12 mature marijuana plants are produced pursuant to ORS 475.302(18).
- (B) *Marijuana Processing.* The processing, compounding, or conversion of recreational marijuana into a cannabinoid concentrate or extract per the requirements of OAR 845-025-3200 to 3290, and consistent with OAR 845-025-1230. The compounding or conversion of marijuana into medical cannabinoid products, concentrates or extracts pursuant to ORS 475.302(11). Also, marijuana research related to processing, consistent with OAR 845-025-5300.
- (C) *Marijuana Wholesaling.* The purchase of recreational marijuana items, as defined in OAR 845-025-1015(31), for resale per the requirements of OAR 845-025-3500, and consistent with OAR 845-025-1230.
- (D) *Marijuana Retailing.* The sale of recreational marijuana items, as defined in OAR 845-025-1015(26), to a consumer, consistent with OAR 845-025-2840.
- (E) *Marijuana Testing Laboratory.* A laboratory licensed for testing marijuana consistent with OAR 845-025-5030.
- (F) *Medical Marijuana Dispensary.* Dispensing of medical marijuana from a location registered pursuant to ORS 475.314. [Amended by Ordinance 16-01]

110.375. MATERNITY HOME. See HOSPITAL.

110.380. [Repealed by Ord. 89-17, Sec. 50] [Amended by Ordinance 89-17]

110.385. MANUFACTURED HOME PARK. Any place where four (4) or more manufactured homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured home park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one mobile home per lot if the subdivision was approved by Polk County. [Amended by Ordinance 89-17]

110.386. METEOROLOGICAL TOWER. A "meteorological tower" includes the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), temperature and pressure sensors, other weather measuring devices attached to the tower, wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit weather information at a given location. [Amended by Ordinance 09-06]

110.387. MINING. All or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits, thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. "Surface Mining" does not include excavation of sand, gravel, clay, rock or other excavations of sand, gravel or clay, rock or other similar materials conducted by a landowner or tenant on the landowner's or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, onsite road construction or other onsite construction or nonsurface impacts of underground mines. [Amended by Ordinance 89-17]

110.390. MOTEL (TOURIST CAMP). A series of attached, semi-attached, or detached apartments, each composed of bedroom and bathroom, with each apartment having entrance leading directly from the outside of the building.

110.392. NEW ROAD. A public road or road segment that is not a realignment of an existing road or road segment. [Amended by Ordinance 00-10]

110.395. NONCONFORMING LOT. A lot which does not meet the area or width requirements of the zone in which it is located.

110.400. NONCONFORMING STRUCTURE. A building or structure or portion thereof lawfully existing at the time this ordinance became effective (November 13, 1970), which was designed, erected, or structurally altered, for a use that does not conform to the use regulations of the zone in which it is located, or which does not conform to the setbacks for maximum lot coverage or other provisions herein established for the zone.

110.405. NONCONFORMING USE. A use to which a building or land was lawfully put at the time this ordinance became effective (November 13, 1970) and which does not conform with the use regulations of the district in which it is located.

110.407. [Repealed by Ord. 89-17, Sec. 50] [Amended by Ordinance 219]

110.410. NURSERY. See DAY NURSERY.

110.415. NURSING HOME. Any home, place or institution which operates and maintains facilities providing convalescent or nursing care, or both, for a period exceeding 24 hours for two (2) or more ill or infirm patients not related to the nursing home administrator, or owner, by blood or marriage. Convalescent care may include, but need not be limited to, the procedures commonly employed in nursing and caring for the sick. A nursing home includes rest homes and convalescent homes, but does not include a boarding home for the aged, a retirement home, hotel, hospital, or a chiropractic facility licensed under ORS.

110.420. OVERLAY ZONE. A zone which establishes special requirements and provisions in addition to those of the primary zone. [Amended by Ordinance 219]

110.425. OWNER. The owner of record of real property as shown on the latest tax rolls or deed records of the county, or a person who is purchasing a parcel of property under written contract.

110.427. PARCEL. "Parcel" includes a unit of land created:

- (A) By partitioning land as defined in ORS 92.010;
- (B) In compliance with all applicable planning, zoning or partitioning ordinances or regulations;
- (C) By deed or sales contract, if there were no applicable planning, zoning or partitioning ordinances or regulations; or
- (D) By deed or sales contract, if the property division occurs as a result of a grant to a public agency or public body for state highway, county road, city street, or other right of way purposes provided such deed or sales contract occurred on or prior to August 4, 1991. The property conveyed to the public agency or public body shall be deemed a separate parcel, and the remnant shall be deemed a separate parcel. If the conveyance bisects a property, each remnant located on either side of the parcel conveyed to the public agency or public body shall be considered separate parcels.
- (E) A parcel so created shall remain a discrete parcel, unless the parcel lines are vacated, or the parcel is further divided, as provided by law. [Amended by Ordinances 89-17 and 06-04]

110.430. PARKING AREA, PRIVATE. An open area, building or structure, other than a street or alley, used for the parking of the automobiles of residents and guests of a building.

110.435. PARKING AREA, PUBLIC. An open area, building or structure, other than a private parking area, street, or alley used for the parking of automobiles, trucks, and other motor vehicles and available for use by the public or by persons patronizing a particular building or establishment.

110.440. PARKING, SPACE, AUTOMOBILE. Space within a private or public parking area, building or structure, for the parking of one automobile.

110.445. PARTICLE DEPOSITION. The quantity of that portion of the particulate matter in the air which settles out in a given length of time as measured by sampling procedures adopted by the Oregon Department of Environmental Quality or their equivalent.

110.450. PARTICULATE MATTER. The discrete particles of a liquid, other than water, or a solid as distinguished from gas and vapor.

110.451. PARTITION. Either an act of partitioning land or an area or tract of land partitioned as defined.

110.452. PARTITIONING LAND. "Partitioning land" has the meaning described in the Polk County Subdivision and Partition Ordinance, Chapter 91. [Amended by Ordinance 10-04]

110.455. PERSON. A natural person, heirs, executors, administrators, or assigns and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid, and any political subdivisions, agency, board or bureau of the State.

110.457. PHOTOVOLTAIC SYSTEM. A "photovoltaic system" consists of equipment that converts sunlight into electricity and then stores or transfers that electricity. This equipment includes photovoltaic modules and panels, mounting and sun tracking hardware, foundation, inverter, wiring, batteries, or other components used in the system. A photovoltaic system may be a grid-connected or stand-alone system. A photovoltaic system does not include a system that utilizes a photovoltaic module or panel that contains a total surface area of nine square feet or fewer. [Amended by Ordinance 09-06]

110.462. PRIMARY ZONE. The zone which establishes the basic requirements and provisions for the use of land in a particular area. See OVERLAY ZONE. [Amended by Ordinance 219]

110.463. PROPERTY LINE ADJUSTMENT. "Property line adjustment" has the meaning described in the Polk County Subdivision and Partition Ordinance, Chapter 91.

110.465. RAMADA. A stationary structure having a roof extending over a mobile home or trailer, which may also extend over a patio or parking space for motor vehicles, and is used principally for protection from sun and rain.

110.466. RECREATIONAL VEHICLE PARK. A lot or parcel on which two or more travel trailer/RV sites are located, established or maintained for occupancy by the general public as temporary living quarters for recreation or vacation purposes, and as defined by ORS 446.310(9) (1989 edition). [Amended by Ordinance 91-15]

110.467. RECYCLING DEPOT. A center, depot drop box or other place for receiving source separated recyclable materials with or without compensation. This shall not include a salvage, junk, or auto wrecking yard.

110.470. REFUSE. Any putrescible and non-putrescible solid wastes including garbage, rubbish, ashes, dead animals, abandoned automobiles, junk, solid market wastes, street cleaning, and industrial wastes (including waste disposal in industrial salvage).

110.475. REPAIR. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The word "repair" or "repairs" shall not include structural changes.

110.476. RESIDENTIAL FACILITY. A residential care, residential training, or residential treatment facility licensed by or under the authority of the department as defined in ORS 443.400, under ORS 443.400 to 443.460, or licensed by the Children's Services Division under ORS 418.205 to 418.327, which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to 15 individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility. [Amended by Ordinance 89-17]

110.477. RESIDENTIAL HOME. A residential treatment or training or an adult foster home licensed by or under the authority of the department as defined in ORS 443.400, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home. [Amended by Ordinance 89-17]

110.480. REST HOME. See NURSING HOME.

110.485. RESTAURANT, CAFE. An establishment where prepared food is served to the public for consumption within the building, or to "take out" to some other location.

110.487. REVERSE FRONTAGE LOT. A lot having frontage on two parallel or approximately parallel roads, where the rear of the lot, or structure on the lot faces an arterial. [Amended by Ordinance 98-5]

110.488. ROAD REALIGNMENT. Rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment. The realignment shall maintain the function of the existing road segment being realigned as specified in the acknowledged comprehensive plan. [Amended by Ordinance 00-10]

110.500. ROOMING HOUSE. A residential building or portion thereof providing sleeping rooms where lodging for three (3) or more persons is provided for compensation.

110.502. SEASONAL FARM WORKER. A person who, for an agreed remuneration or rate of pay, performs temporary labor for another to work in the production of farm products or planting, cultivating or harvesting of seasonal agricultural crops or in forestation or reforestation of lands, including but not limited to the planting, transporting, tubing, precommercial thinning and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related activities. [Amended by Ordinance 89-17]

110.503. SEASONAL FARM WORKER HOUSING. Housing limited to occupancy by seasonal farm workers and their immediate families which is occupied no more than nine months a year. [Amended by Ordinance 89-17]

110.505. SCHOOL, TRADE OR COMMERCIAL. A building where instruction is given to pupils for a fee in money or otherwise which fee is the principal reason for the existence of the school.

110.510. SCHOOL, ELEMENTARY, JUNIOR HIGH OR HIGH. An institution, public or parochial, offering instruction in the several branches of learning and study, in accordance with the rules, and regulations of the State Department of Education. [Amended by Ordinance 219]

110.520. SOLID WASTE. Solid waste shall include all putrescible and non-putrescible waste, including but not limited to, garbage, rubbish, refuse, ashes, waste paper and cardboard; grass clippings, composts; sewer sludge; residential, commercial and industrial appliances, equipment and furniture; discarded, inoperable, or abandoned vehicles or vehicle parts and waste motor vehicle tires; manure, vegetable, or animal solid and semi-solid waste and dead animals. Waste shall mean useless, unwanted or discarded materials, which would otherwise come within the definition of solid waste or waste, may from time to time have value and thus be utilized shall not remove them from the definition. The terms solid waste or waste do not include:

- (A) Environmentally hazardous wastes as defined in ORS 466.005.
- (B) Materials used for fertilizer or for other productive purposes on land in agricultural operations in the growing and harvesting of crops or the raising of fowl or animals.
- (C) Septic tank and cesspool pumping or chemical toilet waste.
- (D) Reusable beverage containers as defined in ORS 459.860.
- (E) Source separated principal recyclable materials as defined in ORS 459 and the rules promulgated there.

110.522 SPECIAL FOREST PRODUCTS. Products as defined in ORS 164.813 (6) to be inclusive of the following items:

- (A) Bear grass, boughs, branches, ferns and other forest plant parts used in floral arrangements and decorations;
- (B) The bark and needles of the Pacific yew, cascara bark, cedar salvage including chunks, slabs, stumps and logs that are more than one cubic foot in volume;
- (C) Cut or picked evergreen foliage and shrubs including, but not limited to, ferns, huckleberry, Oregon grape, rhododendron and salal;
- (D) Firewood, native ornamental trees and shrubs, including trees and shrubs that not nursery grown and that have been removed from the ground with the roots intact;
- (E) Round or split posts, poles, pickets, stakes or rails, shakeboards, shake-bolts, shingle bolts or other round or split products of any forest tree species; and wild edible mushrooms that have not been cultivated or propagated by artificial means.

110.525. STABLE, PUBLIC. A building in which horses are kept for remuneration, hire, or sale, including saddle and riding clubs.

110.540. STORY. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion

of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused underfloor space is more than 6 feet above grade as defined herein for more than 50 per cent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such basement, cellar or unused underfloor space shall be considered as a story.

110.545. HALF-STORY. A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two-feet above the floor of such story.

110.550. STREET. A way of travel more than 20 feet wide which has been dedicated or deeded to the public for public use.

110.555. STRUCTURE. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, regardless of whether it is wholly or partly above or below grade.

110.556. SUBDIVIDE. Subdivide land means to divide land into four or more lots within a calendar year. [Amended by Ordinances 219 and 289]

110.557. TRAILER (TRAVEL OR VACATION). A vehicle or structure equipped with wheels for highway use that is intended for human occupancy, which is not being used for residential purposes and is being used for vacation and recreational purposes. [Amended by Ordinance 219]

110.570. TRANSFER SITE OR TRANSFER FACILITY. A fixed or mobile facility, used as an adjunct to collection vehicle(s), resource recovery facility, disposal site between the collection of the waste/solid waste and disposal site, including but not limited to, another vehicle, a concrete slab, pit, building, hopper, railroad gondola or barge.

110.575. TOURIST COURT. See MOTEL.

110.572. TRANSPORTATION IMPROVEMENTS. – (a) Means transportation improvements on rural lands that provide safe and efficient access to the use for which it is related.

(b) The term includes:

- (i) Accessory transportation improvements that are allowed or conditionally permitted in the EFU, FF, FFO, or TC zoning districts;
- (ii) Transportation improvements that are allowed or conditionally permitted in the EFU, FF, FFO, or TC zoning districts;
- (iii) Channelization;
- (iv) Realignment;
- (v) Replacement of an intersection with an interchange;
- (vi) Continuous median turn lane;
- (vii) New access roads and collectors within a built or committed exception area, or in other areas where the function of the road is to reduce local access to or local traffic on a state highway. These roads shall be limited to two travel lanes. Private access and intersections shall be limited to rural needs or to provide adequate emergency access.
- (viii) Bikeways, footpaths, and recreation trails not other wise allowed as a modification or part of an existing road;
- (ix) Park-and-Ride areas;
- (x) Railroad mainlines and branchlines;
- (xi) Pipelines;

- (xii) Navigation channels;
- (xiii) Replacement of docks and other facilities without significantly increasing the capacity of those facilities;
- (xiv) Expansion or alterations of public use airports that do not permit service to a larger class of airplanes; and
- (xv) Transportation facilities, services and improvements other than those listed in the Zoning Ordinance that serve local travel needs. The travel capacity and level of service of the facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the Comprehensive Plan or to provide adequate emergency access.

110.580. TRUCK. A motor vehicle designed or used for carrying, conveying, or moving over highways of this State any property, article, or thing and having a combined weight of vehicle and maximum load to be carried thereon of more than 6,000 lbs.

110.585. USE. The purpose of which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied.

110.587. UTILITY FACILITY NECESSARY FOR PUBLIC SERVICE. A major physical component of an enterprise that performs an essential public service, such as a natural gas plant, water supply facility, sewage treatment facility, telephone switching station, electrical substation, or radio, microwave, fiber optic, or television transmission tower. However, this does not include components such as poles, wires, cables, lines or pipes. [Amended by Ordinance 91-15]

110.589. VISION CLEARANCE. A triangular area at the street or highway corner of a corner lot, or the corner at any alley-street intersection of a lot, the space being defined by a diagonal line across the corner between the points on the street right-of-way line or street-alley right-of-way line measured from the corner.

110.590. WATER-DEPENDENT USE. A use or activity which can be carried out only, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water. [Amended by Ordinance 219]

110.591. WATER-RELATED USE. A use which is not directly dependent upon access to a water body, but which provides goods or services that are directly associated with a water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods of services offered.

Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, and mobile home parks are not generally considered dependent on or related to water location needs. [Amended by Ordinance 219]

110.592. WETLANDS. Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions. [Amended by Ordinance 88-17]

110.593. WIND ENERGY SYSTEM. A “wind energy system” consists of equipment that converts energy from the wind into usable forms of energy (such as electricity) and then stores or transfers the energy. This equipment includes any base, blade, foundation, wind generator, nacelle, rotor, wind tower, transformer, vane, wire, inverter, batteries or other component used in the system. A wind energy system may be a grid-connected or a stand-alone system. [Amended by Ordinance 09-06]

110.594. WIND TOWER. A “wind tower” is the monopole, freestanding, or guyed structure that supports a wind generator. [Amended by Ordinance 09-06]

110.595. ["Yard" redesignated Sec. 110.599 by Ord. 89-17, Sec. 30] ["Winery Defined" repealed by Ordinance 11-09]

110.599. YARD. A space other than a court on the same lot with a building open from the ground upward, except as otherwise provided herein. [Amended by Ordinance 89-17]

110.600. YARD, FRONT. A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto at the nearest point of the foundation of the main building.

110.605. YARD, LANDSCAPED. An open area or areas devoted primarily to the planting and maintaining of trees, grass, shrubs, and plants together with sufficient permanent irrigation installation to properly maintain all vegetation. As complimentary features, such as fountain, pools, screens, decorative lighting, sculpture, and outdoor furnishings may be placed within said area.

- (A) Location or site: The required Landscaped Yard (110.605) areas adjacent to a street shall not be used for parking or loading areas and the yards shall be the same as is required for the main building in the district in which the parking area is to be located and such yard area adjacent to a street shall be landscaped with trees, shrubs, grass or evergreen ground cover and other complementary materials and maintained in a neat and well appearing manner. The side and rear yards, other than those adjacent to a street, may be used for parking and loading areas when such areas have been developed and are maintained as required by this ordinance. [Amended by Ordinance 90-19]

110.610. YARD, REAR. A yard extending across the full width of the lot between the most rear main building and the rear lot line, but for determining the depth of the required rear yard, it shall be measured horizontally from the nearest point of the rear lot line; or, if the rear lot line adjoins an alley, then from the center line of the alley, toward the nearest part of the foundation of the main building.

110.615. YARD, SIDE. A yard between the main building and the side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard; the width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the foundation of the main building. [Amended by Ordinance 219]

110.620. APPLICATION OF ZONING REGULATIONS. The regulations set by this ordinance within each zone shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

110.630. CONFORMANCE AND PERMITS REQUIRED. No building structure, or premise shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved, structurally altered, or enlarged unless in conformity with all the regulations herein specified for the zone in which it is located and then only after applying for and securing all permits and licenses required by all laws and ordinances.

110.640. AMENDMENT OF TEXT ONLY. Any amendment of this ordinance which amends, supplements or changes only the text hereof, shall be initiated by the Board of Commissioners or by the Planning Commission by resolution. Whenever an amendment is initiated by the Board of Commissioners, the resolution shall be referred to the Planning Commission for its recommendation.

In every case of a proposed amendment, the director shall fix a date for a public hearing before the Planning Commission and shall cause notice to be given as provided in Chapter 111. After the public hearing, the Planning Commission shall refer its recommendations to the Board of Commissioners. [Superseded, but not repealed, by Ordinance 14-01][Section 110.850 repealed by Ordinance 88-19]

110.650. SAVINGS CLAUSE. If any section, paragraph, subdivision, clause, sentence, or provision of this ordinance shall be adjudicated or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgement shall not affect, impair, invalidate, or nullify the remainder of this ordinance, but the effect thereof shall be confined to the section, paragraph,

subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgement or decree shall be rendered, it being the intent of the Board of Commissioners to enact the remainder of this ordinance notwithstanding the parts so declared unconstitutional or invalid; and should any section, paragraph, subdivision, clause, sentence, or provision of this ordinance be declared unreasonable or inapplicable to a particular premises or to a particular use at any particular location, such declaration of judgement shall not affect, impair, invalidate, or nullify such section, paragraph, subdivision, clause, sentence, or provision as to any other premises or use.

110.660. REPEALING CONFLICTING ORDINANCES. The following ordinances passed by the Board of Commissioners and all ordinances amendary thereof, and all other ordinances and parts of ordinances in conflict herewith, hereby are repealed:

- Ordinance No. 18 12-22-64
- Ordinance No. 24 4-19-66
- Ordinance No. 35 5-18-67
- Ordinance No. 45 12-29-67
- Ordinance No. 52 8-03-68
- Ordinance No. 56 9-13-68
- Ordinance No. 63 5-23-69
- Ordinance No. 82 6-18-71
- Ordinance No. 85 8-31-71
- Ordinance No. 93 11-09-71
- Ordinance No. 94 11-30-71
- Ordinance 88-21 11-30-88
- Ordinance 89-17 12-06-89