

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) *Center of the Subject Tract.* As used in Section 177.070, "center of the subject tract" means the mathematical centroid of the tract. [Amended by Ordinance 23-01]
- (D) *Commercial Tree Species* means trees recognized for commercial production under rules adopted by the State Board of Forestry pursuant to ORS 527.715. [Amended by Ordinance 24-02]
- (E) *Cubic Foot Per Acre* means the average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey. [Amended by Ordinance 11-03]
- (F) *Cubic Foot Per Tract Per Year* means the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey. [Amended by Ordinance 11-03]
- (G) *Date of Creation and Existence.* When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.
- (H) *Forest Lands* as defined in Goal 4 are those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include:
 - (1) Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and
 - (2) Other forested lands that maintain soil, air, water and fish and wildlife resources.[Amended by Ordinance 24-02]
- (I) *Forest Operation* means any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620(6).

- (J) *Primary processing of forest products* means the initial treatments of logs or other forest plant or fungi materials to prepare them for shipment for further processing or to market, including, but not limited to, debarking, peeling, drying, cleaning, sorting, chipping, grinding, sawing, shaping, notching, biofuels conversion, or other similar methods of initial treatments. [Amended by Ordinance 24-02]
- (K) *Relative* means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin.
- (L) *Tract* means one or more contiguous lots or parcels in the same ownership as provided in ORS 215.010(2).

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:

- Key
P Permitted outright
AR Subject to administrative review and approval
CUP Subject to review and approval as a conditional use

RESOURCE USES	AUTHORIZATION
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
RESOURCE-RELATED USES AND DEVELOPMENT	AUTHORIZATION
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
SINGLE-FAMILY RESIDENCES	AUTHORIZATION
Forest land "Lot of Record" Dwelling	AR
Large Tract Forest land Dwelling	AR
"Template" Forest land Dwelling	AR
Temporary Dwelling for Medical Hardship	CUP
Caretaker Residence for Parks and Hatcheries	P
Replacement Dwelling	AR
Accessory Dwelling Unit to Support Family Forestry	AR

COMMERCIAL	AUTHORIZATION
Home Occupation, per ORS 215.448	CUP
Destination resorts pursuant to ORS 197.435 to 197.467 and Statewide Planning Goal 8	P

MINERAL AND AGGREGATE OPERATIONS	AUTHORIZATION
Exploration for Mineral and Aggregate	P
Exploration & Production of Geothermal, Gas and Oil	P
Mining and Processing of Subsurface Resources	CUP

TRANSPORTATION	AUTHORIZATION
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

UTILITIES AND SOLID WASTE DISPOSAL FACILITIES	AUTHORIZATION
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

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES	AUTHORIZATION
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) Local distribution lines (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g., electric distribution transformers, meter cabinets, terminal boxes, pedestals), or equipment that provide service hookups, including water service hookups.
- (G) Temporary portable facility for the primary processing of forest products. The facility shall be removed at the conclusion of the forest operation requiring its use.
- (H) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head as defined in ORS Chapters 517 and 520.
- (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 hunting and 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 197.467 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 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) A lawfully established dwelling may be altered, restored or replaced under ORS 215.291 and 215.755:
- (1) If the county determines that the dwelling to be altered, restored or replaced:
 - (a) Has, or formerly had:
 - (i) Intact exterior walls and roof structure;
 - (ii) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - (iii) Interior wiring for interior lights; and
 - (iv) A heating system; and
 - (b) Unless the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation since the later of:
 - (i) Five years before the date of the application; or
 - (ii) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment; or
 - (c) If the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:
 - (i) Five years before the date of the destruction or demolition; or
 - (ii) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.
 - (2) For replacement of a lawfully established dwelling under this section:
 - (a) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055.
 - (b) The replacement dwelling:
 - (i) May be sited on any part of the same lot or parcel.

- (ii) Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
 - (c) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
- (3) The county planning director, or the director's designee, shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under subsection (2) of this section, including a copy of the deed restrictions filed under subsection (2)(c) of this section.
- (4) If an applicant is granted a deferred replacement permit under this section:
 - (a) The deferred replacement permit:
 - (i) Does not expire but the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and
 - (ii) May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
 - (b) The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction.
- (5) An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed under subsection (1)(a) of this section.
- (6) Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final. [Amended by Ordinance 24-02]
- (C) 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]
- (D) Wind energy systems utilizing a tower and meteorological towers outside of an adopted urban growth boundary that are not commercial power generating facilities that would utilize a tower(s) that requires lighting or that requires modification to the height or type of construction standards described in Section 112.135(C)(1), as provided in Sections 112.135 and 112.137. [Amended by Ordinance 09-06]

177.040. CONDITIONAL USES. The following conditional uses may be allowed subject to compliance with the procedures and criteria under Chapter 119, the general review standards under 177.050, the general siting standards for dwellings and structures under 177.080, the fire siting

standards for dwellings and structures under 177.090, applicable state and federal regulations, and other specific criteria as may be indicated. [Amended by Ordinance 11-03]

(A) Home occupations, subject to the following standards and conditions from ORS 215.448:

- (1) It shall be operated by a resident or employee of a resident of the property on which the business is located;
- (2) It shall employ on the site no more than five full or part-time persons;
- (3) It shall be operated substantially in:
 - (a) The dwelling; or
 - (b) Other buildings normally associated with the uses permitted in the zone in which the property is located; and
- (4) It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
- (5) The governing body of the county or its designate may establish additional reasonable conditions of approval for the establishment of a home occupation under this section.
- (6) Nothing in this section authorizes the governing body or its designee to permit construction of any structure that would not otherwise be allowed in the zone in which the home occupation is to be established.
- (7) The existence of home occupations shall not be used as justification for a zone change.

[Amended by Ordinance 24-02]

(B) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under 177.030(H) (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.

(C) Permanent facility for the primary processing of forest products.

- (1) Located in a building or buildings that do not exceed 10,000 square feet in total floor area, or an outdoor area that does not exceed one acre excluding laydown and storage yards, or a proportionate combination of indoor and outdoor areas; and
- (2) Adequately separated from surrounding properties to reasonably mitigate noise, odor and other impacts generated by the facility that adversely affect forest management and other existing uses, as determined by the governing body. [Amended by Ordinance 24-02]

(D) Permanent logging equipment repair and storage.

(E) Log scaling and weigh stations.

(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.

(G) Private parks and campgrounds. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

- (1) Vacation or recreational purposes. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds devoted to vacation or recreational purposes shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. Campgrounds approved under this subsection must be found to be established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground and designed and integrated into the rural agricultural and

forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

- (a) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by subsection (3).
- (b) Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.
- (2) Emergency purposes. Emergency campgrounds may be authorized when a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610, has destroyed homes or caused residential evacuations, or both within the county or an adjacent county. Commercial activities shall be limited to mobile commissary services scaled to meet the needs of campground occupants. Campgrounds approved under this section must be removed or converted to an allowed use within 36 months from the date of the Governor's Executive Order. The county may grant two additional 12-month extensions upon demonstration by the applicant that the campground continues to be necessary to support the natural hazard event recovery efforts because permanent housing units replacing those lost to the natural hazard event are not available in sufficient quantities. A county must process applications filed pursuant to this section in the manner identified at ORS 215.416(11).
 - (a) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer hook-ups shall not be provided to individual camp sites.
 - (b) Campgrounds shall be located outside of flood, geological, or wildfire hazard areas identified in adopted comprehensive plans and land use regulations to the extent possible.
 - (c) A plan for removing or converting the temporary campground to an allowed use at the end of the time-frame specified in subsection (2) shall be included in the application materials and, upon meeting the county's satisfaction, be attached to the decision as a condition of approval. A county may require that a removal plan developed pursuant to this subparagraph include a specific financial agreement in the form of a performance bond, letter of credit or other assurance acceptable to the county that is furnished by the applicant in an amount necessary to ensure that there are adequate funds available for removal or conversion activities to be completed.
- (3) Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the Commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this rule, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.
- (4) For applications submitted under subsection (2), the county may find the criteria of PCZO 177.050 to be satisfied when:
 - (a) The Governor has issued an Executive Order declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, *et seq.*

- (b) The number of proposed campsites does not exceed 12; or
 - (c) The number of proposed campsites does not exceed 36; and
 - (d) Campsites and other campground facilities are located at least 660 feet from adjacent lands planned and zoned for resource use under Goals 3, 4, or both. [Amended by Ordinance 24-02]
- (H) Public parks including only those uses specified under OAR 660-034-0035, or OAR 660-034-0040, whichever is applicable.
 - (I) Television, microwave and radio communication facilities and transmission towers, as provided in Section 112.135.
 - (J) Fire stations for rural fire protection.
 - (K) Commercial power generating facilities. 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.
 - (M) Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
 - (N) Reservoirs and water impoundments.
 - (O) Firearms training facility as provided in ORS 197.770(2).
 - (P) Cemeteries.
 - (Q) Private seasonal accommodations for fee hunting operations, subject to compliance with OAR 660-006-0029, OAR 660-006-0035 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.
 - (S) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.
 - (T) Expansion of existing airports.
 - (U) The following transportation improvements may be established:
 - (1) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
 - (2) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
 - (3) Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
 - (4) Accessory transportation improvements for an authorized land use to provide safe and efficient access to the use. Such accessory transportation improvements are subject to the same requirements applicable to the land use to which they are accessory;
 - (5) Channelization;
 - (6) Realignment of roads;

- (7) Replacement of an intersection with an interchange;
 - (8) Continuous median turn lane;
 - (9) New access roads or collectors within a built or committed exception area, or in other areas where the function of the road is to reduce local access to or local traffic on a state highway. These roads shall be limited to two travel lanes. Private access and intersections shall be limited to rural needs or provide adequate emergency access.
 - (10) Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road;
 - (11) Park and ride lots;
 - (12) Railroad mainlines and branchlines;
 - (13) Pipelines;
 - (14) Navigation channels;
 - (15) Replacement of docks and other facilities without significantly increasing the capacity of those facilities;
 - (16) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes; and
 - (17) Transportation facilities, services and improvements other than those listed in this section that serve local travel needs. The travel capacity and performance standards of facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the acknowledged comprehensive plan or to provide adequate emergency access.
- (V) Private accommodations for fishing occupied on a temporary basis, subject to compliance with OAR 660-060-0029, OAR 660-006-0035 and 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.
- (X) Youth camp. A youth camp may be established pursuant to the standards and limitations in OAR 660-006-0031 and ORS 215.457. Changes to or expansions of youth camps established prior to June 14, 2000 shall be subject to the provisions of ORS 215.130. [Amended by Ordinances 01-10 and 11-03]
- (Y) Wind energy systems utilizing a tower and meteorological towers within an adopted urban growth boundary up to 100 feet in height that are not commercial power generating facilities, as provided in Sections 112.135 and 112.137. [Amended by Ordinance 09-06]
- (Z) Temporary Medical Hardship Dwelling [OAR 660-006-0025(4)(t)]. One manufactured dwelling, recreational vehicle, or the temporary residential use of an existing building in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or a relative of the resident, provided that:
- (1) The hardship is certified by a licensed physician;
 - (2) The manufactured home or existing building converted to residential use is connected to the existing sewage disposal system; except when the County Sanitarian finds the existing system to be inadequate and that it cannot be repaired or is not physically

available to serve the additional dwelling; If the manufactured home will use a public sanitary system, such condition will not be required.

- (3) The applicant agrees to renew the permit every two years.
- (4) Within 3 months of the end of the hardship, the manufactured dwelling or recreational vehicle, or building converted to a temporary residential use, shall be removed, demolished, or converted to an approved nonresidential use. Department of Environmental Quality review and removal requirements also apply.
- (5) As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.
- (6) A temporary residence approved under this section is not eligible for replacement under Section 177.035(B).
- (7) If the temporary hardship dwelling is located within a big game habitat significant resource area, it shall be subject to the requirements listed in Chapter 182, but shall not be subject to the public hearing requirements listed under Section 182.040(B). [Amended by Ordinance 24-02]

177.050. GENERAL REVIEW STANDARDS [OAR 660-006-0025(5) and (6)]. To ensure compatibility with farming and forest activities, the Planning Director or hearings body shall determine that the proposed use meets the following requirements:

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

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

- (A) The minimum lot or parcel size is 80 acres; or
- (B) Land divisions creating parcels less than 80 acres in size may only be approved for uses listed in OAR 660-006-0025(3)(m) and (n) and 4(a) through (o), provided that those uses have been approved pursuant to Section 177.050 of this Ordinance. [OAR 660-006-0026(2)(a)] Such divisions shall create a parcel that is the minimum size necessary for the use. Required building setbacks for these parcels will be determined on a case-by-case basis through the conditional use process and may vary from those required under Section 177.140 and 112.430(C) based upon the specific use authorized by the land use decision. The landowner of a parcel created under this subsection shall provide evidence that a restrictive covenant has been recorded with the County Clerk's Office for the subject property. The restrictive covenant shall prohibit the landowner and the landowner's successor's in interest from further dividing the parcel. The restrictive covenant shall be irrevocable unless a statement of release is signed by the Polk County Planning Director indicating that the comprehensive plan designation is no longer applicable to the parcel and that the property is no longer subject to Oregon Statewide Planning Goal 4 (Forest Lands). The restrictive covenant

shall also be irrevocable unless the land division is subsequently authorized by law or by change in Statewide Goal 4. The property owner shall also record a deed restriction in the office of the Polk County Clerk as required by Section 177.120.

- (C) *A land division creating a parcel for an existing dwelling* that has existed since before June 1, 1995, subject to the following requirements [OAR 660-006-0026(2)(b) and 215.780(2)(b)]:
- (1) The parcel created shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than ten (10) acres; and
 - (2) The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:
 - (a) Meets the minimum land division standards of the zone; or
 - (b) Is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone.
 - (3) An applicant for the creation of a parcel under this section shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under section (2) of this rule.
 - (4) A restriction imposed under this section shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land. **[Amended by Ordinance 24-02]**
- (D) *A land division of a lot or parcel that contains two or more dwellings* subject to the following requirements [OAR 660-006-0026(2)(d) and ORS 215.780(2)(e)]:
- (1) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
 - (2) Each dwelling complies with the criteria for a replacement dwelling under Section 177.035(B);
 - (3) Except for one lot or parcel, each lot or parcel created under this section is between two and five acres in size;
 - (4) At least one dwelling is located on each lot or parcel created under this section; and
 - (5) The landowner of a lot or parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the Polk County Clerk. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the Planning Director indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to Oregon Statewide Planning Goal 4 (Forest Lands) unless the land division is subsequently authorized by law or by a change in statewide planning goal for land zoned for forest use. The restrictive covenant shall also be irrevocable unless the land division is subsequently authorized by law or by change in Goal 4. The property owner shall also record a deed restriction in the office of the Polk County Clerk as required by Section 177.120.
 - (6) A lot or parcel may not be divided under this section if an existing dwelling on the lot or parcel was approved under:
 - (a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

- (b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under Goal 4 (Forest Lands). [Amended by Ordinance 11-03]
- (E) *A land division to facilitate a forest practice* as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirement of subsection 177.060(A). [OAR 660-006-0026(2)(c) and ORS 215.780(2)(d)]. The applicant shall provide evidence to demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum parcel size requirements of subsection 177.060(A) in order to conduct the forest practice. Parcels created pursuant to this subsection:
- (1) Are not be eligible for siting a new dwelling;
 - (2) May not serve as the justification for the siting of a future dwelling on other parcels;
 - (3) May not, as a result of the land division, be used to justify redesignation or rezoning of resource land; and
 - (4) May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:
 - (a) Facilitate an exchange of lands involving a governmental agency, or
 - (b) 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.
 - (5) If associated with the creation of a parcel where a dwelling is involved, shall not result in a parcel less than the minimum parcel size of the zone.
 - (6) The property owner shall also record a deed restriction in the office of the Polk County Clerk as required by Section 177.120.
 - (7) An applicant for the creation of a parcel under this section shall provide evidence that a restriction on the newly created parcel has been recorded with the county clerk of the county where the property is located. The restriction may not allow a dwelling unless authorized by law or goal on land zoned for forest use except as permitted under this section.
 - (8) A restriction imposed under this subsection is irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forestland. [Amended by Ordinance 24-02]
- (F) *Partition along an Urban Growth Boundary* [OAR 660-006-0026(8) and ORS 215.785(3)] A parcel that is located partially within the TC zone and partially within an urban growth boundary and is designated for urban uses, may be partitioned subject to the following criteria:
- (1) The partition occurs along the urban growth boundary; and
 - (2) If the parcel contains a dwelling, the parcel must be large enough to support continued residential use;
 - (3) If the parcel does not contain a dwelling, the parcel:
 - (a) Is not eligible for a dwelling, except as authorized by ORS 195.120;
 - (b) May not be considered in approving or denying an application for siting any other dwelling; and
 - (c) May not be considered in approving or redesignation or rezoning of forestlands under the acknowledged comprehensive plan and land use regulations, except for a redesignation or rezoning to allow a public park, open space or other natural resource use.

- (4) The owner of the parcel not containing a dwelling shall record with the County Clerk an irrevocable deed restriction prohibiting the owner and all successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

[Amended by Ordinance 19-01]

- (G) *A land division to preserve open space or a park* [OAR 660-006-0026(2)(e) and ORS 215.783]. A land division may be authorized in a forest zone to create one new parcel if the proposed division of land is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase one of the resulting parcels as provided in this section.

- (1) A parcel created by the land division that is not sold to a provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:
 - (a) If the parcel contains a dwelling or another use allowed under ORS chapter 215, the parcel must be large enough to support continued residential use or other allowed use of the parcel; or
 - (b) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705 to 215.750, based on the size and configuration of the parcel.
- (2) Before approving a proposed division of land under this section, the governing body of a county or its designee shall require as a condition of approval that the provider of public parks or open space, or the not-for-profit land conservation organization, present for recording in the deed records for the county in which the parcel retained by the provider or organization is located an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from:
 - (a) Establishing a dwelling on the parcel or developing the parcel for any use not authorized in a forest zone or mixed farm and forest zone except park or conservation uses; and
 - (b) Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.
- (3) If a proposed division of land under this section results in the disqualification of a parcel for a special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as riparian habitat under ORS 308A.365, the owner must pay additional taxes as provided under ORS 308A.371 or 308A.700 to 308A.733 before the county may approve the division. [Amended by Ordinance 24-02]

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

- (A) Small Tract, Lot-of-Record Dwelling [OAR 660-006-0027(1) and ORS 215.705]. A dwelling may be authorized on a lot-of-record. To qualify as a lot-of-record, the parcel must meet the following criteria:
 - (1) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in subsection (4) of this section;
 - (a) Since prior to January 1, 1985; or

- (b) By devise or by intestate secession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
 - (2) The tract on which the dwelling will be sited does not include a dwelling;
 - (3) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993 no dwelling exists on another lot or parcel that was part of that tract.
 - (4) As used in this subsection, “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.
 - (5) The dwelling must be located:
 - (a) On a tract that is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species and 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. The road shall be maintained and either paved or surfaced with rock and shall not be:
 - (i) A U.S. Bureau of Land Management road; or
 - (ii) A U.S. Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the U.S. Forest Service and landowners adjacent to the road, Polk County, or a state agency.
 - (6) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based; and
 - (7) When the lot or parcel on which the dwelling is sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 - (8) Authorization to establish a single-family dwelling under the provisions of this subsection may be transferred by a person who has qualified under this subsection to any other person after the effective date of the decision.
 - (9) If the lot or parcel is more than 10 acres, the property owner shall submit a stocking survey report to the Polk County Assessor and the Assessor will verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
 - (10) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law. **[Amended by Ordinance 24-02]**
- (B) Large Tract Forest Land Dwelling [OAR 660-006-0027(2) and (8) and ORS 215.740]. A dwelling may be authorized on a tract that does not contain a dwelling and meets the following criteria:
- (1) The tract is at least 160 contiguous acres in size. A tract shall not be considered to consist of less than 160 acres because it is crossed by a public road or a waterway; or,
 - (2) The tract is at least 200 acres in one ownership that are not contiguous but are in the same country or adjacent counties and zoned for forest use. A deed restriction shall be filed for all tracts that are used to meet the acreage requirements of this subsection, pursuant to the following provisions:

- (a) The applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" to OAR 660-006 has been recorded with the County Clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.
 - (b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
 - (c) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.
 - (d) Failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of the property that is subject to the covenants, conditions and restrictions required by this section.
 - (e) The Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the County deed records pursuant to this section and a map or other record depicting tracts which do not qualify for a siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this section shall be readily available to the public in the Planning Division office.
- (C) Small Tract "Template" Dwelling [OAR 660-006-0027(3) and ORS 215.750]. A dwelling may be authorized on a lot or parcel that meets the following criteria:
- (1) The tract is less than 60 acres in size;
 - (2) The tract meets one of the following:
 - (a) The lot or parcel is predominately composed of soils that are capable of producing more than 85 cu. ft. per acre per year of wood fiber if:
 - (i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract (Note: If the tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.); 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 lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cu. ft. per acre per year of wood fiber if:
 - (i) All or part of at least seven (7) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract (Note: If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.); 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 lot or parcel is predominantly composed of soils that are capable of producing 0 to 49 cu. ft. per acre per year of wood fiber if:
 - (i) All or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract (Note: If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile

- long and one-quarter mile wide centered on the center of the subject tract and that is the maximum extent possible aligned with the road.); 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 on which the dwelling will be sited does not include a dwelling.
 - (4) No dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under OAR 660-006-0027(8) and Section 177.070(B)(2) of this Ordinance for the other lots or parcels that make up the tract are met.
 - (5) The lot or parcel on which the dwelling will be sited was lawfully established.
 - (6) If the lot or parcel is more than 10 acres, the property owner shall submit a stocking survey report to the Polk County Assessor and the Assessor will verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
 - (7) Lots or parcels within urban growth boundaries may not be used to satisfy the eligibility requirements under this section.
 - (8) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192.
 - (9) 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
 - (10) 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.
 - (11) It will comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, and other provisions of law. [Amended by Ordinance 23-01 and 24-02]
- (D) Large Tract "Template" Dwelling [OAR 660-006-0027(5) and ORS 215.750]. A dwelling may be authorized on a tract that meets the following criteria:
- (1) The tract is 60 acres or larger in size;
 - (2) The tract meets one of the following:
 - (a) The lot or parcel is predominantly composed of soils that are capable of producing more than 85 cu. ft. per acre per year of wood fiber if:
 - (i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; 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 lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cu. ft. per acre per year of wood fiber if:
 - (i) All or part of at least seven (7) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; 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 lot or parcel is predominantly composed of soils that are capable of producing 0 to 49 cu. ft. per acre per year of wood fiber if:
 - (i) All or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160 acre centered on the center of the subject tract; 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 abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road or stream. As used in this section, “center of the subject tract” means the mathematical centroid of the tract. However, one of the three required dwellings must be on the same side of the road or stream as the tract, and:
 - (a) Be located within a 160-acre rectangle that is one mile long one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or
 - (b) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.
- (4) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.
- (5) The tract on which the dwelling will be sited does not include a dwelling.
- (6) No dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under OAR 660-006-0027(8) and Section 177.070(B)(2) of this Ordinance for the other lots or parcels that make up the tract are met.
- (7) The lot or parcel on which the dwelling will be sited was lawfully established.
- (8) Lots or parcels within urban growth boundaries may not be used to satisfy the eligibility requirements under this section.
- (9) Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192.
- (10) 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
- (11) 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.
- (12) It will comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, and other provisions of law.
- (13) If the lot or parcel is more than 10 acres, the property owner shall submit a stocking survey report to the Polk County Assessor and the Assessor will verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met. [Amended by Ordinance 23-01 and 24-02]
- (E) New Single Family Accessory Dwelling Unit to Support Family Forestry [OAR 660-006-0027(9) and ORS 215.757]. A new dwelling unit may be authorized on a lot or parcel that meets the following criteria:
 - (1) The new single-family dwelling unit will be on a lot or parcel no smaller than the minimum size allowed under OAR 660-006-0026(1) and ORS 215.780;
 - (2) The new single-family dwelling unit will be on a lot or parcel that contains exactly one existing single-family dwelling unit that was lawfully;
 - (a) In existence before November 4, 1993; or
 - (b) Approved under this rule, ORS 215,130(6), 215.705, 215.720, 215.740, 215.755 or OAR 660-006-0025(3)(o).

- (3) The shortest distance between any portion of the new single-family dwelling unit and any portion of the existing single-family dwelling unit is no greater than 200 feet;
- (4) The lot or parcel is within a rural fire protection district organized under ORS chapter 478;
- (5) The new single-family dwelling unit complies with the Oregon residential specialty code relating to wildfire hazard mitigation;
- (6) As a condition of approval of the new single-family dwelling unit, in addition to the requirements of OAR 660-006-0029(5)(e) and ORS 215.293, the property owner agrees to acknowledge and record in the deed records for the county in which the lot or parcel is located, one or more instruments containing irrevocable deed restrictions that:
 - (a) Prohibit the owner and the owner's successors from partitioning the property to separate the new single-family dwelling unit from the lot or parcel containing the existing single-family dwelling unit; and
 - (b) Require that the owner and the owner's successors manage the lot or parcel as a working forest under a written forest management plan, as defined in ORS 526.455 that is attached to the instrument.
- (7) The existing single-family dwelling is occupied by the owner or a relative;
- (8) The new single-family dwelling unit will be occupied by the owner or a relative;
- (9) The owner or a relative occupies the new single-family dwelling unit to allow the relative to assist in the harvesting, processing or replanting of forest products or in the management, operation, planning, acquisition, or supervision of forest lots or parcels of the owner; and
- (10) If a new single-family dwelling unit is constructed under this section, a county may not allow the new or existing dwelling unit to be used for vacation occupancy as defined in ORS 90.100.
- (11) As used in this section, "owner or a relative" means the owner of the lot or parcel, or a relative of the owner or the owner's spouse, including a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin of either. [Amended by Ordinance 24-02]

177.080. 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(5)(e), for any dwelling, residential facility, private park, reservoir or water impoundment, home occupation, or private fishing or hunting accommodations approved under sections 177.035, 177.040, and 177.070, and partitions approved under subsections 177.060(B)-(G) 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. [OAR 660-033-0140 and ORS 215.417]

- (A) If a permit is approved for a proposed residential development on forest land outside of an urban growth boundary, the permit shall be valid for four years.
- (B) An extension of a permit described in subsection (A) is valid for two years. A county may approve no more than five additional one-year extensions of a permit if:
 - (1) The applicant makes a written request for the additional extension prior to the expiration of the extension;
 - (2) The applicable residential development statute has not been amended following the approval of the permit, except the amendments to ORS 215.750 by Oregon Laws 2019, chapter 433, section 1; and
 - (3) An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.
- (C) As used in this section, "residential development" only includes the dwellings provided for under ORS 215.705(1) to (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3). [Amended by Ordinance 24-02]

177.220. PERIOD OF VALIDITY FOR NON-RESIDENTIAL DISCRETIONARY USES. [OAR 660-033-0140]

- (A) A discretionary decision, except for a land division, shall be valid for two (2) years from the effective date of the land use decision. An extension of the validity period shall extend the validity period for one (1) additional year, if:
 - (1) The applicant makes a written request for an extension of the development approval validity period;
 - (2) The written request is submitted to the Polk County Planning Division, on the form provided by the Planning Division, prior to the expiration of the approval period;
 - (3) The applicant states the reasons that prevented the applicant from beginning or continuing development with the approval period;
 - (4) The applicant states the reasons that prevented the applicant from beginning or continuing development during the approval period for reasons for which the applicant was not responsible.
- (B) The Planning Director may authorize additional one-year extensions where the applicable criteria for the decision have not changed. Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision. [OAR 660-033-0140(1) through (4)]