

## **CHAPTER 177**

### **TIMBER CONSERVATION (TC) ZONING DISTRICT**

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**177.010. PURPOSE.** The Timber Conservation (TC) Zoning District is intended to:

- (A) Conserve, protect, and encourage the management of forest lands for continued timber production, harvesting and related uses;
- (B) Conserve and protect watersheds, soil, fish and wildlife habitats and other such uses associated with forests;
- (C) Provide for orderly development through planned development of both public and private recreational uses as appropriate and not in conflict with the primary intent of the zone for timber management;
- (D) Recognize that the forest lands within the County are necessary for the continuous production of renewable natural resources in the form of forest crops and as such, are beneficial to the economy of the County and to the welfare of its people;
- (E) Provide a compatible zone for those areas inventoried and designated as Forest Lands in the Polk County Comprehensive Plan; and
- (F) Implement the Goals and Policies of the Polk County Comprehensive Plan.

**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]

#### **177.025. AUTHORIZED USES AND DEVELOPMENT**

The following uses, activities and development are authorized in the Timber Conservation (TC) Zoning District, subject to review and approval under applicable regulatory standards:

<u>Key</u>	
P	Permitted outright

AR Subject to administrative review and approval  
CUP Subject to review and approval as a conditional use

<b>RESOURCE USES</b>	<b>AUTHORIZATION</b>
Forest Operations and Practices	P
Physical Alterations of the Land Auxiliary to Forest Practices	P
Farm Use as defined in ORS 215.203	P
Soil, Air and Water Conservation Activities	P
Creation, restoration, and enhancement of wetlands, fisheries, and wildlife habitat	P
<b>RESOURCE-RELATED USES AND DEVELOPMENT</b>	<b>AUTHORIZATION</b>
Temporary Structures Auxiliary to Forest Practices	P
Temporary Portable Facilities for Primary Processing	P
Towers and Fire Stations for forest fire protection	P
Irrigation Water Intake and Distribution Facilities	P
Temporary Forest Labor Camps - No Permanent Structures	P
Permanent Facility for Primary Processing	CUP
Permanent Equipment Repair and Storage Facility	CUP
Log Scaling and Weigh Stations	CUP
Forest Research and Experimentation Facilities	CUP
<b>SINGLE-FAMILY RESIDENCES</b>	<b>AUTHORIZATION</b>
Forest land "Lot of Record" Dwelling	AR
Large Tract Forest land Dwelling	AR
"Template" Forest land Dwelling	AR
Temporary Dwelling for Medical Hardship	AR
Caretaker Residence for Parks and Hatcheries	P
Replacement Dwelling	AR
<b>COMMERCIAL</b>	<b>AUTHORIZATION</b>
Home Occupation, per ORS 215.448	CUP
Destination resorts pursuant to ORS 197.435 to 197.465 and Statewide Planning Goal 8	P

<b>MINERAL AND AGGREGATE OPERATIONS</b>	<b>AUTHORIZATION</b>
Exploration for Mineral and Aggregate	P
Exploration & Production of Geothermal, Gas and Oil	P
Mining and Processing of Subsurface Resources	CUP
<b>TRANSPORTATION</b>	<b>AUTHORIZATION</b>
Aids to Navigation and Aviation	CUP
Temporary Asphalt and Concrete Batch Plants	CUP

Expansion of Existing Airport	CUP
Transportation improvements on rural lands allowed by OAR 660-012-0065	CUP
Widening of Roads Within Existing Right-of-way	P
<b>UTILITIES AND SOLID WASTE DISPOSAL FACILITIES</b>	<b>AUTHORIZATION</b>
Power Generating Facilities	CUP
Communication Towers and Facilities	CUP
Drinking Water Facilities (Intake, Treatment, pumping stations, etc.)	CUP
Reservoirs and Water Impoundments	CUP
Solid Waste Disposal Site under ORS 459.049.	P
Solid Waste Disposal Site under ORS 459.245.	CUP
Local Distribution Lines (e.g. electric, telephone, natural gas) and accessory equipment	P
New Electric Transmission Lines with right of way widths of up to 100 feet as specified in ORS 772.210	CUP
New Distribution Lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) in Right-of-way 50 feet or less in width	CUP
Non-commercial wind energy systems, meteorological towers and photovoltaic systems	P
Non-commercial wind energy systems and meteorological towers that need a height or type of construction modification	AR
Non-commercial wind energy systems and meteorological towers in a UGB	CUP
<b>PARKS/PUBLIC/QUASI-PUBLIC FACILITIES</b>	<b>AUTHORIZATION</b>
Private Parks and Campgrounds	CUP
Public Parks including only those uses specified under OAR 660-034-0035	CUP
Rural Fire Protection District Stations	CUP
Firearms Training Facility	CUP
Cemeteries	CUP
Hunting/Fishing Operations w/o Accommodations	P
Hunting/Fishing Operations with Accommodations	CUP
Structures Accessory to Fish and Wildlife Enhancement	P
Youth Camp	CUP

**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.

- (A) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.
- (B) Farm use, as defined in ORS 215.203, including marijuana production as defined in PCZO 110.371(A). A marijuana crop is a “farm crop” for the purposes of Chapter 177. [Amended by Ordinance 16-01]
- (C) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.

- (D) Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.
- (E) Uses and activities to conserve soil, air, and water quality and to provide for and manage wildlife and fisheries resources, including, but not limited to creation, restoration, and enhancement of wetlands, fisheries, and wildlife habitat.
- (F) Additional local distribution lines within existing public rights-of-way (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g., electric distribution transformers, meter cabinets, terminal boxes, pedestals), and which provide service hookups, including water service hookups.
- (G) Temporary portable facility for the primary processing of forest products. The facility shall be removed at the conclusion of the forest operation requiring its use.
- (H) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head as defined in ORS Chapters 517 and 520.
- (I) Exploration for mineral and aggregate resources as defined in ORS Chapter 517.
- (J) Towers and fire stations for forest fire protection.
- (K) Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- (L) Disposal site for solid waste that has been ordered established by the Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation. Such site designation shall require owner consent.
- (M) Temporary forest labor camps, without any permanent structures, limited to the duration of the forest operation requiring the use.
- (N) Uninhabitable structures accessory to fish and wildlife enhancement.
- (O) Private fee hunting or fee fishing operations without any accommodations.
- (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 215.283(1).
- (Q) Destination resorts pursuant to ORS 197.435 to 197.465 and upon compliance with Statewide Planning Goal 8.
- (R) Caretaker residence for a public park or public fish hatchery.
- (S) 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]

**177.035. USES SUBJECT TO ADMINISTRATIVE REVIEW.** The following uses are permitted, subject to review and approval under the prescriptive standards specified herein, the dwelling standards under 177.070, the general siting standards for dwellings and structures under Section 177.080, the fire siting standards for dwellings and structures under 177.090, and as may

otherwise be indicated by federal, state and local permits or regulations. [Amended by Ordinance 11-03 and 23-01]

- (A) Single-family dwelling, as authorized under Section 177.070 of this ordinance and such accessory buildings and uses as are normally associated with a single-family dwelling.
- (B) One manufactured dwelling or the temporary residential use of an existing building in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. As used in this section, "hardship" means a medical hardship or hardships for the care of an aged or infirm person or persons. The application shall be subject to:
  - (1) The general review standards in Sections 177.050(A), (B), (C) and (D),
  - (2) The hardship is certified by a licensed physician;
  - (3) The applicant agrees to renew the permit every two years.
  - (4) Conditions being imposed that require:
    - (a) The manufactured dwelling or existing building converted to residential use is connected to the existing sewage disposal system, unless the Community Development Department finds the existing system to be inadequate and that it cannot be repaired or is not physically available. If the manufactured home will use a public sanitary system, such condition will not be required. Establishment of a separate sewage disposal system does not vest a right to retain the temporary dwelling after the conclusion of the hardship.
    - (b) Within 3 months of the end of the hardship, the manufactured dwelling or building converted to a temporary residential use, shall be removed, demolished, or converted to an approved nonresidential use.
    - (c) A temporary residence approved under this section is not eligible for replacement under Section 177.035(C).
- (C) Alteration, restoration, or replacement of a lawfully established dwelling which has:
  - (1) Intact exterior walls and roof structure;
  - (2) Interior plumbing, including kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  - (3) Interior wiring for interior lights;
  - (4) A heating system; and
  - (5) The dwelling to be replaced must be removed, demolished or converted to an approved non-residential use, within 3 months of the completion of the replacement dwelling.
- (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) Wind energy systems utilizing a tower and meteorological towers outside of an adopted urban growth boundary that are not commercial power generating facilities that would utilize a tower(s) that requires lighting or that requires modification to the height or type of construction standards described in Section 112.135(C)(1), as provided in Sections 112.135 and 112.137. [Amended by Ordinance 09-06]

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

- (A) Home occupations, subject to the general review standards under Sections 177.050(A), (B), (C), and (D), and compliance with the following standards and conditions from ORS 215.448:
  - (1) The home occupation is operated by a resident of the property on which the business is located;
  - (2) No more than five full or part-time persons are employed by the business;
  - (3) The business is conducted substantially within the dwelling or other buildings normally associated with the uses permitted in the zone in which the property is located;
  - (4) The business will not interfere with existing uses on nearby land or with other permitted uses. [Amended by Ordinance 13-05]
- (B) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under 177.030(H) (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517, subject to compliance with Sections 177.050(A), (B), and (D).
- (C) Permanent facility for the primary processing of forest products, subject to compliance with Sections 177.050(A), (B), and (D).
- (D) Permanent logging equipment repair and storage, subject to compliance with Sections 177.050(A), (B), and (D).
- (E) Log scaling and weigh stations, subject to compliance with Sections 177.050(A), (B), and (D).
- (F) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation. Such site designation shall require owner consent, subject to compliance with Sections 177.050(A), (B), and (D).
- (G) Private Parks and campgrounds, subject to compliance with Sections 177.050(A), (B), (C) and (D). Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three (3) miles of an urban growth boundary unless an exception to Statewide Planning Goal 4 is approved, pursuant to ORS 197.732 and OAR Chapter 660, Division 4. For the purpose of this title, a campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site that is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A camping site may be occupied by a tent, travel trailer, yurt, or recreational vehicle. Separate sewer, water, or electric service hookups shall not be provided to individual campsites, except that electrical service may be provided to yurts allowed by this subsection. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Campgrounds authorized by this title shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight

temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six (6) month period.)

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

- (H) Public parks including only those uses specified under OAR 660-034-0035, or OAR 660-034-0040, whichever is applicable, subject to compliance with Sections 177.050(A), (B), and (D).
- (I) Television, microwave and radio communication facilities and transmission towers, as provided in Section 112.135, subject to compliance with Sections 177.050(A), (B), and (D).
- (J) Fire stations for rural fire protection, subject to compliance with Sections 177.050(A), (B), and (D).
- (K) Commercial power generating facilities, subject to compliance with Sections 177.050(A), (B), and (D). An exception to the statewide Forest Lands Planning Goal is required where development of the power generating facility removes more than 10 acres from use as a commercial forest operation.
- (L) Aids to navigation and aviation, subject to compliance with Sections 177.050(A), (B), and (D).
- (M) Water intake facilities, related treatment facilities, pumping stations, and distribution lines, subject to compliance with Sections 177.050(A), (B), and (D).
- (N) Reservoirs and water impoundments, subject to compliance with Sections 177.050(A), (B), (C), and (D).
- (O) Firearms training facility, subject to compliance with Sections 177.050(A), (B), and (D).
- (P) Cemeteries, subject to compliance with Sections 177.050(A), (B), and (D).
- (Q) Private seasonal accommodations for fee hunting operations, subject to compliance with Sections 177.050(A), (B), and (D) and the following requirements:
  - (1) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - (2) Only minor incidental and accessory retail sales are permitted;
  - (3) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
  - (4) Other conditions, as deemed appropriate.
- (R) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 722.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width. New electric transmission or distribution lines authorized under this section are subject to compliance with Sections 177.050(A), (B), and (D).
- (S) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects, subject to compliance with Sections 177.050(A), (B), and (D).
- (T) Expansion of existing airports, subject to compliance with Sections 177.050(A), (B), and (D).
- (U) The following transportation improvements may be established, subject to compliance with Sections 177.050(A), (B), and (D):
  - (1) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.



- (2) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
  - (3) Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
  - (4) Accessory transportation improvements for an authorized land use to provide safe and efficient access to the use. Such accessory transportation improvements are subject to the same requirements applicable to the land use to which they are accessory;
  - (5) Channelization;
  - (6) Realignment of roads;
  - (7) Replacement of an intersection with an interchange;
  - (8) Continuous median turn lane;
  - (9) New access roads or collectors consistent with OAR 660-012-0065(3)(g) (i.e., where the function of the road is to reduce local access to or local traffic on a state highway). These roads shall be limited to two travel lanes. Private access and intersections shall be limited to rural needs or provide adequate emergency access.
  - (10) Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road;
  - (11) Park and ride lots;
  - (12) Railroad mainlines and branchlines;
  - (13) Pipelines;
  - (14) Navigation channels;
  - (15) Replacement of docks and other facilities without significantly increasing the capacity of those facilities;
  - (16) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes; and
  - (17) Transportation facilities, services and improvements other than those listed in this section that serve local travel needs. The travel capacity and level of service of facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the acknowledged comprehensive plan or to provide adequate emergency access.
- (V) Private accommodations for fishing occupied on a temporary basis, subject to compliance with Sections 177.050(A), (B), (C), and (D), and the following requirements:
- (1) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - (2) Only minor incidental and accessory retail sales are permitted;
  - (3) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;
  - (4) Accommodations must be located within 1/4 mile of fish bearing Class I waters; and
  - (5) A governing body may impose other appropriate conditions.
- (W) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations, subject to compliance with Sections 177.050(A), (B), and (D).
- (X) Youth camp. A youth camp may be established pursuant to the standards and limitations in OAR 660-006-0031. Changes to or expansions of youth camps established prior to June 14, 2000 shall be subject to the provisions of ORS 215.130. [Amended by Ordinances 01-10 and 11-03]

- (Y) Wind energy systems utilizing a tower and meteorological towers within an adopted urban growth boundary up to 100 feet in height that are not commercial power generating facilities, as provided in Sections 112.135 and 112.137. [Amended by Ordinance 09-06]

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

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

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

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

- (5) The landowner of a parcel created under this subsection shall provide evidence that a restrictive covenant has been recorded with the County Clerk's Office for the subject property. The restrictive covenant shall prohibit the landowner and the landowner's successor's in interest from further dividing the parcel. The restrictive covenant shall be irrevocable unless a statement of release is signed by the Polk County Planning Director indicating that the comprehensive plan designation is no longer applicable to the parcel and that the property is no longer subject to Oregon Statewide Planning Goal 4 (Forest Lands). The restrictive covenant shall also be irrevocable unless the land division is subsequently authorized by law or by change in Goal 4. The property owner shall also record a deed restriction in the office of the Polk County Clerk as required by Section 177.120.
- (D) *A land division of a lot or parcel that contains two or more dwellings* subject to the following requirements [OAR 660-006-0026(2)(d)]:
- (1) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
  - (2) Each dwelling complies with the criteria for a replacement dwelling under Section 177.035(C);
  - (3) Except for one lot or parcel, each lot or parcel created under this section is between two and five acres in size;
  - (4) At least one dwelling is located on each lot or parcel created under this section; and
  - (5) The landowner of a lot or parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the Polk County Clerk. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the Planning Director indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to Oregon Statewide Planning Goal 4 (Forest Lands). The restrictive covenant shall also be irrevocable unless the land division is subsequently authorized by law or by change in Goal 4. The property owner shall also record a deed restriction in the office of the Polk County Clerk as required by Section 177.120.
  - (6) A lot or parcel may not be divided under this section if an existing dwelling on the lot or parcel was approved under:
    - (a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or
    - (b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under Goal 4 (Forest Lands). [Amended by Ordinance 11-03]
- (E) *A land division to facilitate a forest practice* as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirement of subsection 177.060(A). [OAR 660-006-0026(2)(c)]. The applicant shall provide evidence to demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum parcel size for the zone in order to conduct the forest practice. Parcels created pursuant to this subsection:
- (1) Shall not be eligible for siting a new dwelling;
  - (2) Shall not serve as the justification for the siting of a future dwelling on other parcels;
  - (3) Shall not result in a parcel of less than 35 acres, except:
    - (a) Where the purpose of the land division is to facilitate an exchange of lands involving a governmental agency, or

- (b) Where the purpose of the land division is to allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forestland in Oregon; and
- (4) If associated with the creation of a parcel where a dwelling is involved, shall not result in a parcel less than the minimum parcel size of the zone.
- (F) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
- (G) *Partition along an Urban Growth Boundary [ORS 215.785]* A parcel that is located partially within the TC zone and partially within an urban growth boundary and is designated for urban uses, may be partitioned subject to the following criteria:
  - (1) The partition occurs along the urban growth boundary; and
  - (2) If the parcel contains a dwelling, the parcel must be large enough to support continued residential use;
  - (3) If the parcel does not contain a dwelling, the parcel:
    - (a) Is not eligible for a dwelling, except as authorized by ORS 195.120;
    - (b) May not be considered in approving or denying an application for siting any other dwelling; and
    - (c) May not be considered in approving or redesignation or rezoning of forestlands under the acknowledged comprehensive plan and land use regulations, except for a redesignation or rezoning to allow a public park, open space or other natural resource use.
  - (4) The owner of the parcel not containing a dwelling shall record with the County Clerk an irrevocable deed restriction prohibiting the owner and all successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

[Amended by Ordinance 19-01]

**177.070. STANDARDS FOR DWELLINGS.** Dwellings are authorized in the Timber Conservation Zoning District, subject to the siting requirements under Section 177.080 and 177.090 of the Ordinance, and the following criteria: [Amended by Ordinance 23-01]

- (A) Small Tract, Lot-of-Record Dwelling [OAR 660-006-0027(1) (a), (f), and (g)]. A dwelling may be authorized on a lot-of-record. To qualify as a lot-of-record, the parcel must meet the following criteria:
  - (1) The parcel was lawfully created and was acquired and owned continuously by the present owner since prior to January 1, 1985. The owner may also qualify if the property was inherited by devise or intestate secession from a person that acquired and had owned continuously the lawfully created parcel since prior to January 1, 1985.
  - (2) Based on soil types, the tract is not capable of annually producing 5,000 cu. ft. of commercial tree species, as recognized under rules adopted under ORS 527.715 for commercial production.
  - (3) The tract is currently vacant;
  - (4) If the lot or parcel on which the dwelling will be sited was part of a tract existing on November 4, 1993 no dwelling exists on another lot or parcel that was part of that tract;
  - (5) The tract is located within 1,500 feet of a public road, as defined by ORS 368.001, that provides or will provide access to the subject tract.

(Note: The road shall be maintained and either paved or surfaced with rock. The road shall not be a Bureau of Land Management road. The road shall not be a U.S. Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the U.S. Forest Service and landowners adjacent to the road, Polk County, or a state agency.);

- (6) The dwelling complies with limitations on density imposed by the Deer and Elk Winter Range; and
- (7) Where the dwelling is sited on a portion of a tract, the remaining portions under common ownership are consolidated into a single unit of land.
- (8) Authorization to establish a single-family dwelling under the provisions of this subsection may be transferred by a person who has qualified under this subsection to any other person after the effective date of the decision.
- (9) Parcels 10 acres or less in size shall not be required to submit a stocking report prior to receiving a permit for the dwelling as authorized by this subsection.

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

(B) Large Tract Forest Land Dwelling [OAR 660-006-0027(2) and (7)]. A dwelling may be authorized on a tract that meets the following criteria:

- (1) The tract is at least 160 acres in size. A tract shall not be considered to consist of less than 160 acres because it is crossed by a public road or a waterway; or,
- (2) The tract is part of one ownership, at least 200 acres in size, that may be composed of separate vacant tracts of designated forest land in Polk County or its adjacent counties. A deed restriction shall be filed for all tracts that are used to meet the acreage requirements of this subsection, pursuant to the following provisions:
  - (a) The applicant shall provide evidence that the covenants , conditions and restrictions form adopted as Exhibit "A" to OAR 660-006 has been recorded with the County Clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.
  - (b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
  - (c) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.
  - (d) Failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of the property which is subject to the covenants, conditions and restrictions required by this section.
  - (e) The Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the County deed records pursuant to this section and a map or other record depicting tracts which do not qualify for a siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this section shall be readily available to the public in the Planning Division office.

- (C) Small Tract "Template" Dwelling [OAR 660-006-0027(3)]. 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 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 may not be used to satisfy the eligibility requirements under subsections 177.070(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(D). [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) 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) They have the least impact on nearby or adjoining forest or agricultural lands;
  - (2) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
  - (3) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
  - (4) The risks associated with wildfire are minimized.
- (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.
- (C) 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.



- (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.
- (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.
  - (4) Upon notification by the Assessor, the Department of Forestry 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 will notify the owner and the Assessor that the land is not being managed as forest land. The Assessor will then remove the forest land designation pursuant to ORS 321.359 and impose additional tax.

**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) 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) 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.

(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) If the dwelling has a chimney or chimneys, each chimney has a spark arrester. [Amended by Ordinance 23-01]

**177.120. NON-REMONSTRANCE DEED RESTRICTION.** Pursuant to OAR 660-006-0026(6) and OAR 660-006-0029(4)(e), for any dwelling, residential facility, private park, reservoir or water impoundment, home occupation, or private fishing or hunting accommodations approved under sections 177.035, 177.040, and 177.070, and partitions approved under subsections 177.060(B), (C), (D) and (E), the landowner for the property shall be required to sign and record a deed restriction binding the landowner and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 to 30.937. [Amended by Ordinance 11-03]

**177.130. PROHIBITED USES.** It shall be unlawful to erect, alter, maintain, or establish in a TC Zoning District, any building use or occupancy not permitted or allowed in the foregoing provisions, excepting nonconforming uses, which may continue as provided in Chapter 114. Subdivisions are not consistent with the purpose and intent of this zone.

**177.150. CONSTRUCTION FINANCING.** When a lender requires a portion of a property be used for collateral for construction financing for housing or agricultural improvements, the property owner may submit an Affidavit of Tax Lot Creation for Collateral to be recorded in the deed history of the subject property. A copy of this affidavit is available from the Planning Division. The property owner shall certify that he/she understands that the financing agreement does not create separate parcels and that, except in the event of foreclosure, neither tax lot created may be sold individually or otherwise separated from the other.

**177.160. NONCONFORMING USES.** The lawful use of any building, structure or land at the time of the enactment of this ordinance may be continued. Alteration of any such use shall be permitted when necessary to comply with local, state or federal regulations pertaining to the use and development of land and the buildings and structures thereon. A nonconforming use is transferable, however, any significant change in, or replacement of, the nonconforming use may require permits under current building and land development codes.

**177.170. HEIGHT.** There shall be a height limitation of 100 feet for all building and structures, excluding towers, in the Timber Conservation Zoning District, except for those lands subject to the Airport Overlay zone or any structure which has received a conditional approval which limits the height of said structure.

**177.190. DEVELOPMENT STANDARDS.** All uses that occur in this zone are subject to development standards adopted by Polk County.

**177.210. PERIOD OF VALIDITY FOR RESIDENTIAL USES.** A land use application authorizing a dwelling pursuant to the provisions of Polk County Zoning Ordinance Sections 177.035(A), (B), and (C), and Section 177.070(A) – (D) shall be valid four (4) years from the effective date of the land use decision. The land use application authorizing such use to be established shall be void at the end of the validity period if development action is not initiated in that period. An extension request shall be submitted to the Planning Director on the form provided by the Planning Division. An extension shall be granted upon submission of a written request for an extension prior to the expiration of the approval period. An extension of the

validity period shall be approved for two additional years. Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision. A land use decision granted herein does not vest (guarantee) the right of the property owner to use the property as authorized in the land use decision in perpetuity. The property owner is responsible for completing required conditions and establishing and continuing the use in order to retain a vested right. The property owner is advised to consult with an attorney to determine the appropriate actions necessary to obtain and retain rights of use authorized by a land use decision.

**177.220. PERIOD OF VALIDITY FOR NON-RESIDENTIAL DISCRETIONARY USES.**

(A) A discretionary decision, except for a land division, shall be valid for two (2) years from the effective date of the land use decision. An extension of the validity period shall extend the validity period for one (1) additional year, if:

- (1) The applicant makes a written request for an extension of the development approval validity period;
- (2) The written request is submitted to the Polk County Planning Division, on the form provided by the Planning Division, prior to the expiration of the approval period;
- (3) The applicant states the reasons that prevented the applicant from beginning or continuing development with the approval period;
- (4) The applicant states the reasons that prevented the applicant from beginning or continuing development during the approval period for reasons for which the applicant was not responsible.

(B) The Planning Director may authorize additional one-year extensions where the applicable criteria for the decision have not changed. Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision. [OAR 660-033-0140(1) through (4)]