

Appendix 18. Local Ordinances

This appendix collates local Oregon county ordinances related to Exclusive Farm Use Zones and similar designations. These ordinances detail wildlife policies and permitted uses and limitations of farm and ranch lands in each county. Each ordinance is appended here in the format in which they were provided by the counties, and are presented in alphabetical order:

1. Baker County, Chapter 410 Exclusive Farm Use (EFU)
2. Crook County, Chapter 18.16 Exclusive Farm Use Zone, EFU-1 (Post-Paulina Area)
3. Deschutes County, Chapter 18.16 Exclusive Farm Use Zones
4. Harney County, Zoning Ordinance Article 3 Zoning Classifications Defined
5. Lake County, Article 3 Agriculture Use Zone: A-2
6. Malheur County, Article A. Resource Lands, EFU Exclusive Farm Use Zone, ERU Exclusive Range Use Zone, EFFU Exclusive Farm-Forest Use Zone
7. Union County, Article 3.00 A-2 Agriculture-Grazing Zone

Chapter 410
EXCLUSIVE FARM USE ZONE (EFU)

410.01 Purpose

410.02 Uses Permitted Through a Type I Procedure

410.03 Uses Permitted Through a Type II Procedure

410.04 Uses Permitted Through a Type III Procedure

410.05 Minimum Lot Size

410.06 Approval Criteria

410.01 Purpose.

The Exclusive Farm Use Zone is intended to conserve and maintain productive agricultural land for continued agricultural use. The purpose of this chapter is to describe the applicability, permitted uses, and requirements for the EFU Zone.

410.02 Uses Permitted Through a Type I Procedure.

In the EFU Zone the following uses and their accessory uses shall be permitted outright when authorized in accordance with the provisions of Section 205.04:

A. Farm/Forest Resource:

1. Farm use, as defined in ORS 215.203(2), with the exception of livestock feedlots, sales yards, hog farms, or dairy herd confinement at any time of the year, or other concentration of livestock during May through September when such uses are located within one mile of a residential zone.
2. Accessory buildings customarily provided in conjunction with farm use.
3. The propagation or harvesting of a forest product.

B. Natural Resource:

1. Creation of, restoration of, or enhancement of wetlands.

C. Commercial:

1. Type I Minor Home Occupations, subject to the provisions of Section 760.02.

D. Transportation:

1. Climbing and passing lanes within the right-of-way existing as of July 1, 1987.
2. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
3. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such a time as no longer needed.
4. Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right-of-way existing as of July 1, 1987, and contiguous publicly-owned property utilized to support the operation and maintenance of public roads and highways.
5. Rehabilitation, replacements, minor betterment repairs and improvements, and other similar construction activities; or private or public parks, playgrounds or community centers, which are not considered to have land use impacts, as determined by the Director consistent with Chapter 220, Director's Interpretations.

410.03 Uses Permitted Through a Type II Procedure.

In the EFU Zone the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 205.05:

A. Residential:

1. Lot-of-Record Dwelling: A single-family dwelling proposed on a lot or parcel meeting all of the following criteria:

- a. The lot or parcel on which the dwelling will be sited was lawfully created. When a lot or parcel 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. Reconfiguration means any change in the boundary of a lot, parcel or tract; and
- b. The lot or parcel was acquired by the present owner prior to January 1, 1985, or by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985; and
- c. The tract on which the dwelling will be sited does not include a dwelling. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed; and
- d. The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in OAR 660-033-0130(3)(c). ORS 215.710(5) provides an opportunity for an applicant to show that the property is not high-value farmland.

e. For the purpose of this Section a person cannot qualify as an "owner" as required by Section 410.03(A)(1) by virtue of a familial relationship to the current owner or by receiving the land as a gift or any form of sale after January 1, 1985.

f. For the purposes of this Section "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, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

g. When approval is granted to an application under the provisions of this Section, the application may be transferred only one time by a person who has qualified under this section to any other person after the effective date of the land use decision.

h. The proposed dwelling will comply with the requirements of the acknowledged land use plan and other County land use regulations and other provisions of law.

2. Farm Dwellings:

a. Parcel Size Test:

A single-family dwelling may be considered in conjunction with farm use if it is not identified as high-value farmland pursuant to OAR 660-033-020 (8) and:

- i. The dwelling is proposed on a parcel which is currently employed for farm use, as defined in ORS 215.203;
- ii. Contains no other dwelling except seasonal farm worker housing;

- iii. The dwelling will be occupied by a person or persons who will be principally engaged in farm use of the land at a commercial scale; and
- iv. Complies with the minimum parcel size requirements of Section 410.05 (B)(6).
- b. Capability Test:
A single-family dwelling may be considered in conjunction with farm use if the dwelling is proposed on an agricultural parcel or tract which is not identified as high-value farmland and:
 - i. Is at least as large as the median size of commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are wholly or partially within one mile from the perimeter of the subject parcel; and
 - ii. The subject parcel or tract is capable of producing at least the median level of annual gross sales of County indicator crops as the same commercial farm and ranch tracts identified in Section 410.03(A)(4)(a) determined pursuant to OAR 660-33-135(3); and
 - iii. The subject parcel or tract is currently employed for farm use as defined in ORS 215.203, at a level capable of producing the annual gross sales required by Section 410.03(A)(4); and
 - iv. The subject parcel or tract on which the dwelling is proposed is not less than 20 acres; and
 - v. There is no other dwelling located on the subject parcel or tract, except seasonal farm-worker housing as permitted by ORS 215.283(1)(f); and
 - vi. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no

building permit may be issued prior to the establishment of the farm use as required by Section 410.03(A)(4)(c).

- vii. The dwelling will be occupied by a person or persons who will be principally engaged in farm use of the land, such as planting, harvesting, marketing, or caring for livestock, at a commercial scale.
- c. Income Test:
A single-family dwelling may be considered in conjunction with farm use if the dwelling is proposed on an agricultural parcel or tract which is not identified as high-value farmland; and
 - i. The subject parcel is currently employed for farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the lower of the following:
 - (a) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products; or
 - (b) Gross annual income of at least the midpoint of the median income range of gross sales for farms in Baker County with gross sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and
 - ii. There is no other dwelling on the subject parcel, except seasonal farm-worker housing as permitted by ORS 215.283(1)(f).
 - iii. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in Section 410.03(A)(5)(a).
 - iv. In determining the gross income required by Section 410.03(A)(5)(a) the cost of purchased livestock shall be

deducted from the total gross income attributed to the farm or ranch operation; only gross income from land owned, not leased or rented, shall be counted; and gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

v. Noncontiguous lots or parcels zoned for farm use in Baker County or contiguous counties may be used to meet the gross income requirements. When a farm or ranch operation has lots or parcels in both “Western” and “Eastern” Oregon as defined by statute division, lots or parcels in Eastern or Western Oregon may not be used to qualify a dwelling in the other part of the state.

vi. (a) Prior to the final approval for a dwelling authorized under this section that requires one or more contiguous or non contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as “Exhibit A” has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:

(i) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and

(ii) The use of any gross farm income earned on the lots or parcels to qualify

another lot or parcel for a primary farm dwelling.

(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) The 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 property which is subject to the covenants, conditions and restrictions required by the section;

(e) The 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 the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

d. High Value Test:

A single-family dwelling may be considered customarily provided in conjunction with farm use if the dwelling is proposed on a parcel or tract which is identified as high-value farmland; and

- i. The subject parcel or tract is currently employed for farm use, as defined in ORS 215.203, that produced at least \$40,000 in gross annual income from the sale of farm products in the last two years or three of the last five years; or
- ii. Gross annual income of at least the midpoint of the median income range of gross sales for farms in Baker County with gross sales of \$10,000 or more.
- iii. There is no other dwelling on the subject parcel or tract, except seasonal farm-worker housing as permitted by ORS 215.283(1)(f); and
- iv. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in Section 410.03(A)(6)(a).
- v. In determining the gross income required by Section 410.03(A)(6)(a), the cost of purchased livestock shall be deducted from the total gross income attributed to the parcel or tract.
- vi. Noncontiguous lots or parcels zoned for farm use in Baker County or contiguous counties may be used to meet the gross income requirements. When a farm or ranch operation has lots or parcels in both "Western" and "Eastern" Oregon as defined by statute division, lots or parcels in Eastern or Western Oregon may not be used to qualify a dwelling in the other part of the state.
- vii. (a) Prior to the final approval for a dwelling authorized under this section that requires one or more contiguous or non contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" has been

recorded with the Baker County Clerk where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:

- (i) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and
- (iii) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
- (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) The 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 property which is subject to the covenants, conditions and restrictions required by the section;
- (e) The county 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 the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

3. Secondary Dwelling: Dwellings on real property used for farm use if the dwelling is located on the same lot or parcel as the dwelling of the farm operator and is occupied by a relative of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator. "Relative" is defined in Chapter 150, Definitions, of this ordinance.
4. Accessory Farm Dwellings which satisfy the following requirements:
 - a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and
 - b. The dwelling will be located:
 - i. On the same lot or parcel as the dwelling of the principal farm dwelling; or
 - ii. On the same tract as the principal farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all contiguous lots and parcels in the tract; or
 - iii. On a lot or parcel on which the principal farm dwelling is not located when the accessory farm dwelling is a

manufactured dwelling and a deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to this section may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured dwelling may remain if it is re-approved under these rules for an accessory farm dwelling. An accessory farm dwelling may only be replaced by a manufactured dwelling.

- c. There is no other dwelling on lands designated for exclusive farm use owned by the operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and
- d. The principal farm dwelling to which the proposed dwelling would be accessory, meets one of the following:
 - i. On land not identified as high-value farmland, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years or three of the last five years the lower of the following:
 - (a) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
 - (b) Gross annual income of at least the midpoint of the median income range of

gross annual sales for farms in the county with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

- ii. On land identified as high-value farmland, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 (1992 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years.
- iii. For the purposes of this section "farm or ranch operation" includes all property used by the farm operator to produce agricultural goods and commodities.
- e. The County shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this subsection Section 410.03(7). If it is determined that an accessory farm dwelling satisfies farm dwelling requirements in Section 410.03(6), a parcel may be created consistent with the minimum parcel size requirements.
- f. An accessory farm dwelling approved pursuant to this subsection cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to 410.04 of this chapter.
- 5. Replacement Dwelling: A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the Director finds to their satisfaction, based on substantial evidence, that:

- a. The dwelling to be altered, restored or replaced has, or formerly had:
 - i. Intact exterior walls and roof structure;
 - ii. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - iii. Interior wiring for interior lights; and
 - iv. A heating system; and
- b. The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time; and
- c. Notwithstanding paragraph (b), if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:
 - i. The destruction (i.e. by fire or natural hazard), or demolition in the case of restoration of the dwelling; or
 - ii. The applicant establishes to the satisfaction of the Director that the dwelling was improperly removed from the tax roll by a person other than the current owner. "Improperly removed" means that the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the county stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.

6. For replacement of a lawfully established dwelling:

a. The dwelling to be replaced shall be removed, demolished, or converted to an allowable nonresidential use:

i. Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or

ii. If the dwelling to be replaced is, in the discretion of Baker County, in such a state of repair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and

iii. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the Director for the new location.

b. The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

c. As a condition of approval, if the replacement dwelling 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 a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the 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 2013 Oregon Laws, chapter 462, section 2 and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to

allow the lawful siting of another dwelling. The Director, or the Director's designee, shall maintain a record of:

i. The lots and parcels for which dwelling to be replaced have been removed, demolished or converted; and

ii. The lots and parcels that do not qualify for the siting of a new dwelling under subsection (6) of this section, including a copy of the deed restrictions filed under paragraph (b) of this subsection.

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

a. The replacement dwelling must be sited on the same lot or parcel;

i. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or other natural boundary of the lot or parcel; and

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

b. Replacement dwellings that currently have the features described in paragraph (6)(a) of this subsection and that have been on the tax roll as described in paragraph (5)(b) may be sited on any part of the same lot or parcel.

c. A replacement dwelling permit is a land use decision where the dwelling to be replaced:

- i. Formerly had the features described in paragraph (5)(a) of this section; or
- ii. Was removed from the tax roll as described in paragraph (5)(c) of this section;
- d. Is not subject to the time to act limit of ORS 215.417; and
- e. If expired before January 1, 2014, shall be deemed to be valid and effective if, before January 1, 2015, the holder of the permit:
- i. Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and
- ii. Causes to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

6. Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.

7. Temporary Hardship Dwelling: A manufactured dwelling, or recreational vehicle, or the temporary use of an existing building in conjunction with an existing dwelling, or the temporary use of a dwelling may be allowed for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215, subject to the following:

- a. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public

sanitary sewer system, such condition will not be required.

- b. Permits shall be reviewed every year.
- c. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished, or returned to an allowed nonresidential use.
- d. A temporary residence approved under this section is not eligible for replacement under ORS 215.213(t) or 215.283(s).
- e. As used in this section, “hardship” means a medical hardship or hardship for the care of an aged or infirm relative as defined in ORS Chapter 215.

B. Commercial:

1. Type II Major Home Occupations, subject to the provisions of Section 760.03.

2. Farm stands meeting the following specifications:

- a. The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand. If the annual sales of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and
- b. The farm stand does not include structures designed for occupancy as a

residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

C. Transportation:

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. Improvements 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.

D. Utility/Solid Waste Disposal Facilities:

1. Utility facilities, and similar minor facilities necessary for public service and repair, replacement and maintenance thereof, except commercial facilities for the purpose of generating power for public use by sale and transmission towers under 200 feet in height.
2. Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.
3. Utility facility service lines (under 200 feet).
4. A wind measurement device that is less than 200 feet in height if it is for

temporary use for a period not to exceed 48 months.

5. Required permanent maintenance/operations buildings for a wind power facility shall be located off-site in one of Baker County's appropriately zoned areas, except that such a building may be constructed on-site if (1) the building design and construction are generally consistent with the character of similar buildings used by commercial farmers or ranchers, and (2) the building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility.
6. Residential Wind Power Generation Facility in accordance with the provisions of Chapter 750 of this Ordinance.

E. Parks/Public/Quasi-Public:

1. Onsite filming and activities accessory to onsite filming for 45 days or fewer as provided for in ORS 215.306.
2. A site for the takeoff and landing of model aircraft, including such buildings as may reasonably be necessary.
3. Land application of reclaimed water, agricultural or industrial process water or bio-solids.
4. Fire service facilities providing rural fire protection services.
5. An outdoor gathering described in ORS 197.015(10)(d), provided that a Temporary Permit has been granted per the requirements of Section 250.02.

410.04 Uses Permitted Through a Type III Procedure.

In the EFU Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 205.06. These uses shall also require a Conditional Use Permit as described in Chapter 210.

A. Farm/Forest Resource:

1. A facility for the primary processing of forest products.
2. A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141.
3. Livestock feedlot, sales yard, hog farm or dairy herd confinement at any time of the year, or other concentration of livestock during May through September, when such uses are located within one mile of a residential zone.
4. Guest Ranch in conjunction with an existing commercial cattle, sheep, horse, or bison operation that complies with ORS 215.203 , and the requirements under Section 210.07(E), Guest Ranch, of this Ordinance. For purposes of this section, guest shall mean a person who purchases an activity package which includes ranch and recreational activities and which may include meals.

B. Natural Resource:

1. The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission, or insect species.
2. A wildlife habitat conservation and management plan pursuant to ORS 215.799.
3. Feeding stations and wildlife management areas subject to the provisions of Section 210.07(A).

C. Residential:

1. Single family residential dwellings not provided in conjunction with farm use pursuant to ORS 215.284(2) (9/9/02).
2. Residential home or facility as defined in ORS 197.660 in existing dwellings.
3. Room and board arrangements for a maximum of five unrelated persons in existing residences.

D. Commercial:

1. Commercial activities in conjunction with farm use, including the processing of farm crops pursuant to ORS 215.213(1)(x) and 215.283(1)(u).
2. Type III Major Home Occupations, subject to the provisions of Section 760.04.
3. Dog Kennels.
4. A destination resort which is approved consistent with the requirements of Goal 8.
5. A winery, as described in ORS 215.452 (2003).
6. An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks.
7. The breeding, kenneling and training of greyhounds for racing.
8. A landscaping business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the

business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

E. Mineral, Aggregate, Oil, and Gas Uses:

1. Operations conducted for the exploration, mining and processing of aggregate and other mineral resources or other subsurface resources subject to the restrictions and permits of the Department of Geology and Minerals Industry. See Chapter 440, Mineral Extraction Zone when dealing with patented mining claims.
2. Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.
3. Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement.
4. Processing of other mineral resources and other subsurface resources.
5. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted.

F. Transportation:

1. Roads, highways and other transportation facilities, and improvements not otherwise allowed.
2. Transportation improvements on rural lands allowed by OAR 660-012-0065.
3. Personal-use airports for airplanes and helicopter pads including associated hangar, maintenance and service facilities. A personal-use airport as used

in this Section means an airstrip restricted, except for aircraft emergencies, to use by the owner and, on an infrequent and occasional basis, by invited guest(s), and by commercial aviation activities in connection with agricultural operations. No aircraft may be used on a personal-use airport other than those owned or controlled by the owner of the airstrip.

Exceptions to the activities permitted under the definition may be granted through waiver action by the Oregon Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.

G. Utility/Solid Waste Disposal Facilities:

1. Major utility facilities as defined in Chapter 150 of this ordinance.
2. Transmission towers over 200 feet in height.
3. A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation.
4. Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities.
5. Wind power generation facility in accordance with the provisions of Chapter 750 of this Ordinance.
6. A wind measurement device that is greater than 200 feet in height.

7. A wind measurement device that will be used for a period exceeding 48 months.
8. A site for the disposal of solid waste approved by the governing body of a county and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.
9. Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-096-0020.

H. Parks/Public/Quasi-Public:

1. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for the residents of the rural area in which the school is located, may be permitted:
 - a. On parcels which are not predominantly comprised of high-value farmland soils if the use is not within 3 miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4.
 - b. On parcels which are predominantly comprised of high-value farmland soils existing facilities may be maintained, expanded or enhanced.
2. Private, semi-public and public parks, playgrounds, hunting and fishing preserves, campgrounds, and community centers.
3. Parks and playgrounds consistent with the provisions of ORS 195.120.
4. Community centers owned by a governmental agency or a nonprofit organization and operated primarily by

and for residents of the local rural community.

5. Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.
6. Living history museum.
7. Firearms training facility as provided in ORS 197.770.
8. Armed forces reserve center as provided for in ORS 215.213(1).
9. Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.
10. Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210
11. Operations for the extraction and bottling of water.
12. Any gathering subject to review of a county planning commission under ORS 433.763.
13. Churches and cemeteries in conjunction with churches consistent with ORS 215.441, may be allowed:
 - a. On parcels which are not predominantly comprised of high-value farmland soils if the use is not within 3 miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4.
 - b. On parcels which are predominantly comprised of high-value farmland soils, existing facilities may be maintained, expanded or enhanced.

410.05 Minimum Parcel Size.

A. General Exception to Parcel Size Requirements:

1. Any parcel of land or portion thereof which has been or is to be dedicated to a public or semi-public entity for a road, railroad, utility or other public use shall be entitled to an adjustment from the minimum parcel size requirement set forth by this Ordinance. The adjustment shall be limited to the amount of land dedicated to and accepted for public use.
2. Minimum requirements relative to lot size, where applicable, shall be considered as standard metes and bounds land Section divisions. Therefore, lot sizes may be smaller than set forth in this Ordinance if a total Section acreage reduction is due to a U.S. Public Lands survey adjustment.
3. Statutory "Lot of Record" provisions (Sections 9-13, Chapter 884, Oregon Laws 1981, as amended by Sections 14 and 15, Chapter 826, Oregon Laws 1983) may provide a development right for sub-standard sized lots or parcels if said lot(s) or parcels qualify under the law.

B. Except as provided for under Subsection "A" of this section, new parcels in the EFU Zone shall comply with the following minimum parcel size requirements:

1. 80 acres if fully covered by valid primary water rights.
2. 160 acres for non-irrigated land, or 2 acres for each dry acre less than 80 for land partially covered by valid primary water rights. For example, 60 acres of irrigated land would require a minimum parcel size of 100 acres ($80 - 60 = 20$; 20

$\times 2 = 40$; 60 irrigated acres + 40 non-irrigated acres = 100 acres).

3. In the EFU Zone, a parcel created to accommodate a conditional use shall comply with the following requirements:
 - a. The proposed parcel shall be the minimum amount of land necessary for the proposed use, considering applicable state and local standards and the criteria set forth in this Ordinance, but shall be no less than 2 acres; and
 - b. The remaining parcel complies with the requirements under Section 410.05(B)(1) or (2), as applicable.
4. If land in the EFU Zone is also located in the Big Game Habitat Overlay, the minimum parcel size for a non-farm or lot of record dwelling shall be 40 acres, unless the parcel on which the dwelling is to be located was legally created prior to January 1, 1986. If the parcel is less than 40 acres, but was legally created prior to January 1, 1986, it is considered to be a pre-existing non-conforming parcel and a non-farm or lot of record dwelling may be allowed subject to the following conditions:
 - a. The dwelling will be located within 200 feet of a public road. If the road access to the dwelling is owned or maintained by the Oregon Department of Forestry, the Bureau of Land Management, or the U.S. Forest Service, the applicant shall provide proof of a road access use agreement.
 - b. There is no other dwelling located on the property.
5. For non-farm partitions in the Big Game Habitat Overlay, the minimum parcel size shall be 40 acres.

6. The minimum parcel size for a farm related dwelling based on minimum parcel sizes established by statute and/or rule shall be 160 acres if covered with at least 160 acres of valid primary water rights or 320 acres non-irrigated, or a combination thereof, except that there shall be 2 acres for each dry acre less than 160. For example, 100 acres of land with valid primary water rights would require a minimum parcel size of 220 acres ($160 - 100 = 60$; $60 \times 2 = 120$; $100 \text{ irrigated acres} + 120 \text{ non-irrigated acres} = 220 \text{ acres}$).
2. The use will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated and whether creation of the parcel will lead to the creation of other nonfarm parcels to the detriment of agriculture in the area will be considered pursuant to OAR 660-033-0130(4)(c)(C)(c)(A).

410.06 Approval Criteria.

- A. For Type II and Type III uses, in addition to the applicable standards in Chapter 210, Conditional Uses, the applicant shall demonstrate that the following criteria have been satisfied:
 1. Such uses will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
 2. Such uses will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.
- B. Placement of dwellings in the EFU zone shall conform to statutory and rule provisions.
- C. The following criteria apply to Type III uses:
 1. The use or activities associated with the use will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.
 3. The use is situated on a parcel or portion of a parcel which is generally unsuitable for the production of farm crops and livestock considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation and location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land.
 4. When the use is a dwelling, the dwelling will be situated upon land which, as a condition of approval, can be approved for sub-surface sewage disposal or an approved alternative sewage disposal system.
 5. The portion of land approved for a use under Section 410.04 of this Ordinance shall be disqualified from farm deferral where the land cannot reasonably continue in farm use.
 6. Explanation acceptable to the County is provided to demonstrate that:
 - a. Existing public services, utilities, and road systems are adequate to accommodate the proposed use, or that any such need will be provided by the applicant.

- b. The proposed development is designed to minimize adverse impacts to existing terrain, slope, and ground cover and to protect the immediate and surrounding area from potential adverse impacts caused by surface water run-off.
- c. Water, both in terms of quantity and quality, is available and adequate for the use, and adequate provisions for solid waste disposal will be provided.
- 7. The use complies with such other conditions, as the Planning Commission considers necessary.
- D. The following standards shall apply for land divisions to create up to two new parcels smaller than the minimum size established by ORS 215.780, each to contain a nonfarm dwelling:
 - 1. Nonfarm dwellings have been approved pursuant to Sections 410.04 and 410.06 of this ordinance, in addition to other applicable criteria;
 - 2. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
 - 3. The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum size established under ORS 215.780, and the remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under ORS 215.780; and
 - 4. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered

unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.

- E. The following standards shall apply for land divisions to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use if:
 - 1. The nonfarm dwellings have been approved under pursuant to Sections 410.04 and 410.06 of this ordinance, in addition to other applicable criteria;
 - 2. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
 - 3. The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size established under ORS 215.780 but equal to or larger than 40 acres;
 - 4. The parcels for the nonfarm dwellings are not capable of producing more than at least 20 cubic feet of wood fiber;
 - 5. The parcels for nonfarm dwellings are either composed of 90% Class VII and VIII soils; or
 - 6. The parcels are composed of at least 90% Class VI, VII and VIII soils and are not capable of producing adequate herbaceous forage for grazing livestock. A parcel that produces 1,050¹ or more total pounds of dry matter per acre in a normal year, as calculated using the Natural Resources Conservation Service Soil Survey for Baker County, is considered to produce adequate

¹ Note: Adequate herbaceous forage was calculated based on rounding up the average total pounds of dry matter in a normal year for Class VII soils.

herbaceous forage for the purposes of this section.

7. The parcels for the nonfarm dwellings do not have established water rights for irrigation; and
8. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land; and
9. A lot or parcel or portion of a lot or parcel is not “generally unsuitable” simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the lot or parcel is not “generally unsuitable. A lot or parcel or portion of a lot or parcel is presumed to be suitable if it is composed predominantly of Class I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use.

Crook County
Chapter 18.16
EXCLUSIVE FARM USE ZONE, EFU-1 (POST-PAULINA AREA)

Sections:

- 18.16.005 Regulations designated.**
- 18.16.010 Uses permitted outright.**
- 18.16.020 Conditional uses permitted.**
- 18.16.025 Commercial and noncommercial energy criteria.**
- 18.16.030 Goal 5 conditional mining uses subject to hearing authority review.**
- 18.16.040 Limitations on conditional uses.**
- 18.16.050 Use limitations.**
- 18.16.060 Farm dwelling.**
- 18.16.070 Land divisions.**
- 18.16.080 Limitations on nonfarm residential uses.**
- 18.16.081 Wildlife policy applicability.**
- 18.16.090 Dimensional standards.**
- 18.16.100 Yards.**
- 18.16.110 Signs.**
- 18.16.120 Special nonfarm parcel criteria.**
- 18.16.130 Parcel size exception.**

18.16.005 Regulations designated.

In an EFU-1 zone, the following regulations shall apply. (Ord. 18 § 3.010, 2003)

18.16.010 Uses permitted outright.

In an EFU-1 zone, the following uses and accessory uses thereof are permitted outright: all uses authorized under ORS [215.283](#)(1), in conjunction with any other applicable provisions of this chapter. (Ord. 231 § 1 (Exh. A), 2010; Ord. 190 § 1, 2007; Ord. 18 § 3.010(1), 2003)

18.16.020 Conditional uses permitted.

In an EFU-1 zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements of Chapter [18.160](#) CCC and in conjunction with any other applicable provisions of this chapter: all uses authorized under ORS [215.283](#)(2) and (3). (Ord. 231 § 1 (Exh. A), 2010; Ord. 18 § 3.010(2), 2003)

18.16.025 Commercial and noncommercial energy criteria.

In addition to the uses permitted under CCC [18.16.010](#) and [18.16.020](#), noncommercial and commercial wind and photovoltaic energy systems are permitted in the zone to the extent they are consistent with current state law and the applicable criteria in Chapters [18.160](#), [18.161](#) and [18.162](#) CCC. (Ord. 245 § 1, 2011; Ord. 229 § 1 (Exh. A), 2010)

18.16.030 Goal 5 conditional mining uses subject to hearing authority review.

See uses and procedures described in Chapter [18.144](#) CCC. (Ord. 18 § 3.010(3), 2003)

18.16.040 Limitations on conditional uses.

In addition to the general standards and conditions that may be attached to the approval of a conditional use as provided by Chapter [18.160](#) CCC, the following limitations shall apply to a conditional use permitted in CCC [18.16.020](#).

A use allowed under CCC [18.16.020](#) may be approved where the county finds that the use will not:

- (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

An applicant for a use allowed under CCC [18.16.020](#) may demonstrate that the standards under subsections (1) and (2) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective. (Ord. 18 § 3.010(4), 2003)

18.16.050 Use limitations.



No conflicting use shall be allowed in any Goal 5 mining impact area designated in the comprehensive plan without first obtaining approval under the standards and criteria set forth in this section.

(1) Review and Approval Criteria. An application for review shall be required for a conflicting use in an impact area prior to commencement of construction of the use. The approving authority shall review and approve the application provided:

- (a) The proposed use is consistent with the ESEE analysis in the comprehensive plan; and
- (b) The proposed use will not prevent the adjacent aggregate operator from meeting the standards and conditions set forth in Chapter [18.144](#) CCC.

(2) Waiver of Remonstrance. The applicant for site plan approval of a conflicting use in the Goal 5 mining impact area shall sign and record in the Crook County book of records a statement declaring that the applicant and his or her successors will not now or in the future complain about the allowed surface mining activities on the adjacent surface mining site.

(3) Development Agreement and Performance Bond. As a condition of approval, the applicant may be required to execute a development agreement with the county and performance bond or other form of security approved by the county to ensure full and faithful performance of any required improvements. Any bond shall be for 100 percent of the dollar required of the improvement cost. (Ord. 18 § 3.010(5), 2003)

18.16.060 Farm dwelling.

The resource dwellings identified in CCC [18.16.010](#) and [18.16.020](#) may be approved for a commercial farm or ranch based upon the following:

(1) The size of the entire resource unit including all contiguous land in the same ownership; the types of farm crops and acreage for each type; operational requirements for the particular farm activity; the number of other permanent or temporary dwellings on or serving the entire farm or ranch unit (permanent and seasonal); the extent and nature of the work to be performed by occupants of the proposed dwelling.

(2) The dwelling will be situated on a parcel currently employed for farm use as defined in ORS [215.203](#). Land is not in farm use unless the day-to-day activities on the subject land are principally directed to the farm use of the land consistent with accepted farming practices.

(3) Notice of the proposed administrative approval of a dwelling in conjunction with farm use as provided for in CCC [18.16.010](#) shall be mailed to adjoining property owners. Within 10 days following notice to adjoining property owners, the application shall be considered for approval by the planning director. An objection by an adjoining property owner shall result in a review of the application by the planning commission as a conditional use permit.

(4) Farm Hand or Secondary Resource Dwelling. When determining whether a proposed farm hand or secondary dwelling may be provided, the farm owner or operator shall demonstrate that an occupant of the proposed dwelling is required to assist in the commercial farm or ranch operation.

(5) Commercial Resource Determination. When determining whether an existing or proposed parcel is a commercial farm or ranch unit, the standards of this section shall be met and the following factors shall be considered:

(a) Soil productivity; drainage; terrain, special soil and land conditions; availability of water; type and acreage of crops grown; crops yields; number and type of livestock; processing and marketing practices; and the amount of land needed to constitute a commercial agricultural enterprise as defined in CCC [18.08.030](#). (Ord. 18 § 3.010(6), 2003)

18.16.070 Land divisions.

Divisions of land shall be only allowed when consistent with the requirements of this chapter and the land development ordinance.

(1) Farm Parcels. Division of land for farm parcels shall be appropriate for the continuation of the existing commercial agricultural operations in the area, but shall not be less than the minimum size established in ORS [215.780](#) and CCC [18.16.090](#).

(2) Nonfarm Parcels. Division of land for nonfarm parcels shall comply with the following requirements including CCC [18.16.080](#):

(a) Nonfarm dwellings have been approved for the proposed parcels pursuant to CCC [18.16.020](#)(14);

(b) The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;

(c) Two nonfarm parcels may be created as long as the remainder of the original parcel meets or exceeds the minimum standards established by CCC [18.16.090](#);

(d) For those existing parcels that are below the minimum size established by CCC [18.16.090](#), but are greater than 40 acres, compliance with CCC [18.16.120](#) is required.

(3) Minimum lot size shall be 320 acres within the elk wintering range as designated in the county's comprehensive plan, Goal 5 element. Minimum lot size for critical deer winter range shall be 160 acres, as designated by the county's comprehensive plan, Goal 5 element. Minimum lot size for general winter range shall be 80 acres.

(4) A land division for a nonfarm dwelling may be approved only if the nonfarm dwelling has first been approved under CCC [18.16.020](#). (Ord. 18 § 3.010(7), 2003)

18.16.080 Limitations on nonfarm residential uses.

The county may approve a nonfarm residential dwelling upon a finding that the proposed dwelling:

(1) Accepted Farm or Forest Practices. Will not seriously interfere with or force a significant change in accepted farm and forest practices, as defined in ORS [215.203](#)(2)(C), on nearby or adjacent lands devoted to farm use or forest use, including but not limited to increasing the costs of accepted farm or forest practices on nearby land devoted to farm use.

(2) Land Use Pattern. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the county shall consider the cumulative impacts of new nonfarm dwellings on other lots or parcels in the area. If the application involves the creation of a new parcel for the nonfarm dwelling, the county shall consider whether creation of the parcel will lead to the creation of other nonfarm parcels, to the detriment of agriculture in the area. To address this standard, the applicant shall:

(a) Identify a study area representative of the surrounding agricultural area including adjacent and nearby land zoned for exclusive farm use. Nearby land zoned for rural residential or other urban or nonresource uses shall not be included;

(b) Identify the types and sizes of all farm and nonfarm uses and the stability of the existing land use pattern within the identified study area; and

(c) Explain how the introduction of the proposed nonfarm dwelling will not materially alter the land use pattern within the identified study area.

The applicant's evidence shall be sufficient to enable the county to make findings on these issues as well as other applicable requirements.

(3) Unsuitability for Agriculture.

(a) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm use in conjunction with other land. A lot or parcel is not generally unsuitable simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not generally unsuitable. A lot or parcel is presumed to be suitable if it is composed predominantly of Class I through VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use.

(b) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the forest practices rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not managed for forest production profitably by itself. If rented or otherwise managed as a part of a forestry operation, it is not generally unsuitable. If a lot or parcel is under forest assessment, it is presumed suitable if it is producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.

(4) Other Conditions Deemed Necessary. Complies with such other conditions, as the county considers necessary.

(5) Creation of Lot. The dwelling will be sited on a lot or parcel created before January 1, 1993, or on a lot or parcel created after January 1, 1993, pursuant to CCC [18.16.070](#)(4).

(6) Disqualification from Farm Deferral. Prior to final approval of a building permit for a use governed by this section, the entire lot or parcel upon which the nonfarm dwelling will be located must be disqualified for farm assessments pursuant to ORS [215.236](#). (Ord. 231 § 1 (Exh. A), 2010; Ord. 18 § 3.010(8), 2003)

18.16.081 Wildlife policy applicability.



All new nonfarm dwellings on existing parcels within the deer and elk winter ranges must meet the residential density limitations found in Wildlife Policy 2 of the Crook County comprehensive plan. Compliance with the residential density limitations may be demonstrated by calculating a one-mile radius (or 2,000-acre) study area. An applicant may use a different study area size or shape to demonstrate compliance with Wildlife Policy 2 provided the methodology and size of the study area are explained and are found to be consistent with the purpose of Crook County comprehensive plan Wildlife Policy 2. (Ord. 236 § 1 (Exh. A), 2010)

18.16.090 Dimensional standards.

In an EFU-1 zone, the following dimensional standards shall apply:

(1) The minimum new parcel size for farm use permitted by this chapter shall be 160 acres unless a larger minimum size is necessary to satisfy CCC [18.16.070](#) based on an evaluation of the subject property and commercial agricultural enterprises, as defined in CCC [18.08.030](#), located in the same zone at least one mile from the property boundary of the subject property, which shows the proposed parcels are equal to or greater than the typical commercial agricultural enterprise in the area.

(2) The minimum lot area for a nonfarm dwelling shall be based upon the requirements of CCC [18.16.080](#), but shall not be smaller than 10 acres.

(3) The minimum lot area for all nonfarm uses listed under CCC [18.16.020](#) (except dwellings) shall not be larger than the minimum necessary for the use.

(4) A land division for a nonfarm dwelling may be approved only if the nonfarm dwelling has first been approved under CCC [18.16.040](#). (Ord. 18 § 3.010(9), 2003)

18.16.100 Yards.

In an EFU-1 zone, the minimum yard setback requirements shall be as follows:

In an exclusive farm use zone (EFU) the minimum setback of a residence or habitable structure from a property line shall be 100 feet.

(1) If a parcel in the EFU zone is nonbuildable as a result of the habitable structure setback requirements, the commission may consider a conditional use application from the landowner to adjust the setback requirements to make the parcel buildable.

(2) The minimum setbacks for all accessory structures are:

(a) Front yard setback shall be 20 feet for property fronting on a local minor collector or marginal access street, 30 feet from a property line fronting on a major collector ROW, and 80 feet from an arterial ROW unless other provisions for combining accesses are provided and approved by the county.

(b) Each side yard shall be a minimum of 20 feet, except corner lots where the side yard on the street side shall be a minimum of 30 feet.

(c) Rear yards shall be a minimum of 25 feet. (Ord. 18 § 3.010(10), 2003)

18.16.110 Signs.

In an EFU-1 zone, the following signs are permitted:

(1) One nameplate for each dwelling unit not more than one and one-half square feet in area and shall not be illuminated.

(2) One temporary sign advertising the sale, lease or rental of the property on which it is located, not more than three square feet in area and not illuminated.

(3) One sign identifying the name of a farm or ranch of 160 acres or greater, not more than 32 square feet in area, not illuminated, and located at least 10 feet from a property line.

(4) One sign identifying an enterprise other than a farm or ranch, a conditional use, not more than 25 square feet in area, not illuminated, and located at least 10 feet from a property line. (Ord. 18 § 3.010(11), 2003)

18.16.120 Special nonfarm parcel criteria.

Standards for land divisions for parcels equal to or below minimum size as established by ORS [215.780](#).

(1) A parcel may be divided into two nonfarm parcels each to contain one dwelling not in conjunction with farm use upon a finding that:

(a) Nonfarm dwellings have been approved pursuant to CCC [18.16.080](#);

(b) Parcel was lawfully created prior to July 1, 2001;

(c) The original parcel size is larger than 40 acres;

(d) Parcels are not capable of producing at least 20 cubic feet per acre of wood fiber;

(e) There are not any established water rights for irrigation;

(f) Composed of 90 percent Class VII and VIII soils;

(g) Composed of 90 percent Class VI through VIII soils and complying with subsection (2) of this section.

(2) Parcels identified in subsection (1)(g) of this section must demonstrate that the sites are not capable of producing adequate herbaceous forage for grazing livestock. These findings shall include the following:

(a) Whether the parcel is an open range or a livestock district.

(b) Whether the parcel is currently fenced.

(c) Whether livestock water is available.

(d) Size of parcel.

(e) AUM's availability determined by on-site study by qualified independent party such as a Crook County soil and water conservation representative or USDA Natural Resources Conservation Representative, or in the private sector, a range consultant or professional in rangeland management certified by the Society

of Range Management. The study shall use accepted practices in the identification of herbaceous forage, using best management practices in determining the parcel's capability for herbaceous forage production. The study shall include the total pounds for current year dry matter herbaceous forage on site.

(f) Each site shall have not more than 13,000 pounds current year dry matter herbaceous forage.

(3) Parcels approved pursuant to subsections (1) and (2) of this section shall have the following conditions imposed to minimize any impacts to adjacent farming practices:

(a) A conservation plan to be submitted prior to issuance of building permit for a nonfarm dwelling addressing animal management, weed control, juniper/fire issues, and erosion control measures if located on sloped land.

(b) Nonfarm parcels are to be removed from farm deferral, if on program, prior to final plat approval and recording.

(c) Letter of nonremonstrance agreeing not to object to accepted farm practices in the area. (Ord. 18 § 3.010(12), 2003)

18.16.130 Parcel size exception.

Whereas land sections in the area of the county subject to this section are commonly affected by survey adjustments, requirements relative to farm or lot sizes shall be considered as standard metes and bounds land section divisions; i.e., 160, 80, 40, 20, etc. Therefore, lot sizes may be reduced by five percent due to a survey adjustment or other manmade barriers such as roads or major canals over which the applicant has had no control. (Ord. 18 § 3.010(13), 2003)

Chapter 18.16. EXCLUSIVE FARM USE ZONES

18.16.010. Purpose.

18.16.020. Uses Permitted Outright.

18.16.025. Uses Permitted Subject to the Special Provisions Under DCC Section 18.16.038 and a Review Under DCC Chapter 18.124 For Items C Through M.

18.16.030. Conditional Uses Permitted - High Value and Nonhigh Value Farmland.

18.16.031. Nonresidential Conditional Uses on Nonhigh Value Farmland Only.

18.16.033. Nonresidential Conditional Uses on High Value Farmland Only.

18.16.035. Destination Resorts.

18.16.037. Guest Ranch.

18.16.038. Special Conditions for Certain Uses Listed Under DCC 18.16.025.

18.16.040. Limitations on Conditional Uses.

18.16.042. Agri-Tourism and Other Commercial Events or Activities Limited Use Permit

18.16.043. Single Permit

18.16.050. Standards for Dwellings in the EFU Zones.

18.16.055. Land Divisions.

18.16.060. Dimensional Standards.

18.16.065. Subzones.

18.16.067. Farm Management Plans.

18.16.070. Yards.

18.16.080. Stream Setbacks.

18.16.090. Rimrock Setback.

18.16.010. Purpose.

- A. The purpose of the Exclusive Farm Use zones is to preserve and maintain agricultural lands and to serve as a sanctuary for farm uses.
- B. The purposes of this zone are served by the land use restrictions set forth in the Comprehensive Plan and in DCC 18.16 and by the restrictions on private civil actions and enforcement actions set forth in ORS 30.930 through 30.947.

(Ord. 95-007 §9, 1995; Ord. 92-065 §3, 1992; Ord. 91-038 §§1 and 2, 1991)

18.16.020. Uses Permitted Outright.

The following uses and their accessory uses are permitted outright:

- A. Farm use as defined in DCC Title 18.
- B. Propagation or harvesting of a forest product.
- C. Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(2)(a) or (b).
- D. Accessory buildings customarily provided in conjunction with farm use.
- E. Climbing and passing lanes within the right of way existing as of July 1, 1987.
- F. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
- G. Temporary public road and highway detours that will be abandoned and restored to original condition or use when no longer needed.

- H. Minor betterment of existing public road and highway-related facilities such as maintenance yards, weigh stations and rest areas, within a right of way existing as of July 1, 1987, and contiguous public owned property utilized to support the operation and maintenance of public roads and highways.
- I. Creation, restoration or enhancement of wetlands.
- J. Alteration, restoration or replacement of a lawfully established dwelling that:
 - 1. Has intact exterior walls and roof structure;
 - 2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - 3. Has interior wiring for interior lights;
 - 4. Has a heating system; and
 - 5. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel, and shall comply with all applicable siting standards. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of the statute and county code have changed to allow the siting of another dwelling; and
 - 6. The replacement dwelling is subject to OAR 660-033-0130(30) and the County shall require as a condition of approval of a single-family replacement dwelling that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 to 30.937.
 - 7. An applicant for a replacement dwelling may request a deferred replacement dwelling permit.
 - a. The dwelling to be replaced shall be removed or demolished within three months after the deferred replacement permit is issued.
 - b. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the replacement permit becomes void.
 - c. 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.
 - d. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or child of the applicant.
- K. A replacement dwelling to be used in conjunction with farm use if the existing dwelling is listed on the National Register of Historic Places and on the County inventory as a historic property as defined in ORS 358.480, and subject to 18.16.020(J)(6) above.
- L. Wildlife habitat conservation and management plan approved under ORS 215.800 to 215.808.
- M. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- N. Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:
 - 1. A public right of way;
 - 2. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
 - 3. The property to be served by the utility.
- O. The land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in

an exclusive farm use zone, subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246 to 215.251.

- P. Fire service facilities providing rural fire protection services.
 - Q. Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(2)(a) or (b).
 - R. Outdoor mass gathering described in ORS 197.015(10)(d), and subject to DCC Chapter 8.16.
 - S. Composting operations that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract as allowed under OAR 660-033-0130(29).
- (Ord. 2012-007 §2, 2012; Ord. 2010-022 §2, 2010; Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 2004-001 §2, 2004; Ord. 2001-039 §1, 2001; Ord. 2001-016 §2, 2001; Ord. 98-030 §1, 1998; Ord. 95-007 §10, 1995; Ord. 92-065 §3, 1992; Ord. 91-038 §§1 and 2, 1991; Ord. 91-024 §1, 1991; Ord. 91-020 §1, 1991; Ord. 91-005 §4, 1991; Ord. 91-002 §3, 1991; Ord. 86-007 §1, 1986; Ord. 81-025 §1, 1981; Ord. 81-001 §1, 1981)

18.16.025. Uses Permitted Subject to the Special Provisions Under DCC Section 18.16.038 or DCC Section 18.16.042 and a Review Under DCC Chapter 18.124 where applicable.

- A. Dwellings customarily provided in conjunction with farm use (farm-related dwellings), subject to DCC 18.16.050.
- B. A relative farm assistance dwelling, subject to DCC 18.16.050.
- C. Churches and cemeteries in conjunction with churches consistent with ORS 215.441, that are not within 3 miles of an acknowledged urban growth boundary, on nonhigh value farmland.
- D. Churches and cemeteries in conjunction with churches consistent with ORS 215.441, that are within 3 miles of an acknowledged urban growth boundary, subject to Oregon Administrative Rules 660-033-0130 on nonhigh value farmland.
- E. Expansion of an existing church or cemetery in conjunction with a church on the same tract as the existing use, subject to Oregon Administrative Rules 660-033-0130.
- F. Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale and transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in DCC 18.16.038(A).
- G. Winery, as described in ORS 215.452.
- H. Farm stands, subject to DCC 18.16.038.
- I. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may be reasonably necessary.
- J. A facility for the processing of farm crops, or the production of biofuel as defined in ORS 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility.
 - a. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses.
 - b. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility.
 - c. The County shall not approve any division of a lot or parcel that separates a processing facility from the farm operation on which it is located.
- K. Agri-tourism and other commercial events and activities subject to DCC 18.16.042.

(Ord. 2012-007 §2, 2012; Ord. 2012-004 §2, 2012; Ord. 2010-022 §2, 2010; Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 2004-001 §2, 2004)

18.16.030. Conditional Uses Permitted -High Value and Nonhigh Value Farmland.

The following uses may be allowed in the Exclusive Farm Use zones on either high value farmland or nonhigh value farmland subject to applicable provisions of the Comprehensive Plan, DCC 18.16.040 and 18.16.050, and other applicable sections of DCC Title 18.

- A. Nonfarm dwelling.
- B. Lot of record dwelling.
- C. Residential home or facility, as defined in DCC 18.04.030, in existing dwellings.
- D. A hardship dwelling, which can include one manufactured dwelling or recreational vehicle, 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.
- E. A dwelling in conjunction with a wildlife habitat conservation and management plan.
- F. Commercial activities that are in conjunction with farm use, but not including the processing of farm crops as described in DCC 18.16.025.
- G. Operations conducted for:
 - Mining and processing of geothermal resources as defined by ORS 522.005, and
 - Mining and processing of natural gas or oil as defined by ORS 520.005, not otherwise permitted under DCC 18.16.020.
- H. Expansion of an existing private park, playground, hunting and fishing preserve and campground on the same tract as the existing use.
- I. Public park and playground consistent with the provisions of ORS 195.120, and including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.
- J. Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.
 - 1. A community center authorized under this section may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006.
 - 2. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.
- K. Transmission towers over 200 feet in height.
- L. Commercial utility facility, including a hydroelectric facility (in accordance with DCC 18.116.130 and 18.128.260, and OAR 660-033-0130), for the purpose of generating power for public use by sale, not including wind power generation facilities.
- M. Personal use airport for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal use airport as used in DCC 18.16.030 means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations.
- N. Home Occupation, subject to DCC 18.116.280.
 - 1. The home occupation shall:
 - a. be operated substantially in the dwelling or other buildings normally associated with uses permitted in the EFU zone;
 - b. be operated by a resident or employee of a resident of the property on which the business is located; and
 - c. employ on the site no more than five full-time or part-time persons.
 - 2. The home occupation shall not unreasonably interfere with other uses permitted in the EFU zone.

- O. A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 213.203(2). The primary processing of a forest product, as used in DCC 18.16.030, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in DCC 18.16.030, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
 - P. Construction of additional passing and travel lanes requiring the acquisition of right of way, but not resulting in the creation of new land parcels.
 - Q. 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.
 - R. 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.
 - S. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species.
 - 1. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture.
 - 2. The county shall provide notice of all applications under this section to the State Department of Agriculture.
 - 3. Notice shall be provided in accordance with DCC Title 22, but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.
 - T. Room and board arrangements for a maximum of five unrelated persons in an existing residence. If approved, this use is subject to the recording of the statement listed in DCC 18.16.020(J)(6).
 - U. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland.
 - V. Roads, highways and other transportation facilities, and improvements not otherwise allowed under DCC 18.16, if an exception to Goal 3, Agricultural Lands, and to any other applicable goal is first granted under state law. Transportation uses and improvements may be authorized under conditions and standards as set forth in OAR 660-012-0035 and 660-012-0065.
 - W. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
 - X. A living history museum.
 - Y. Operations for the extraction and bottling of water.
 - Z. Transportation improvements on rural lands allowed by OAR 660-012-0065.
 - AA. Expansion of existing county fairgrounds and activities relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.
 - BB. Extended outdoor mass gatherings, subject to DCC 8.16.
 - CC. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
 - DD. Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130.
 - EE. Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130.
- (Ord. 2012-007 §2, 2012; Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 2004-001 §2, 2004; Ord. 2001-039 §1, 2001; Ord. 2001-016 §2, 2001; Ord. 98-030 §1, 1998; Ord. 95-025 §1, 1995; Ord. 95-007 §11, 1995; Ord. 94-008 §9, 1994; Ord. 92-065 §3, 1992; Ord. 91-038 §2, 1991; Ord. 91-020 §1, 1991; Ord. 91-014 §1, 1991; Ord. 91-005 §5, 1991; Ord. 90-018 §1, 1990; Ord. 90-014 §§23 and 31, 1991; Ord. 87-013 §1, 1987; Ord. 86-018 §3, 1986; Ord. 83-028 §1, 1983)

18.16.031. Conditional Uses on Nonhigh Value Farmland Only.

The following uses may be allowed only on tracts in the Exclusive Farm Use Zones that constitute nonhigh value farmland subject to applicable provisions of the Comprehensive Plan and DCC 18.16.040 and other applicable sections of DCC Title 18.

- A. Dog kennel.
- B. A site for the disposal of solid waste approved by the governing body of a city or County or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.
- C. Golf course and accessory golf course uses as defined in DCC Title 18 on land determined not to be high value farmland, as defined in ORS 195.300.
- D. Except for those composting facilities that are a farm use as allowed under DCC 18.16.020, composting operations and facilities for which a permit has been granted by the Oregon Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. On-site sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.
- E. Private parks, playgrounds, hunting and fishing preserves and campgrounds.
- F. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located, subject to the applicable Oregon Administrative Rules.

(Ord. 2012-007 §2, 2012; Ord. 2010-022 §2, 2010; Ord. 2009-014 §1, 2009; Ord. 2004-001 §2, 2004; Ord. 95-007 §12, 1995)

18.16.033. Conditional Uses on High Value Farmland Only.

In addition to those uses listed in DCC 18.16.030 above, the following uses may be allowed on tracts in the Exclusive Farm Use Zones that constitute high value farmland subject to applicable provisions of the Comprehensive Plan and DCC 18.16.040 and other applicable sections of DCC Title 18.

- A. Maintenance, enhancement or expansion of dog kennels existing as of March 1, 1994, subject to other requirements of law. New dog kennels are prohibited.
- B. Maintenance, enhancement or expansion of a site described in 18.16.031 (B) existing as of March 1, 1994, subject to other requirements of law. New such sites are prohibited.
- C. Maintenance, enhancement or expansion of golf course and accessory golf course uses as defined in DCC Title 18 existing as of March 1, 1994, subject to other requirements of law. New such uses are prohibited. Expanded courses may not exceed 36 holes total.
- D. Additions or expansions to existing public or private schools on high value farmland, for kindergarten through grade 12, including all buildings essential to the operation of a school, subject to the applicable Oregon Administrative Rules.

(Ord. 2010-022 §2, 2010; Ord. 2009-014 §1, 2009; Ord. 2004-001 §2, 2004; Ord. 95-007 §13, 1995)

18.16.035. Destination Resorts.

Destination resorts may be allowed, where mapped, as a conditional use, subject to all applicable standards of the Destination Resort Zone.

(Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 92-065 §3, 1992; Ord. 92-004 §3, 1992)

18.16.037. Guest Ranch.

- A. A guest ranch may be established in conjunction with an existing and continuing livestock operation, using accepted livestock practices that qualifies as a farm use under DCC 18.04.030, subject to the applicable provisions set forth in DCC 18.16.040(A)(1), (2) and (3), the applicable provisions of DCC

18.128, and the provisions of the applicable Oregon Revised Statutes. A guest ranch shall not be located within the boundaries of or surrounded by:

- (1) A federally designated wilderness area or a wilderness study area;
- (2) A federally designated wildlife refuge;
- (3) A federally designated area of critical environmental concern; or
- (4) An area established by an Act of Congress for the protection of scenic or ecological resources.

- B. "Guest ranch" means a facility for overnight guest lodging units, including passive recreational activities and food services, as set forth in ORS 215 that are incidental and accessory to an existing livestock operation that qualifies as a farm use under DCC 18.04.030.
- C. A guest lodging unit means a guest room in a lodge, bunkhouse, cottage or cabin used only for transient overnight lodging and not for a permanent residence accommodations.
- D. For the purposes of DCC 18.16.037, "livestock" means cattle, sheep, horses, and bison.
- E. A proposed division of land in an exclusive farm use zone for a guest ranch or a division of a lot or parcel that separates a guest ranch from the dwelling of the person conducting the livestock operation shall not be allowed.
- F. Notwithstanding DCC 18.16.055, a proposed division of land in an exclusive farm use zone for a guest ranch shall not be allowed.

(Ord. 2012-007 §2, 2012; Ord. 2010-022 §2, 2010; Ord. 2009-014 §1, 2009; Ord. 2001-043 §1, 2001; Ord. 98-056 §1, 1998)

Note: DCC 18.16.037 will be repealed January 2, 2018 (Ord. 2012-007 §2, 2012; Ord. 2010-017 §1, 2010).

18.16.038. Special Conditions for Certain Uses Listed Under DCC 18.16.025.

- A. A utility facility necessary for public use allowed under DCC 18.16.025 shall be one that is necessary to be situated in an agricultural zone in order for service to be provided. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:
 1. Technical and engineering feasibility;
 2. The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 3. Lack of available urban and nonresource lands;
 4. Availability of existing rights of way;
 5. Public health and safety; and
 6. Other requirements of state and federal agencies.
 7. Costs associated with any of the factors listed in 1-6 above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities that are not substantially similar.
 8. The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
 9. In addition to the provisions of 1-6 above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.
 10. The provisions above do not apply to interstate gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

11. The County shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use, in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.
 12. Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Off-site facilities allowed under this provision are subject to OAR 660-033-0130(5). Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.
- B. Wineries are subject to the following:
1. A winery, authorized under DCC 18.16.025 is a facility that produces wine with a maximum annual production of:
 - a. Less than 50,000 gallons and:
 - i. Owns an on-site vineyard of at least 15 acres;
 - ii. Owns a contiguous vineyard of at least 15 acres;
 - iii. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
 - iv. Obtains grapes from any combination of i, ii or iii of this subsection; or
 - b. At least 50,000 gallons and the winery:
 - i. Owns an on-site vineyard of at least 40 acres;
 - ii. Owns a contiguous vineyard of at least 40 acres;
 - iii. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery; or
 - iv. Obtains grapes from any combination of i., ii., or iii. of this subsection.
 2. A winery may:
 - a. Market and sell wine produced in conjunction with the winery, including the following activities:
 - i. Wine tours;
 - ii. Wine tastings in a tasting room or other location at the winery;
 - iii. Wine clubs; and
 - iv. Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery;
 - b. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages served by a limited service restaurant, as defined in ORS 624.010; and
 - c. Provide services, including private events, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:
 - i. Are directly related to the sale or promotion of wine produced in conjunction with the winery;
 - ii. Are incidental to the retail sale of wine on-site; and
 - iii. Are limited to 25 days or fewer in a calendar year.
 3. Gross Income.
 - a. The gross income of the winery from the sale of incidental items pursuant to subsection (2)(b) of this section and services provided pursuant to subsection (2)(c) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.

- b. The winery shall submit to the Deschutes County Community Development Department a written statement, prepared by a certified public accountant, that certifies compliance with this section for the previous tax year by April 15 of each year in which private events are held.
 - 4. A winery operating under this section shall provide parking for all activities or uses on the lot, parcel or tract on which the winery is established.
 - 5. Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards described in subsections (B)(1) of this section have been planted or that the contract for the purchase of grapes has been executed, as applicable.
 - 6. The siting of a winery shall be subject to the following standards:
 - a. Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places.
 - b. Shall comply with DCC Chapter 18.80, Airport Safety Combining Zone, and DCC 18.116.180, Building Setbacks for the Protection of Solar Access.
 - 7. As used in this section, "private events" includes, but is not limited to, facility rentals and celebratory gatherings.
 - 8. The winery shall have direct road access and internal circulation.
 - 9. A winery is subject to the following public health and safety standards:
 - a. Sanitation facilities shall include, at a minimum, portable restroom facilities and stand-alone hand washing stations.
 - b. No event, gathering or activity may begin before 7:00 a.m. or end after 10:00 p.m., including set-up and take-down of temporary structures.
 - c. Noise control.
 - i. All noise, including the use of a sound producing device such as, but not limited to, loud speakers and public address systems, musical instruments that are amplified or unamplified, shall be in compliance with applicable state regulations.
 - ii. A standard sound level meter or equivalent, in good condition, that provides a weighted sound pressure level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA shall be available on-site at all times during private events.
 - d. Adequate traffic control must be provided by the property owner to address the following:
 - i. There shall be one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time.
 - ii. All traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.
 - e. Structures.
 - i. All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of the Deschutes County Building Safety Division and the Environmental Soils Division and any other applicable federal, state and local laws.
 - ii. Compliance with the requirements of the Deschutes County Building Safety Division shall include meeting all building occupancy classification requirements of the State of Oregon adopted building code.
 - f. Inspection of event premises authorization. The applicant shall provide in writing a consent to allow law enforcement, public health, and fire control officers to come upon the premises for which the Limited Use Permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and DCC Chapter 18.16 Exclusive Farm Use Zone and DCC Chapter 8.08 Noise Control, and any other applicable laws or ordinances.
 - 10. DCC Chapter 18.16.038(B), Sections (2c),(3), (7) and (9) sunset on January 1, 2014.
- C. Farm stands are subject to the following:

1. The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand, if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and
 2. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops or livestock, and does not include structures for banquets, public gatherings or public entertainment.
 3. As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.
 4. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.
 5. As used in this section, "local agricultural area" includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.
- D. A site for the takeoff and landing of model aircraft is subject to the following:
1. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building of facility preexisted the use approved under this section.
 - a. The site shall not include an aggregate surface or hard surface area, unless the surface preexisted the use approved under this section.
 - b. An owner of property used for the purpose authorized in this section may charge a person operating the use on the property rent for the property.
 - c. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities.
 - d. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.
- E. A facility for the processing of farm crops shall be located on a farm operation that provides at least one-quarter of the farm crops processed at the facility.
1. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses.
 2. A processing facility shall comply with all applicable siting standards, but the standards shall not be applied in a manner that prohibits the siting of the processing facility.
 3. The County shall not approve any division of a lot or parcel that separates a processing facility from the farm operation on which it is located.

(Ord. 2012-007 §2, 2012; Ord. 2012-004 §2, 2012; Ord. 2010-022 §2, 2010; Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 2004-001 §2, 2004)

18.16.040. Limitations on Conditional Uses.

- A. Conditional uses permitted by DCC 18.16.030 may be established subject to ORS 215.296 and applicable provisions in DCC 18.128 and upon a finding by the Planning Director or Hearings Body that the proposed use:
1. Will not force a significant change in accepted farm or forest practices as defined in ORS 215.203(2)(c) on surrounding lands devoted to farm or forest uses; and
 2. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

3. That the actual site on which the use is to be located is the least suitable for the production of farm crops or livestock.
- B. A commercial activity allowed under DCC 18.16.030(F) shall be associated with a farm use occurring on the parcel where the commercial use is proposed. The commercial activity may use, process, store or market farm products produced outside of Deschutes County.
- C. A power generation facility that is part of a commercial utility facility for the purpose of generating power for public use by sale identified in DCC 18.16.030(L) and:
 1. That is located on high-value farmland, the permanent features of which shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and Oregon Administrative Rules 660, Division 004.
 2. That is located on nonhigh-value farmland, the permanent features of which shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and Oregon Administrative Rules 660, Division 4.
 3. A power generation facility may include on-site and off-site facilities for temporary workforce housing as allowed under OAR 660-033-0130(17) and (22)
- D. A wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to OAR 660-033-0130(5) and shall have no effect on the original approval. A proposal for a wind power generation facility shall be subject to the following provisions:
 1. For high value farmland soils described in ORS 195.300(10), that all of the following are satisfied:
 - a. Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:
 - i. Technical and engineering feasibility;
 - ii. Availability of existing rights of way; and
 - iii. The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under OAR 660-033-0130(37)(a)(B);
 - b. The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any component thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;
 - c. Costs associated with any of the factors listed in OAR 660-033-0130(37)(a)(A) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;
 - d. The owner of a wind power generation facility approved under OAR 660-033-0130(37)(a) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prevent the

- owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and
- e. The criteria of OAR 660-033-0130(37)(b) are satisfied.
2. For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designated must find that:
 - a. The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;
 - b. The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
 - c. Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, show unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;
 - d. Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.
 3. For nonarable lands, meaning lands that are not suitable for cultivation, the governing body or its designate must find that the requirements of OAR 660-033-0130(37)(b)(D) are satisfied.
 4. In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in OAR 660-033-0130(37)(b) and (c) the approval criteria of OAR 660-033-0130(37)(b) shall apply to the entire project.
- E. No aircraft may be based on a personal-use airport identified in DCC 18.16.030(M) other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.
 - F. The facility for the primary processing of forest products identified in DCC 18.16.030 is intended to be portable or temporary in nature. Such a facility may be approved for a one-year period which is renewable.
 - G. Batching and blending mineral and aggregate into asphaltic cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date of the application for bat
 - H. Accessory uses for golf courses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings. Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to service only the needs of persons who patronize the golf course and their guests. Accessory

food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

- I. An expansion of an existing golf course as allowed under DCC 18.16.033(C) shall comply with the definition of "golf course" set forth in DCC Title 18 and the provisions of DCC 18.16.040(A).
 - J. An applicant for a nonfarm conditional use may demonstrate that the standards for approval will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.
 - K. For purposes of approving a conditional use permit for a lot of record dwelling under DCC 18.16.030, the soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner:
 - 1. Submits a statement of agreement from the Natural Resources Conservation Service of the United States Department of Agriculture that the soil class, soil rating or other soil designation should be adjusted based on new information; or
 - 2. Submits a report from a soils scientist whose credentials are acceptable to the Oregon Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and
 - 3. Submits a statement from the Oregon Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in 2 above and finds the analysis in the report to be soundly and scientifically based.
 - 4. The soil classes, soil ratings or other soil designations used in or made pursuant to this definition are those of the NRCS in its most recent publication for that class, rating or designation before November 4, 1993, except for changes made pursuant to subsections 1-3 above.
 - 5. For the purposes of approving a land use application under OAR 660-033-0090, 660-033-0120, 660-033-0130 and 660-033-0135, soil classes, soil ratings or other soil designations used in or made pursuant to this definition are those of the NRCS in its most recent publication for that class, rating or designation.
 - L. Except on a lot or parcel contiguous to a lake or reservoir, a private campground 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 004.
 - a. 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.
 - b. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
 - c. As used in this paragraph, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.
 - d. 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.
 - M. living history museum shall be related to resource based activities and be owned and operated by a governmental agency or a local historical society.
 - a. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities, or if the museum administration buildings and parking lot are located within one-quarter mile of an urban growth boundary.
 - b. As used in this paragraph, a "living history museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and "local historical society" means the local historic society recognized by the County and organized under ORS Chapter 65.
- (Ord. 2012-007 §2, 2012; Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 2006-008 §3, 2006; Ord. 2004-001 §2, 2004; Ord. 98-030 §1, 1998; Ord. 95-075 §1, 1995; Ord. 95-007 §14, 1995; Ord. 92-065 §3, 1992; Ord. 91-038 §1 and 2, 1991; Ord. 91-020 §1, 1991; Ord. 91-011 §1, 1991)

18.16.042 Agri-Tourism and other Commercial Events or Activities Limited Use Permit

- A. Agri-tourism and other commercial events or activities related to and supportive of agriculture may be approved in an area zoned for exclusive farm use only if the standards and criteria in this section are met.
- B. Application. The application shall include the following.
 - 1. The General Provisions information required in DCC 22.08.010.
 - 2. A written description of:
 - a. The proposal.
 - b. The types of agri-tourism and other commercial events or activities that are proposed to be conducted, including the number and duration of the agri-tourism and other commercial events and activities, the anticipated maximum daily attendance and the hours of operation, and how the agri-tourism and other commercial events or activities will be related to and supportive of agriculture and incidental and subordinate to the existing farm use of the tract.
 - c. The types and locations of all permanent and temporary structures, access and egress, parking facilities, and sanitation and solid waste to be used in connection with the agri-tourism or other commercial events or activities.
 - 3. A traffic management plan that:
 - a. Identifies the projected number of vehicles and any anticipated use of public roads;
 - b. Provides an assurance that one traffic control person shall be provided for each 250 persons expected or reasonably expected to be in attendance at any time during the agri-tourism and other commercial event or activity. The traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.
 - c. Demonstrates that the parcel, lot or tract has direct access such that the lot, parcel or tract on which commercial events will occur:
 - i. Fronts on a public road; or
 - ii. Is accessed by an access easement or private road, and all underlying property owners and property owners taking access between the subject property and the public road consent in writing to the use of the road for agri-tourism and other commercial events or activities at the time of initial application.
 - 4. Inspection of Event Premises Authorization. The applicant shall provide in writing a consent to allow law enforcement, public health, and fire control officers and code enforcement staff to come upon the premises for which the Limited Use Permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and DCC Chapter 18.16 Exclusive Farm Use Zone and DCC Chapter 8.08 Noise Control, and any other applicable laws or ordinances.
- C. Approval Criteria.
 - 1. Type 1. Up to six (6) agri-tourism events in a calendar year on a tract may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, if in compliance with:
 - a. Criteria set forth in 18.16.042(C)(2)(d-j).
 - b. May not, individually, exceed one calendar day.
 - c. Commercial events or activities are not permitted.
 - d. Minimum lot or parcel size: 5 acres.
 - e. Comply with DCC Chapter 8.08 Noise Control at all times. Sound amplification and sound producing devices are prohibited.
 - f. The maximum attendance is 30 at any one time for all non-residents of the tract.
 - g. Where there is a conflict between this section and DCC 18.16.042(C)(4-12), the more restrictive criteria shall apply.

2. Type 2. Up to six (6) agri-tourism and other commercial events or activities in a calendar year on a tract may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, if in compliance with:
 - a. Minimum lot or parcel size: 10 acres.
 - b. Agri-tourism events may not, individually, exceed a duration of 72 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 72 consecutive hours.
 - c. Commercial events or activities may not, individually, exceed a duration of 30 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 30 consecutive hours.
 - d. Must be incidental and subordinate to existing farm use of the tract, and shall be related to and supportive of agriculture.
 - e. Set-up and take down of all temporary structures and facilities shall occur up to one business day prior to the agri-tourism and other commercial events or activities and one business day after the agri-tourism and other commercial events or activities between 7:00 a.m. and 10:00 p.m.
 - f. May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities.
 - g. May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area.
 - h. Must comply with ORS 215.296.
 - i. Limited Use Permits approved under this section expire two years from the date of approval.
 - j. Limited Permits may be renewed for an additional two years subject to:
 - i. An application for renewal; and
 - ii. Demonstration of compliance with conditions that apply to the limited use permit and applicable provisions in this section, DCC Chapter 18.16.042.
3. Type 3. Agri-tourism or other commercial events or activities may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, more frequently or for a longer period than allowed under 18.16.042(C)(1) and (2) if the agri-tourism or other commercial events or activities is in compliance with:
 - a. Criteria set forth in 18.16.042(C)(2)(d)(e)(f)(g) and (h).
 - b. Must be incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area.
 - c. Minimum lot or parcel size: 160 acres.
 - d. Do not exceed 18 commercial events or activities in a calendar year.
 - e. Commercial events or activities may not, individually, exceed a duration of 24 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 24 consecutive hours.
 - f. Agri-tourism events may not, individually, exceed a duration of 72 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 72 consecutive hours.
 - g. No more than two commercial events or activities may occur in one month.
 - h. Limited Use Permits approved under this section expire four years from the date of approval.
 - i. Limited Use Permits may be renewed at four year intervals subject to:
 - i. An application for renewal;
 - ii. Public notice and public comment as part of the review process.
 - iii. Demonstration of compliance with conditions that apply to the limited use permit and applicable provisions in this section, DCC Chapter 18.16.042.
4. The area in which the agri-tourism or other commercial events or activities are located shall be setback at least 100 feet from the property line.

5. Notification of agri-tourism and other commercial events or activities.
 - a. The property owner shall submit in writing the list of calendar days scheduled for all agri-tourism and other commercial events or activities by April 1 of the subject calendar year or within 30 days of new or renewed limited use permits, if after April 1, to Deschutes County's Community Development Department and Sheriff's Office, and all property owners within 500 feet of the subject property.
 - b. The list of calendar dates for all agri-tourism, commercial events and activities may be amended by submitting the amended list to the same entities at least 72 hours prior to any date change.
 - c. If such notice is not provided, the property owner shall provide notice by Registered Mail to the same list above at least 10 days prior to each agri-tourism and other commercial event or activity.
 - d. The notification shall include a contact person or persons for each agri-tourism and other commercial event or activity who shall be easily accessible and who shall remain on site at all times, including the person(s) contact information.
6. Sanitation facilities shall include, at a minimum, portable restroom facilities and stand-alone hand washing stations.
7. Hours of Operation. No agri-tourism and other commercial event or activity may begin before 7:00 a.m. or end after 10:00 p.m.
8. Overnight camping is not allowed.
9. Noise Control
 - a. All noise, including the use of a sound producing device such as, but not limited to, loud speakers and public address systems, musical instruments that are amplified or unamplified, shall be in compliance with applicable state regulations.
 - b. A standard sound level meter or equivalent, in good condition, that provides a weighted sound pressure level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA shall be available on-site at all times during agri-tourism and other commercial events or activities.
10. Transportation Management.
 - a. Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.
 - b. Driveways extending from paved roads shall have a paved apron, requiring review and approval by the County Road Department.
 - c. The parcel, lot or tract has direct access as defined in DCC Chapter 18.16.042(B)(3)(c).
 - d. Adequate traffic control must be provided by the property owner to address the following:
 - i. There shall be one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time.
 - ii. All traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.
11. Health and Safety Compliance
 - a. All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of the Deschutes County Building Safety Division and the Environmental Soils Division and any other applicable federal, state and local laws.
 - b. Compliance with the requirements of the Deschutes County Building Safety Division shall include meeting all building occupancy classification requirements of the State of Oregon adopted building code.
12. The maximum number of people shall not exceed 500 per calendar day.
13. Agri-Tourism and other Commercial Events or Activities shall not be allowed:

- a. Within the County adopted big game winter ranges during the months of December through March.
- b. Within the County adopted big game migration corridors during the month of April and during the months of October and November.
- c. Within the County adopted sensitive bird and mammal habitat areas as defined in DCC 18.90.020, unless a site has had no nesting attempt or the nest has failed, as determined by a professional wildlife biologist in May of the calendar year in which the application is approved, unless a site has had no nesting attempt or the nest has failed which could be determined in May by a professional wildlife biologist.

(Ord. 2012-004, §2, 2012)

18.16.043 Single Permit.

- A. The maximum number of agri-tourism and other commercial events or activities on a lot, parcel or tract may not exceed the total number of commercial events allowed by any individual land use approval, including a winery authorized under DCC 18.16.038(B), and events, outdoor mass gatherings or extended outdoor mass gatherings authorized under DCC Chapter 8.16. B.

The following permits may not be combined:

- 1. Agri-tourism and other commercial events or activities under DCC 18.16.042,
- 2. Winery under DCC 18.16.038(B),
- 3. Events, outdoor mass gatherings, extended outdoor mass gatherings, parades or funeral processions authorized under DCC Chapter 8.16,
- 4. Home occupation for commercial events or activities.

(Ord. 2012-004, §2, 2012)

18.16.050. Standards for Dwellings in the EFU Zones.

Dwellings listed in DCC 18.16.025 and 18.16.030 may be allowed under the conditions set forth below for each kind of dwelling, and all dwellings are subject to the landowner for the property upon which the dwelling is placed, signing and recording in the deed records for the County, a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

- A. Farm-related dwellings on nonhigh value farmland. A dwelling customarily provided in conjunction with farm use, as listed in DCC 18.16.030(A), may be approved if it satisfies any of the alternative tests set forth below:

- 1. Acreage test.
 - a. On land not identified as high-value farmland, a dwelling, including a manufactured home in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:
 - i. The parcel on which the dwelling will be located is at least:
 - (a) One hundred sixty acres and not in the Horse Ridge East subzone; or
 - (b) Three hundred twenty acres in the Horse Ridge East subzone;
 - ii. The subject tract is currently employed for farm use, as defined in DCC 18.04.030, and which is evidenced by a farm management plan;
 - iii. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale;
 - iv. There is no other dwelling on the subject tract, except as allowed under DCC 18.16.020(K);
- 2. Median acreage/gross sales test.

- a. On land not identified as high-value farmland, a dwelling, including a manufactured home in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:
 - i. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area that includes all tracts wholly or partially within one mile of the perimeter of the subject tract;
 - ii. The subject tract is capable of producing at least the median level of annual gross sales of County indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in DCC 18.16.050(A)(2)(a)(i);
 - iii. The subject tract is currently employed for farm use, as defined in DCC 18.04.030, and which is evidenced by a farm management plan, at a level capable of producing the annual gross sales required in DCC 18.16.050(A)(2)(a)(ii). If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to establishment of the farm use capable of meeting the median income test.
 - iv. The subject lot or parcel on which the dwelling is proposed is at least 20 acres in size;
 - v. There is no other dwelling on the subject tract, except as allowed under DCC 18.16.020(K); and
 - vi. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.
 - b. For the purpose of calculating appropriate tract sizes and gross incomes to satisfy DCC 18.16.050(A)(2)(a)(i) and (ii), the County will utilize the methodology contained in Oregon Administrative Rules 660-33-135(3) using data on gross sales per acre tabulated by LCDRC pursuant to Oregon Administrative Rules 660-33-135(4).
3. Gross annual income test.
 - a. On land not identified as high-value farmland, a dwelling, including a manufactured home in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:
 - i. The subject tract is currently employed for a farm use, and that the farm operator earned \$32,500 in gross annual revenue in the last two years, three of the last five years, or based on the average farm revenue earned on the tract in the highest three of the last five years.
 - ii. There is no other dwelling on the subject tract, except as allowed under 18.16.020(K);
 - iii. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in DCC 18.16.050(A)(3)(a)(i); and
 - b. In determining gross revenue, the cost of purchased livestock shall be deducted from the total gross revenue attributed to the tract.
 - c. Noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross revenue requirements.
 - d. Only gross revenue from land owned, not leased or rented, shall be counted; and gross farm revenue earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
 - e. Prior to a dwelling being approved under this section that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross farm revenue requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form attached to Chapter 18.16, has been recorded with the county clerk or counties where the property subject to the covenants, conditions and restrictions is located.
 1. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for primary farm dwelling and shall preclude:

- a. All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed under ORS Chapter 215; and
 - b. The use of any gross farm revenue earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling;
 - c. 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;
 - d. The 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 property which is subject to the covenants, conditions and restrictions required by this section.
- B. Farm related dwellings on high value farmland. On land identified as high-value farmland, a dwelling, including a manufactured home in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:
 - 1. The subject lot or parcel is currently employed for the farm use as defined in DCC 18.04.030, and that the farm operator earned at least \$80,000 in gross annual revenue from the sale of farm products in the last two years, three of the last five years, or based on the average farm revenue earned by the farm operator in the best three of the last five years, and the lot or parcel on which the dwelling is proposed is at least the size of the minimum lot or parcel size in the subzone. In determining gross revenue, the cost of purchased livestock shall be deducted from the total gross revenue attributed to the tract;
 - 2. There is no other dwelling on the subject tract, except as allowed under 18.16.020(K);
 - 3. The dwelling will be occupied by a person or persons who produced the commodities which grossed the revenue under DCC 18.16.050(B)(1); and
 - 4. Noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross revenue requirements;
 - 5. Only gross revenue from land owned, not leased or rented, shall be counted; and gross farm revenue earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
 - 6. Prior to a dwelling being approved under this section that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross farm revenue requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form attached to Chapter 18.16, has been recorded with the county clerk. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for primary farm dwelling and shall preclude:
 - a. All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and
 - b. The use of any gross farm revenue earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
- C. Accessory dwelling. A dwelling, including a manufactured home in accordance with DCC 18.116.070, is considered to be an accessory farm dwelling customarily provided in conjunction with farm use when:
 - 1. The accessory dwelling meets the following criteria:
 - a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator; and
 - b. The accessory farm dwelling will be located:
 - i. On the same lot or parcel as the primary farm dwelling; or

- ii. On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
 - iii. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured home and a deed restriction substantially in compliance with the form set forth in Exhibit A to DCC 18.16 is filed with the County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured home may remain if it is reapproved under DCC 18.16.050; or
 - iv. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under DCC 18.16.065 and the lot or parcel complies with the gross farm income requirements in DCC 18.16.050(A)(3) or (B)(1), whichever is applicable; and
 - c. There is no other dwelling on land zoned EFU owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and
2. The primary farm dwelling to which the proposed dwelling would be accessory meets one of the following:
- a. On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed in farm use and produced \$32,500 in gross annual sales in the last two years, ~~or~~ three of the last five years, or based on the average farm revenue earned on the tract in the highest three of the last five years. In determining gross revenue, the cost of purchased livestock shall be deducted from the total gross revenue attributed to the tract; or
 - b. On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, and produced at least \$80,000 in gross annual revenue from the sale of farm products in the last two years, ~~or~~ three of the last five years, or based on the average farm revenue earned on the tract in the highest three of the last five years. Gross revenue shall be calculated by deducting the cost of purchased livestock from the total gross revenue attributed to the tract; and
3. A lot or parcel approved for an accessory farm dwelling under DCC 18.16.050 shall not be approved for a division of land except as provided for in DCC 18.16.055(B).
4. An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a nonfarm dwelling pursuant to DCC 18.16.050(G).
- D. Relative farm assistance dwelling.
- 1. A dwelling listed in DCC 18.16.025(B) is allowed when:
 - a. The subject tract is at least 40 acres in size, unless it is demonstrated to the Planning Director or Hearings Body that a smaller unit of land is a commercial agricultural enterprise.
 - b. The subject tract is used for farm use;
 - c. The dwelling is a manufactured home and is sited in accordance with DCC 18.116.070, or is a pre-existing site-built home that: (1) was established at least 30 years prior to the date the land use permit was submitted and (2) is located on a parcel of at least 40 acres in size and that meets the minimum irrigated acres standard for the subzone within which it is located;
 - d. The dwelling is located on the same lot or parcel as the dwelling of the farm operator, and is occupied by a relative of the farm operator or farm operator's spouse, including a grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling, niece, nephew, or first cousin of either, if the farm operator does, or will, require the assistance of the relative in the management of the farm use.
 - 1. Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this subsection obtains construction financing or other financing secured by the dwelling and the secured party

forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.

2. Prior conditions of approval for the subject land and dwelling remain in effect.
3. For purposes of this subsection, "Foreclosure" means only those foreclosures that are exempt from partition under ORS 92.010(7)(a).
- e. The farm operator plays the predominant role in the management and farm use of the farm and will continue to do so after the relative farm help dwelling is approved.
- f. Any approval granted under DCC 18.16.050 shall be conditioned with a requirement that the farm operator annually submit a report to the Planning Division identifying the resident(s) of the dwelling, their relationship to the farm operator, the assistance the resident provides to the farm operator, and verifying the farm operator's continued residence on the property and the predominant role the farm operator continues to play in the management and farm use of the farm.
2. A manufactured home permitted under DCC 18.16.050 shall be considered to be a temporary installation, and permits for such home shall be renewable and renewed on an annual basis. The manufactured home shall be removed from the property if it no longer meets the criteria of DCC 18.16.050 and the approval shall be so conditioned.
3. A pre-existing dwelling approved under DCC 18.16.050 shall be removed or converted to an allowable use within one year of the date the relative farm help dwelling no longer meets the criteria of DCC 18.16.050 and the approval shall be so conditioned.
4. Upon approval of a dwelling under DCC 18.16.050, a Conditions of Approval Agreement shall be recorded with the Deschutes County Clerk prior to issuance of any building or placement permit for the new dwelling on the property.
5. For the purposes of DCC 18.16.050(D), a farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.
- E. Lot of record dwelling on nonhigh value farmland.
 1. A lot of record dwelling may be approved on a pre-existing lot or parcel on nonhigh value farmland when all of the following requirements are met:
 - a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner:
 - i. Prior to January 1, 1985; or
 - ii. By devise or by intestate succession from a person who acquired and owned continuously the lot or parcel prior to January 1, 1985.
 - b. The tract on which the dwelling will be sited does not include a dwelling.
 - c. For lots or parcels located within a wildlife area (WA) combining zone, siting of the proposed dwelling would be consistent with the limitations on density as applied under the applicable density restrictions of DCC 18.88.
 - d. If the lot or parcel on which the dwelling will be 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.
 - e. The County Assessor shall be notified of any approval of a dwelling under DCC 18.16.050.
 - f. If 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 the tract;
 2. For purposes of DCC 18.16.050(E), "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, niece, nephew, step-parent, step-child, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.
 3. For purposes of DCC 18.16.050(E), the date of creation and existence means that, 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 lot of record dwelling, the date of the reconfiguration

is the date of creation and existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

F. Lot of record dwelling on high-value farmland.

1. A lot of record dwelling on a pre-existing lot or parcel will be approved on high value farmland when all of the following requirements are met:
 - a. The requirements set forth in DCC 18.16.050(E)(1)(a) through (f), as determined by the County; and
 - b. The requirements of Oregon Administrative Rules 660-33-130(3)(c)(C), as determined by the County hearings officer.
2. Applicants under DCC 18.16.050(F) shall make their application to the County. The County shall notify the State Department of Agriculture at least 20 calendar days prior to the public hearing under DCC 18.16.050(F)(1)(b).
3. Applicants under DCC 18.16.050(F) shall be subject to such other procedural requirements as are imposed by the Oregon Department of Agriculture.
4. For purposes of DCC 18.16.050(F), the date of creation and existence means that, 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 lot of record dwelling, the date of the reconfiguration is the date of creation and existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

G. Nonfarm dwelling.

1. One single-family dwelling, including a manufactured home in accordance with DCC 18.116.070, not provided in conjunction with farm use, may be permitted on an existing lot or parcel subject to the following criteria:
 - a. The Planning Director or Hearings Body shall make findings that:
 - i. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming practices, as defined in ORS 215.203(2)(c), or accepted forest practices on nearby lands devoted to farm or forest use.
 - ii. The proposed nonfarm dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the County shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated, by applying the standards under OAR 660-033-0130(4)(a)(D), and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area.
 - iii. The proposed nonfarm dwelling is situated on an existing lot or parcel, or a portion of a lot or parcel that is generally unsuitable for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.
 - iv. The proposed nonfarm dwelling is not within one-quarter mile of a dairy farm, feed lot or sales yard, unless adequate provisions are made and approved by the Planning Director or Hearings Body for a buffer between such uses. The establishment of a buffer shall be designed based upon consideration of such factors as prevailing winds, drainage, expansion potential of affected agricultural uses, open space and any other factor that may affect the livability of the nonfarm-dwelling or the agriculture of the area. Road access, fire and police services and utility systems (i.e., electrical and telephone) are adequate for the use.
 - v. The nonfarm dwelling shall be located on a lot or parcel created prior to January 1, 1993, or was created or is being created as a nonfarm parcel under the land division standards in DCC 18.16.055(B) or (C).
2. For the purposes of DCC 18.16.050(G) only, "unsuitability" shall be determined with reference to the following:

- a. A lot or parcel or a portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel.
 - b. A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel or portion of a lot or parcel is presumed to be suitable if it is composed predominantly of Class I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use. If the parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself.
 - c. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable." If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soil capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.
3. Loss of tax deferral. Except as provided in DCC 18.16.050(I)(2), pursuant to ORS 215.236, a nonfarm dwelling on a lot or parcel in an Exclusive Farm Use zone that is or has been receiving special assessment may be approved only on the condition that before a building permit is issued the applicant must produce evidence from the County Assessor's office that the parcel upon which the dwelling is proposed has been disqualified under ORS 308A.113 or ORS 308A.116 for special assessment at value for farm use under ORS 308A.062 or other special assessment under ORS 308A.068, 321.352, 321.730 or 321.815 and that any additional tax or penalty imposed by the County Assessor as a result of disqualification has been paid.
- H. Temporary hardship dwelling.
1. A temporary hardship dwelling listed in DCC 18.16.030 is allowed under the following conditions:
 - a. The dwelling is a manufactured home or recreational vehicle, and is used in conjunction with an existing dwelling on the lot or parcel;
 - b. The manufactured home or recreational vehicle would be temporarily sited on the lot or parcel only for the term of a hardship suffered by the existing resident or relative of the resident. The manufactured dwelling shall be removed or demolished within three months of the date the hardship no longer exists. The recreational vehicle shall not be occupied once the term of the medical hardship is completed, except as allowed under DCC 18.116.095. A temporary residence approved under this section is not eligible for replacement under DCC 18.16.020(J);
 - c. The existence of a medical hardship is verified by a written doctor's statement, which shall accompany the permit application; and
 - d. The temporary manufactured home uses the same subsurface sewage disposal system used by the existing dwelling, provided that the existing disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required.
 - e. If a recreational vehicle is used as a medical hardship dwelling, it shall be required to have a bathroom, and shall meet the minimum setbacks established under DCC 18.16.070.
 2. Permits granted under DCC 18.16.050(H) shall be subject to the provisions of DCC 18.116.090 and shall be required to meet any applicable DEQ review and removal requirements as a condition of approval.

3. As used in DCC 18.16.050(H), the term "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.
4. As used in DCC 18.16.050(H), the term "relative" means grandparent, step-grandparent, grandchild, parent, step-parent, child, step-child, brother, sister, sibling, step-sibling, niece, nephew, uncle, aunt, or first cousin of the existing resident.
5. The proposed hardship dwelling or recreational vehicle shall meet the criteria under DCC 18.16.040(A)(1-2) and DCC 18.16.020(J)(6).

I. Wildlife conservation plan dwelling.

1. A dwelling listed in DCC 18.16.030(G) is allowed when the Planning Director or the Hearings Body finds that the proposed dwelling:
 - a. Is situated on a lot or parcel existing on November 4, 1993, that qualifies for a farm dwelling, as listed in DCC 18.16.030(A), or a nonfarm dwelling, as listed in DCC 18.16.030(C);
 - b. Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;
 - c. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use;
 - d. Will not be established on a lot or parcel that is predominantly composed of soils rated Class I or II, when not irrigated, or rated Prime or Unique by the United States Natural Resources Conservation Service or any combination of such soils; and
 - e. Is the only dwelling situated on the affected lot or parcel.
2. For a wildlife conservation plan dwelling approval based upon nonfarm dwelling criteria, DCC 18.16.050(I) shall also apply. Unless prior to approval of a conditional use permit for a wildlife conservation plan dwelling the applicant submits to the assessor certification demonstrating approval by Oregon Department of Fish and Wildlife of a wildlife conservation and management plan and its implementation, the conditional use permit shall contain a condition requiring that the applicant, prior to issuance of a building permit for such dwelling, either 1) submit certification to the assessor from ODFW demonstrating approval and implementation of a wildlife conservation and management plan qualifying under ORS 215.808 or 2) pay the tax penalties required by DCC 18.16.050(G)(3).

(Ord. 2012-007 §2, 2012; Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 2004-0020 §1, 2004; Ord. 2004-013 §2, 2004; Ord. 2004-001 §2, 2004; Ord. 98-033 §1, 1998; Ord. 98-030 §1, 1998; Ord. 95-007 §15, 1995; Ord. 94-026 §1, 1994; Ord. 92-065 §3, 1992; Ord. 91-038 §§2 and 3, 1991; Ord. 91-020 §1, 1991)

18.16.055. Land Divisions.

- A. General. A division of land in the exclusive farm use zone shall be identified on the land division application as either an irrigated land division, nonirrigated land division, or a division of land for a use permitted by Oregon Revised Statutes 215.263 other than a dwelling. An irrigated land division is subject to subsection B below; a nonirrigated land division is subject to subsection C below; and a land division for a use other than a dwelling is subject to subsection E below, as well as ORS 215.263.
- B. Irrigated land division.
 1. An irrigated land division shall be subject to the minimum lot or parcel size requirements of DCC 18.16.065, Subzones, and all applicable requirements of DCC Title 17.
 2. Partitions establishing parcels less than the EFU minimum parcel size established under DCC 18.16.065, may be permitted to create new parcels for nonfarm dwellings as follows:
 - a. If the parent parcel is equal to or greater than the minimum parcel size established under 18.16.065, and is less than 80 acres in size, one new nonfarm parcel may be created subject to the following:
 - i. Parent parcel was lawfully created prior to July 1, 2001;
 - ii. Remainder parcel shall meet the minimum lot size established under 18.16.065;

- iii. All standards established under 18.16.050(G) for the dwelling shall be met;
 - iv. No minimum lot size shall be required for the nonfarm parcel.
 - v. The parcel for the nonfarm dwelling is generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.
- b. If the parent parcel is equal to or greater than the minimum lot size established under 18.16.065, and is greater than or equal to 80 acres in size, two new nonfarm parcels may be created subject to the following:
 - i. Parent parcel was lawfully created prior to July 1, 2001;
 - ii. Remainder parcel shall meet the minimum lot size established under 18.16.065;
 - iii. All standards established under 18.16.050(G) for the dwellings shall be met;
 - iv. No minimum parcel size shall be required for the nonfarm parcel.
 - v. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.
- 3. The minimum size for new parcels does not mean that farm dwellings may be approved on the new parcels.
- 4. New dwellings in conjunction with farm use must satisfy the criteria in DCC 18.16.050.
- C. Nonirrigated land division.
 - 1. The minimum lot or parcel size for a nonirrigated land division is 80 acres.
 - 2. Notwithstanding 1 above, land divisions creating nonfarm parcels less than the minimum lot size may be allowed as follows:
 - a. If the parent parcel is greater than 80 acres in size, up to two new nonfarm parcels may be allowed subject to the following:
 - i. Parent parcel was lawfully created prior to July 1, 2001;
 - ii. Remainder parcel shall be at least 80 acres in size;
 - iii. All standards established under 18.16.050(G) for the dwellings shall be met;
 - iv. The minimum size for the nonfarm parcels is 5 acres.
 - v. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.
 - vi. Be located outside of the Horse Ridge East subzone.
 - b. If the parent parcel is greater than or equal to 40 acres and less than or equal to 80 acres, one new nonfarm parcel is allowed subject to the following:
 - i. Parent parcel was lawfully created prior to July 1, 2001;
 - ii. Parcels are not capable of producing more than 20 cubic feet per acre per year of wood fiber;
 - iii. Parcels are composed of at least 90 percent Class VII and VIII soils, or are composed of at least 90 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage for grazing livestock;
 - iv. Parcels shall not have established water rights for irrigation;
 - v. All standards established under 18.16.050(G) for the dwellings shall be met;
 - vi. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not

be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land

vii. The minimum parcel size is 5 acres;

viii. Be located outside of the Horse Ridge East subzone.

D. Partitions in the Wildlife Area Combining Zones must meet the minimum parcel sizes established under DCC 18.88.050.

E. A division of land for a use listed under ORS 215.263 other than a dwelling. Such divisions shall be subject to the minimum parcel size requirements of DCC 18.16.060(C), ORS 215.263, and the applicable partitioning standards, including the general partition standards set forth in DCC 17.22, the Subdivision and Partition Ordinance.

(Ord. 2012-007 §2, 2012; Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 2006-008 §3, 2006; Ord. 2004-001 §2, 2004; Ord. 2002-016 §1, 2002; Ord. 2001-016 §2, 2001; Ord. 95-007 §16, 1995; Ord. 94-026 §2, 1994; Ord. 92-065 §3, 1992)

18.16.060. Dimensional Standards.

A. The minimum parcel size for irrigated land divisions created subject to DCC Title 17 shall be as specified under DCC 18.16.065, "Subzones."

B. The minimum parcel size for nonirrigated land divisions created subject to DCC Title 17 is as specified under DCC 18.16.055(C).

C. The minimum parcel size for all other uses permitted by Oregon Revised Statutes 215.263 shall be no greater than the minimum size necessary for the use.

D. Each parcel shall have a minimum street frontage of 50 feet.

E. Building height. No building or structure shall be erected or enlarged to exceed 30 feet in height, except as allowed under DCC 18.120.040.

(Ord. 2012-007 §2, 2012; Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 2002-016 §1, 2002; Ord. 2001-016 §2, 2001; Ord. 95-007 §17, 1995; Ord. 93-043 §3, 1993; Ord. 93-004 §1, 1993; Ord. 92-065 §3, 1992; Ord. 92-055 §1, 1992; Ord. 91-038 §§1 and 2, 1991; Ord. 91-020 §1, 1991)

18.16.065. Subzones.

A. Lower Bridge. A proposed irrigated land division must result in parcels that demonstrate the following characteristics or capabilities:

One hundred thirty acres of irrigated land.

B. Sisters/Cloverdale. A proposed irrigated land division must result in parcels that demonstrate the following characteristics or capabilities:

Sixty-three acres of irrigated land.

C. Terrebonne. A proposed irrigated land division must result in parcels that demonstrate the following characteristics or capabilities:

Thirty-five acres of irrigated land.

D. Tumalo/Redmond/Bend. A proposed irrigated land division must result in parcels that demonstrate the following characteristics or capabilities:

Twenty-three acres of irrigated land.

E. Alfalfa. A proposed irrigated land division must result in parcels that demonstrate the following characteristics or capabilities:

Thirty-six irrigated acres.

F. La Pine. A proposed irrigated land division must result in parcels that demonstrate the following characteristics or capabilities:

Thirty-seven acres of irrigated land.

G. Horse Ridge East. Minimum parcel size for a land division is 320 acres.

(Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 2002-016 §1, 2002; Ord. 2001-016 §2, 2001; Ord. 95-007 §18, 1995; Ord. 92-065 §3, 1992)

18.16.067. Farm Management Plans.

- A. Contents. A farm management plan shall consist of the following components:
 - 1. A written description of existing and/or proposed farm uses, including type of crops or livestock, size and location of areas for each use, and land or soil preparation required.
 - 2. An assessment of the soils, climate and irrigation on the parcel demonstrating that the parcel is suitable for the current or proposed use outlined in DCC 18.16.067(A)(1).
 - 3. A business plan, including a demonstration that markets exist for the product; estimates of gross sales or actual gross sales figures; estimated or actual figures concerning necessary expenditures; and a list of capital expenditures incurred or projected to be incurred in establishing the farm use on the parcel.
 - 4. A written description of the farm uses in the area, including acreage, size and type of crop or livestock raised showing that the proposed plan is representative of similar farm uses, if any, in the area and will not conflict with the existing agriculture types.
 - 5. For farm uses not currently practiced in the area, an analysis showing that the plan is representative of the type of agriculture proposed.
- B. Conditional approvals.
 - 1. For purposes of land use approval, in instances where at the time of application the subject land is not currently in farm use, a farm management plan will be deemed to demonstrate current employment of the land for farm use if:
 - a. The farm management plan establishes a level of farming that constitutes a farm use;
 - b. The farm management plan sets forth specific timelines for the completion of capital improvements (barns, fencing, irrigation, etc.) and for the establishment of the proposed farm use on the parcel; and
 - c. Land use approval is subject to a condition that no building permit for the farm dwelling can be issued prior to a determination that pursuant to the farm management plan a farm use has been established on the subject land.
 - 2. For purposes of determining under DCC 18.16.067 that a farm use has been established on the land, the County shall determine that the farm management plan has been implemented to the extent that the farm use has achieved the gross farm sales figure required under DCC 18.16.050.

(Ord. 95-007 §19, 1995; Ord. 93-004 §2, 1993; Ord. 92-065 §3, 1992)

18.16.070. Yards.

- A. The front yard shall be a minimum of: 40 feet from a property line fronting on a local street, 60 feet from a property line fronting on a collector street, and 100 feet from a property line fronting on an arterial street.
- B. Each side yard shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on property with side yards adjacent to property currently employed in farm use, and receiving special assessment for farm use, the side yard shall be a minimum of 100 feet.
- C. Rear yards shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on property with a rear yard adjacent to property currently employed in farm use, and receiving special assessment for farm use, the rear yard shall be a minimum of 100 feet.
- D. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.

(Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 94-008 §16, 1994; Ord. 93-004 §3, 1993; Ord. 92-065 §3, 1992; Ord. 91-038 §§1 and 2, 1991; Ord. 89-016 §1, 1989; Ord. 83-037 §8, 1983)

18.16.080. Stream Setbacks.

To permit better light, air, vision, stream pollution control, protection of fish and wildlife areas and preservation of natural scenic amenities and vistas along streams and lakes, the following setbacks shall apply:

- A. All sewage disposal installations, such as septic tanks and septic drainfields, shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet, measured at right angles to the ordinary high water mark. In those cases where practical difficulties preclude the location of the facilities at a distance of 100 feet and the County Sanitarian finds that a closer location will not endanger health, the Planning Director or Hearings Body may permit the location of these facilities closer to the stream or lake, but in no case closer than 25 feet.
- B. All structures, buildings or similar permanent fixtures shall be set back from the ordinary high water mark along all streams or lakes a minimum of 100 feet measured at right angles to the ordinary high water mark.

(Ord. 91-038 §§1 and 2, 1991; Ord. 91-020 §1, 1991)

18.16.090. Rimrock Setback.

Notwithstanding the provisions of DCC 18.16.070, setbacks from rimrock shall be as provided in DCC 18.116.160 or 18.84.090, whichever is applicable.

(Ord. 2009-014 §1, 2009; Ord. 2008-001 §2, 2008; Ord. 92-065 §3, 1992; Ord. 91-038 §§1 and 2, 1991; Ord. 86-053 §5, 1986)

EXHIBIT A

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Whereas the undersigned _____ hereinafter referred to as "Declarant," is owner in fee simple of the property described in Exhibit A attached hereto and by this reference incorporated herein (the property); and

Whereas, Declarant has received approval to site a manufactured home on the property described herein pursuant to land use permit No. _____ for an accessory farm dwelling, issued by Deschutes County pursuant to Section 18.16.050(C) of the Deschutes County Code;

Whereas Section 18.16.050(C)(1)(b)(iii) requires as a condition of approval the recording of a deed restriction in favor of Deschutes County requiring that any manufactured home sited under said permit be removed prior to any further conveyance of this property; and

Whereas the Declarant desires to declare his/her intention to create covenants, conditions and restrictions necessary to effectuate and comply with the requirements of OAR 660-33-130(24)(a)(B)(iii) and Section 18.16.050(C) of the Deschutes County Code;

Declarant hereby declares that all of the property described in Exhibit A shall be held, sold and conveyed subject to the following covenants, conditions and restrictions in favor of Deschutes County:

Declarant shall cause to be removed any manufactured home sited on the property described herein pursuant to Deschutes County land use permit No. _____ for an accessory dwelling prior to any further conveyance of the property.

Declarant's obligations under this covenant shall not be extinguished by any subsequent conveyance made in disregard of these covenants, conditions and restrictions.

These covenants, conditions, and restrictions shall in addition run with the land and be binding upon any of the Declarant's successors in interest should the property be transferred in disregard of this covenant.

It is intended that this covenant shall have the same effect as a regulation designed to implement the comprehensive plan. This covenant may be enforced by Deschutes County by a suit in equity, or if Deschutes County fails to take such action, by any person described in ORS 215.188.

These covenants, conditions and restrictions shall be released by the County upon proof that the requirements set forth herein have been met.

Dated this _____ day of _____.

(Signature)

(notary seal)

Article 3. Zoning Classifications Defined

Sections:

- 3.010. Exclusive Farm and Range Use – 1, EFRU-1
- 3.020. Exclusive Farm and Range Use – 2, EFRU-2
- 3.060. Forest Use, FU
- 3.070. Airport Development Zone, AD-1
- 3.080. Airport Vicinity Overlay Zone, AVO
- 3.090. Rural Residential, R-1
- 3.110. Rural Recreational, R-2
- 3.120.1 Rural Service Center – Andrews, RSC-AN
- 3.120.2 Rural Commercial Area – Buchanan, RCA-BU
- 3.120.3 Rural Community – Crane, RC-CR
- 3.120.4 Rural Service Center – Diamond, RSC-DI
- 3.120.5 Rural Community – Drewsey, RC-DR
- 3.120.6 Rural Service Center – Fields, RSC-FI
- 3.120.7 Rural Service Center – Frenchglen, RSC-FR
- 3.120.8 Rural Commercial Area – Lawen, RCA-LA
- 3.120.9 Rural Commercial Area – Princeton, RCA-PR
- 3.120.10 Rural Commercial Area – Riley, RCA-RI
- 3.120.11 Rural Commercial Area – Wagontire, RCA-WA
- 3.130. Commercial & Industrial Zone, C-1
- 3.140. Limited Use Combining Zone, LU
- 3.150. Mineral and Aggregate Resource Overlay Zone, MARO

Section 3.010. Exclusive Farm and Range Use – 1, EFRU-1

Sub-Sections:

- 1. Uses Permitted
- 2. Uses Subject To Administrative Review
- 3. Conditional Uses Permitted
- 4. Dwellings Provided in Conjunction with Farm Use
- 5. Accessory Dwellings Provided in Conjunction with Farm Use
- 6. Dwellings Not Provided in Conjunction with Farm Use
- 7. Specific Review Criteria
- 8. Lot Size/Land Divisions
- 9. Standards

It is the intent and purpose of the Exclusive Farm and Range Use – 1 Zone to be utilized in areas of Harney County that are primarily in agriculture use as indicated within the Harney County Comprehensive Plan. This zone shall serve to implement these Plan elements and Statewide Planning Goal – Agriculture 3.

It is further the intent and purpose to provide a zoning designation that will serve to protect the agricultural resources, by allowing only uses compatible to and supportive

of the resource, and also to provide a zoning designation in conformance with ORS 215.

It is further the intent and purpose to allow only lots of a minimum size that will permit operations appropriate for the continuation of the existing commercial agricultural operations in the area.

In an EFRU-1 Zone the following regulations shall apply:

1. Uses Permitted (Type I Decisions). In an EFRU-1 zone, the following uses and their accessory uses are permitted. These uses do not require land use approval. While some uses may prompt an inquiry to, and/or action by, the Planning Director, authorization of such uses does not require notice to adjacent property owners or other interested parties and does not constitute a land use decision pursuant to ORS 197.015(10).

- A. Farm Use. As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the production of, livestock, poultry, fur bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines included but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3) or land described in ORS 321.267(1)(e) or 321.824.
- B. Operations for the exploration of geothermal resources as defined by ORS 522.005(11), including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).
- C. The propagation or harvesting of a forest product.
- D. Climbing and passing lanes within the right-of-way existing as of July 1, 1987.

- E. Temporary public roads or detours that will be abandoned and restored to original condition or use at such time as no longer needed.
- F. Operations for the exploration for minerals as defined by ORS 517.750(7). Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).
- G. Minor betterment of existing public roads and highway related facilities such as maintenance yards, weight stations and rest areas within the right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
- H. Creation, restoration or enhancement of wetlands.
- I. Alteration, restoration or replacement of a lawfully established dwelling that:
 - a. Has intact exterior walls and roof structure;
 - b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - c. Has interior wiring for interior lights;
 - d. Has a heating system;
 - e. In the case that replacement is removed, demolished or converted to an allowable non-residential use within three months of completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for Harney County a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed record for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The Harney 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 the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph; and,
 - f. Harney County shall require, as a condition of approval, that the landowner for the dwelling sign and record in the deeds records for the county a

document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

- J. Seasonal farm worker housing as discussed in ORS 197.677 through 197.685.
- K. A winery as described in ORS 215.452.

2. Uses Subject To Administrative Review (Type II Decisions). In the EFRU-1 Zone, the following uses and their accessory uses may be permitted if determined by the Planning Director to satisfy the applicable criteria and provisions of law. Authorization of these uses does constitute a land use decision pursuant to ORS 197.015(10). Notice and an opportunity for a hearing must be provided in the manner described in ORS 215.416. These uses may be referred to the Planning Commission for review if deemed appropriate by the Planning Director.

- A. Dwellings provided in conjunction with farm use pursuant to Section 3.010(4).
- B. Accessory dwellings in conjunction with farm use pursuant to Section 3.010(5)(A).
- C. Dwellings not provided in conjunction with farm use pursuant to Section 3.010(6)(A).
- D. Churches and cemeteries in conjunction with churches:
 - a. New facilities may not:
 - I. Be established on high-value farmland; or,
 - II. Be established within three miles of an urban growth boundary.
 - b. Existing facilities may:
 - I. Be maintained, enhanced or expanded on the same tract subject to the review criteria of Section 3.010(7)(a).
- E. Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275.

- F. A facility for the primary processing of forest products, provided that such a facility does not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a facility may be approved for a one-year period, which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
- G. Farm stands, if:
 - a. The structures are designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and,
 - b. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.
- H. A facility for the processing of farm crops. The processing facility must be located on a farm that provides at least one-quarter of the crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designed for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting a farm use. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility. Harney County shall not approve any division of a lot or parcel that separates a processing facility from the farm operation on which it is located.
- I. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface pre-existed the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model aircraft" means a small scale-version of an airplane, glider, helicopter, dirigible or balloon

that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

- J. Fire service facilities providing rural fire protection services.
- K. Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505(1).
- L. Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:
 - a. A public right of way;
 - b. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or,
 - c. The property to be served by the utility.

3. Conditional Uses Permitted (Type III Decisions). In the EFRU-1 Zone, the following uses and their accessory uses may be permitted if determined by the Planning Commission during a public hearing to satisfy the applicable criteria and provisions of law.

- A. A dwelling on real property used for farm use if the dwelling is:
 - a. Located on the same lot or parcel as those terms are defined in ORS 92.010, as the dwelling of the farm operator;
 - b. To qualify, persons shall occupy a dwelling whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing;
 - c. The parcel is not subsequently divided; and,
 - d. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

- B. Commercial activities in conjunction with farm use, but not including the processing of farm crops as described in Section 3.010(2)(H). Approval of this use is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.
- C. Personal-use airports for airplanes and helicopter pads, including associated hanger, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Department of Transportation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Department of Transportation. Approval of this use is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.
- D. Operations conducted for the mining and processing of geothermal resources as defined in ORS 522.005 or exploration, mining, and processing of aggregate and other mineral resources or other subsurface resources, and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 3.010(1)(B):
 - a. Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;
 - b. Processing, as defined by ORS 517.750(11), of aggregate into asphalt or portland cement;
 - c. Processing of other mineral resources and other subsurface resources; and,
 - d. Approval of any use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(a), and any other applicable criteria or provision of law. Section 3.150 of this Ordinance may apply if the project meets the definition of a "significant site" (see Section 3.150(2)(X)).
- E. Private parks, playgrounds, hunting and fishing preserves and campgrounds. 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 Land Conservation and Development 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 paragraph, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

- F. Private parks and campgrounds. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds 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. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not residential purposes and is 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. 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 tent, travel trailer or recreational vehicle may occupy campsites. Separate sewer, water or electric service hook-ups shall not be provided to individual campsites. Campgrounds authorized by this rule 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. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.
- G. Parks, playgrounds or community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community. A public park may be established consistent with the provisions of ORS 195.120. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.
- H. Golf Courses, as defined in Section 1.030, on land determined to not be high-value farmland, as defined in ORS 195.300. Approval of this use is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.
- I. Commercial utility facilities for the purpose of generating power for public use by sale. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A) & (B), and any other applicable criteria or provisions of law.
- J. Home occupations carried on by the resident as an accessory use within dwellings or other buildings referred to in ORS 215.203(2)(b)(F) or (G) as provided in ORS 215.448. Approval of a use pursuant to this subsection is

subject to the review criteria of Section 3.010(7)(A) & (B), and any other applicable criteria or provisions of law.

- K. 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. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished, or in the case of an existing building, the building shall be removed, demolished or returned to an allowable non-residential use. The governing body or its designee shall provide for periodic review of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under Section 3.010(1)(I). Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A) & (B), and any other applicable criteria or provisions of law.
 - a. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- L. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a Harney County inventory and the National Inventory of Historic Places as a historic property as defined in ORS 358.480(2).
 - a. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- M. Transmission towers over 200 feet in height. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.
- N. Dog kennels not described in ORS 215.283(1)(j). Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.
- O. Residential homes as defined in ORS 197.660, in existing dwellings. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.

- a. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- P. The propagation, cultivation, maintenance and harvesting of aquatic or insect species. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.
- Q. Construction of additional passing lanes and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.
- R. 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. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(a), and any other applicable criteria or provisions of law.
- S. Improvement of public roads and highway 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. Approval of a use pursuant to this subsection is subject to the review criteria of Section 3.010(7)(A), and any other applicable criteria or provisions of law.
- T. Room and board arrangements for a maximum of five unrelated persons in existing residences.
- U. Operations for the extraction and bottling of water.
- V. Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.
- W. A living history museum:

- a. A living history museum related to resource-based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary.
- b. As used in this paragraph:
 - I. "Living history museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and,
 - II. "Local historical society" means the local historical society recognized by the county governing body and organized under ORS chapter 65.
- X. Wildlife habitat conservation and management plans.
- Y. Guest Ranch. Notwithstanding ORS 215.283, a guest ranch may be established in conjunction with an existing livestock operation that qualifies as a farm use under ORS 215.203 and 3.010(1)(A). A guest ranch established under this subsection shall meet the following conditions:
 - a. Except as provided in paragraph c. of this subsection, the lodge, bunk house or cottages cumulatively shall:
 - I. Include not less than four nor more than ten (10) overnight guestrooms exclusive of kitchen areas, rest rooms, storage and other shared indoor facilities; and,
 - II. Not exceed a total of 12,000 square feet in floor area.
 - b. The guest ranch shall be located on a lawfully established parcel that is:
 - I. At least 160 acres;
 - II. Not within 10 air miles of an urban growth boundary containing a population greater than 5,000;
 - III. The parcel containing the dwelling of the person conducting the livestock operation; and,
 - IV. Not classified as high-value farmland as defined in ORS 215.710.

- c. For each doubling of the initial 160 acres required under paragraph b. of this subsection, up to five additional overnight guestrooms and 3,000 square feet of floor area may be added to the guest ranch for a total of not more than 25 guestrooms and 21,000 square feet of floor area.
- d. A guest ranch may provide recreational activities that can be provided in conjunction with the livestock operation's natural setting, including but not limited to hunting, fishing, hiking, biking, horseback riding, camping or swimming. Intensively developed recreational facilities such as golf courses as identified in ORS 215.283 shall not be allowed. A campground as described in ORS 215.283(2)(c) shall not be allowed in conjunction with a guest ranch, and a guest ranch shall not be allowed in conjunction with an existing golf course or with an existing campground under ORS 215.283(2)(c).
- e. Food services shall be incidental to the operation of the guest ranch and shall be provided only for the guests of the guest ranch. The cost of the meals provided to the guests shall be included as part of the fee to visit or stay at the guest ranch. The sale of individual meals to persons who are not guests of the guest ranch shall not be allowed.
- f. Approval of a guest ranch shall be subject to the provisions of Section 3.010(7)(a), and any other applicable criteria or provisions of law.
- g. As used in this subsection:
 - I. "Guest ranch" means a facility for overnight lodging incidental and accessory to an existing livestock facility that qualifies for farm use under ORS 215.203 and 3.010(1)(A). Guest ranch facilities may include a lodge, bunkhouse or cottage accommodations as well as passive recreational activities and food services as set forth in items b. and d. of this subsection.
 - II. "Livestock" means cattle, sheep, horses and bison (Oregon Laws 1997, Chapter 728(1)).
- h. Notwithstanding ORS 215.263, the governing body of Harney County or its designee shall not approve a proposed division of land in an exclusive farm use zone for a guest ranch as defined in item Y(g) of this subsection.
- i. The governing body of Harney County or its designee shall not approve a proposed division of a lot or parcel that separates a guest ranch described in item Y(g) of this subsection from the dwelling of the person conducting the livestock operation (Oregon Laws 1997, Chapter 728).

Z. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located:

a. New facilities may not:

- I. Be established on high-value farmland; or,
- II. Be established within three miles of an Urban Growth Boundary.

b. Existing facilities may:

- I. Be maintained, enhanced or expanded on the same tract subject to the review criteria of Section 3.010(7)(a).

AA. Dwellings not provided in conjunction with farm use pursuant to Section 3.010(6)(B).

BB. Expansion or replacement of an existing facility for an animal shelter as defined in ORS 609.500, if the shelter is tax exempt pursuant to section 501(c)(3) of the Internal Revenue Code as amended and in effect on January 1, 1999.

CC. Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of Harney County or its designee, in areas zoned for exclusive farm use subject to:

- a. Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or,
- b. ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission.

DD. Utility Facilities.

4. Dwellings Provided In Conjunction With Farm Use (Type II Decisions). In the EFRU-1 Zone, a dwelling in conjunction with farm use may be approved if one of the following (item A or B) is satisfied:

A. Acreage Threshold. A dwelling may be considered customarily provided in conjunction with farm use if:

- a. The parcel on which the dwelling will be located is at least 160 acres;

- b. The subject tract is currently employed for farm use, as defined in ORS 215.203;
 - c. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock at a commercial scale;
 - d. There is no other dwelling on the subject tract; and,
 - e. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- B. Farm Income Threshold. A dwelling may be considered customarily provided in conjunction with farm use if:
- a. The subject tract is currently employed for farm use, as defined in ORS 215.203 that has produced \$40,000 (1994) dollars in gross annual income from the sale of farm products in each of the last two years or three of the last five years;
 - b. Except as permitted by 3.010(1)(K) there is no other dwelling on the subject tract;
 - c. A person or persons who produced the commodities, which grossed the income, required in item 4(B)(a) would occupy the dwelling;
 - d. On determining the gross income required by item 4(B)(a) above, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned by the applicant, not leased or rented shall be counted; and,
 - e. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

5. Accessory Dwellings Provided In Conjunction With Farm Use (Type II Decisions). In the EFRU-1 Zone, an accessory dwelling may be provided in conjunction with an existing farm dwelling and may be approved subject to the following:

- A. An accessory farm dwelling may be considered customarily provided in conjunction with farm use if it meets all of the following requirements:
 - a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator;
 - b. The accessory dwelling will be located:
 - I. On the same lot or parcel as the dwelling of the principal farm dwelling;
 - II. On the same tract as the principal farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or,
 - III. On a lot or parcel on which the principal farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the Harney County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to this subsection may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance is not or will not be required by the farm operator. The manufactured dwelling may remain if it is re-approved under 3.010(4);
 - c. There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling;
 - d. The principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203 and has produced \$40,000 (1994 dollars) in gross annual income from the sale of farm products in each of the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and,
 - e. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document

binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

6. Dwellings Not Provided In Conjunction With Farm Use. In the EFRU-1 Zone two types of dwellings not provided in conjunction with farm use may be authorized.

- A. Lot of Record Dwelling (Type II Decision). A dwelling not provided in conjunction with farm use may be approved if all of the following are satisfied:
- a. The lot or parcel on which the dwelling will be established was lawfully created and was acquired and owned continuously by the present owner:
 - I. Since prior to January 1, 1985; or
 - II. By devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
 - III. For the purposes of this subsection, "owner" includes the spouse, child, parent, sibling, brother-in-law, sister-in-law, son-in-law, daughter-in-law, father-in-law, mother-in-law, aunt, uncle, niece, 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. The tract on which the dwelling will be sited does not include a dwelling;
 - c. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no other dwelling may exist on another lot or parcel that was part of that tract;
 - d. The proposed dwelling is not prohibited by, and will comply with the provisions of the Harney County Comprehensive Plan and land use regulations and any other relevant provisions of law;
 - e. When the lot or parcel on which the dwelling will be sited lies within an area designated in the Harney County Comprehensive Plan as big game habitat, the siting of the dwelling shall be consistent with the Comprehensive Plan and land use regulations established to provide protection to the big game habitat resource;
 - f. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. If a lot or parcel is under forest assessment the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable." A lot or parcel, or portion of a lot or parcel, under forest assessment is presumed suitable for farm use if it is predominantly composed of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on surrounding lands;

- c. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the overall land use pattern of the area, Harney County shall consider the cumulative impact of new non-farm dwellings on other lots or parcels similarly situated in the area. To address this standard the county shall:
 - I. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres, or a smaller area not less than 1000 acres if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area;
 - II. Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved under this section, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings under ORS 215.263(4) and 3.010(8). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern

- g. The Harney County Planning Department shall notify the Harney County Assessor that they intend to approve the application;
 - h. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deed records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937; and,
 - i. When Harney County approves an application for a single-family dwelling under Section 3.010(6)(A) the approval may be transferred by the person who qualified under this subsection to any other person after the effective date of the land use decision. Transfers occurring pursuant to this paragraph may occur one time and one time only.
- B. Non-farm Dwelling (Type III Decision). A single-family residential dwelling, not provided in conjunction with farm use, may be established upon findings that each of the following review criteria have been satisfied:
- a. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
 - b. The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract; and,
 - I. The lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and,
 - II. The lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel, or portion of a lot or parcel, is presumed to be suitable for farm use if it is predominantly composed of Class I-VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or,
 - III. If the lot or parcel is under forest assessment, the dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of merchantable tree species

that could result from approval of the possible non-farm dwellings under this paragraph; and,

- III. Determine whether approval of the proposed non-farm/lot-of-record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.
- d. The dwelling will be sited on a lot or parcel created before January 1, 1993;
- e. The dwelling complies with such other conditions, as Harney County considers necessary;
- f. Harney County shall require as a condition of approval that the landowner for the dwelling sign and record in the deeds records for the county a document binding the land owner and the landowner's successor's in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937; and,
- g. Harney County shall not grant final approval of a non-farm dwelling under this subsection on a lot or parcel that is, or has been, receiving special assessment without evidence that the lot or parcel upon which the dwelling is proposal has been disqualified for special assessment at a value for farm use or other special assessment under ORS 308A.253, 321.257 to 321.367 and any additional tax imposed as the result of disqualification has been paid.

7. Specific Review Criteria. In the EFRU-1 Zone certain uses are subject to specific criteria, in addition to any other applicable criteria. The specific provisions of this subsection apply only when referenced within the list of uses included in subsections 3.010(2) and (3).

- A. The use may be approved only where Harney County finds that the use will not:
 - a. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
 - b. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

8. Lot Size/Land Divisions. Any proposed division of land included within an exclusive farm use zone resulting in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the governing body or its designee of Harney County. The governing body of the county by ordinance shall require such prior review and approval for such divisions of land within exclusive farm use zones established within the county.

- A. Farm Related Land Divisions (Type II Decisions). The governing body of Harney County may approve a proposed division of land to create parcels for farm use as defined in ORS 215.203 if it finds:
 - a. That the proposed division of land is appropriate for the continuation of the existing commercial agricultural enterprise within the area; or
 - b. The parcels created by the proposed division are not smaller than the minimum lot size acknowledged under ORS 215.780. The minimum lot size in the EFRU-1 Zone is 160-acres.
- B. Non-farm Related Land Divisions (Type III Decisions). New parcels less than 160-acres may be created subject to the following standards:
 - a. The governing body of Harney County may approve a proposed division of land in an exclusive farm use zone for non-farm uses, except dwellings, set out in ORS 215.213(2) or 215.283(2) if it finds that the parcel for the non-farm use is not larger than the minimum size necessary for the use. The governing body may establish other criteria, as it considers necessary.
 - b. The governing body of Harney County may approve a division of land in an exclusive farm use zone for a dwelling not provided in conjunction with farm use only if the dwelling has been approved under ORS 215.213(3) or 215.284. The governing body of the county shall not approve a subdivision or series partition for a dwelling not provided in conjunction with farm use. The provisions of this subsection regarding a series partition apply only to applications for a land division submitted after July 1, 1997. For purposes of this subsection, "series partition" shall have the meaning given that term in ORS 92.305(11).
 - c. This section shall not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.
 - d. This section shall not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.

- e. The governing body of Harney County may approve a proposed division of land in an exclusive farm use zone to create a parcel with an existing dwelling to be used:
 - I. As a residential home as described in ORS 197.660(2) only if the dwelling has been approved under ORS 215.213(3) or 215.284(1), (2), (3) or (4); and,
 - II. For historic property that meets the requirements of ORS 215.213(1)(q) and 215.283(1)(o).
- f. The governing body of Harney County shall not approve a division of land for non-farm use under subsection (a), (b) or (f) of this section unless any additional tax imposed for the change in use has been paid, and,
- g. Parcels used or to be used for training or stabling facilities shall not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.

9. Setback Standards.

- A. The setback from all property lines shall be a minimum of 20 feet.
- B. All residences, buildings or similar permanent fixtures shall be set back from the high water line along all streams or lakes a minimum of 100 feet measured at right angles to the high water line.

ORDINANCE HISTORY NOTES: The Exclusive Farm and Range Use-1 Zone provisions, Section 3.010 of the Harney County Zoning Ordinance was modified and adopted by the County Court on February 24, 1999 through a Periodic Review Work Task. The review and revision of this section subsequently occurred during May-June, 2000 as part (Work Task 2) of a voluntary Modified Revised Periodic Review Work Task via DLCD Grant No. TA-R-01-012. Section 3.010 was subsequently readopted by Harney County on August 16, 2000 and acknowledged by LCDC on May 10, 2002. Any changes to this Section from this point on will have the effective date listed after each modified paragraph with subsequent historical notes.

ARTICLE 3: AGRICULTURE USE ZONE: A-2

Section 3.01 Agriculture Use Zone. The Agriculture Use Zone is intended to preserve grazing and other agricultural land, except in those areas designated by the Plan as Rural or Farm Residential, and to allow rural homesites, hobby farms and similar "not for profit" farm residences in accord with Comprehensive Plan policies and provisions for such uses.

Section 3.02 Permitted Uses. In an A-2 Zone, the following uses and their accessory uses are permitted outright:

- A. Farm use as defined in ORS 215.203, except the dwelling customarily provided in conjunction therewith.
- B. The propagation or harvesting of a forest product.
- C. Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height.
- D. Nonresidential buildings customarily provided in conjunction with farm use.
- E. Operations for the exploration of geothermal resources as defined by ORS 522.005.
- F. The breeding, boarding and training of horses for profit.

Section 3.03 Uses Permitted With A Zoning Permit. In an A-2 Zone, the following uses and their accessory uses are permitted upon the issuance of a Zoning Permit:

- A. A dwelling customarily provided in conjunction with farm use on land "currently employed for farm use" and found in compliance with the criteria or standards set forth in this Article and in Section 20.14 of this Ordinance; includes mobile house or manufactured home.
- B. Single-family dwellings, not provided in conjunction with farm use, on lots or parcels located within areas designated by the Plan as Farm Residential, Rural Residential or Rural Center; includes mobile house or manufactured home.
- C. A dwelling on real property used for farm use, including mobile house or manufactured home, if the dwelling is:
 - 1. Located on the same lot or parcel as the dwelling of the farm operator; and
 - 2. Occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose assistance in management of the farm is required.
- D. One mobile home 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.
- E. A replacement dwelling, including mobile house or manufactured home, to be used in conjunction with farm use if the existing dwelling has been listed in the County's inventory as historic property as defined in ORS 358.480.

- F. Retention of a life estate in a dwelling and in a tract of land under and around such dwelling upon the sale or transfer of the remaining real property for continued farm use.

Section 3.04 Conditional Uses. In an A-2 Zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements of this Article and Article 24 of this Ordinance:

A. Type I. Conditional Uses.

1. Commercial activities in conjunction with farm use.
2. Home occupations.
3. A facility for the primary processing of forest products intended to be only portable or temporary in nature.
4. The propagation, cultivation, maintenance and harvesting of aquatic species.
5. A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.
6. Public parks, playgrounds, campground, golf course and community center owned and operated by a government agency or a nonprofit community organization.
7. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
8. Improvement of public roads 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.

B. Type II. Conditional Uses.

1. Public or private schools, including all buildings essential to the operation of a school.
2. Churches.
3. Operations conducted for the mining and processing of geothermal resources as defined by ORS 522.005, or exploration, mining and processing of aggregate and other mineral resources or other subsurface resources.
4. Private parks, hunting and fishing preserves, campground or golf course.
5. Personal use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities.
6. Commercial utility facilities for the purpose of generating power for public use by sale.
7. A site for the disposal of solid waste approved by the governing body of a city or the county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.

8. Dog kennels as set forth by ORS 215.283(2) (m).
9. Transmission towers over 200 feet in height. DOR
10. 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.
11. A destination resort which is approved consistent with the requirements of any Statewide planning goal relating to the siting of the same.
12. Single-family residential dwelling, not provided in conjunction with farm use, subject to the requirements set forth in Sections 24.19 and 24.20 of this Ordinance; includes mobile house or manufactured home.
13. Residential homes for handicapped persons, as those terms are defined in ORS 443.580, in existing dwellings, subject to the requirements set forth in Sections 24.19 and 24.20 of this Ordinance.
14. Commercial livestock feedlot or sales yard, hog or mink farm, or slaughter facility located within one-quarter mile of a lot or parcel in an area designated or zoned as Farm Residential, Rural Residential or Rural Center, or within one-half mile of an Urban Growth Boundary.

Section 3.05 Dimensional Standards. In an A-2 Zone, the following Dimensional Standards shall apply:

- A. A lot or parcel of 160 acres or more shall be considered a farm unit if found to be "currently employed in farm use".
- B. A lot or parcel less than 160 acres may only be approved as a farm unit when found to comply with the criteria set forth in Section 24.23 of this Ordinance through the Type II Conditional Use Permit process.
- C. In an area designated as Farm Residential, the minimum lot or parcel shall be 10 acres unless rezoned to a higher density.
- D. In an area designated as Rural Residential, the minimum lot or parcel shall be 3 acres unless rezoned to a higher density.
- E. In an area designated as Rural Center, the minimum lot or parcel without either public or community water or sewage disposal system shall be one (1) acre; 20,000 sq. ft. if either an approved public or community water or sewer system is provided; and 10,000 sq. ft. if both an approved public or community water and sewer system is provided.
- F. For nonfarm uses permitted in areas not designated by the Plan as Farm Residential, Rural Residential or Rural Center, the minimum lot or parcel size shall be one (1) acre and should not be more than necessary to accommodate the intended or proposed use.
- G. The minimum Front and Rear Yard setbacks shall be 20 feet, and sideyard setbacks shall be 10 feet, except that a sideyard of a nonfarm use adjacent to a farm use in an area not designated as Farm Residential, Rural Residential or Rural Center shall be 50 feet.

- H. All structures shall be setback at least 60 feet from the centerline of State or Federal rights-of-way and 45 feet from the centerline of any County or other public road or street right-of-way.

Malheur County

ARTICLE A. RESOURCE LANDS, EFU EXCLUSIVE FARM USE ZONE, ERU EXCLUSIVE RANGE USE ZONE, EFFU EXCLUSIVE FARM-FOREST USE ZONE

6-3A-1: PURPOSE:

6-3A-2: PERMITTED USES:

6-3A-3: CONDITIONAL USES:

6-3A-4: APPROVAL OF FARM OR RANCH DWELLINGS:

6-3A-5: DIVISION OF LAND:

6-3A-6: DIMENSIONAL STANDARDS:

6-3A-7: CREATION OF MORTGAGE LOTS:

6-3A-1: PURPOSE:

Resource lands consist of the exclusive farm, ranch and farm-forest use zones and appropriate overlay zones such as for destination resorts and secondary lands. The purpose of the EFU, ERU and EFFU zones is to maintain the resource based economy of Malheur County by permitting the establishment of only those uses that are compatible with agricultural activities. The intent is to ensure that areas classified EFU, ERU or EFFU are preserved and protected from conflicting nonresource uses. (Ord. 86, 12-7-1993)

6-3A-2: PERMITTED USES:

A. The following uses may be permitted outright by ministerial permit in each of the three (3) resource zones except as specifically added or excluded:

1. Farm uses as defined in ORS 215.203(2), including the propagation, cultivation, maintenance and harvesting of aquatic species, excluding feedlots.
2. The propagation or harvesting of a forest product.
3. The dwellings and other buildings customarily provided in conjunction with farm or ranch use, subject to section [6-3A-4](#) of this article.
4. Subject to section [6-3A-4](#) of this article, an additional dwelling on real property used for farm or ranch use if the dwelling is:
 - a. Located on the same lot or parcel as the dwelling of the resource operator; and is
 - b. Occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm or ranch operator or operator's spouse, whose assistance in the management of the resource use is or will be required by the operator.

5. Well drilling is a permitted activity, provided permits are obtained as required by state statute and this code. Development of the well for production usage shall be for agricultural or forest purposes only unless additional approval has been granted under section [6-3A-3](#) of this article.
6. Climbing and passing lanes within the right of way existing as of July 1, 1987.
7. Reconstruction or modification of public roads and highways, not including the addition of travel lanes where no removal or displacement of buildings would occur, or no new land parcels result.
8. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.
9. Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas, within rights of way existing as of July 1, 1987, and contiguous public owned property utilized to support the operation and maintenance of public roads and highways.
10. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.
11. Exploration only for geothermal, gravel and mineral deposits.
12. Breeding, boarding and training horses for profit.
13. Seasonal farm worker housing.
14. Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over two hundred feet (200') in height. A utility facility necessary for public service may be established as provided in ORS 215.275 and section [6-6-8-8](#), "Wireless Telecommunication Facilities" of this title. (Ord. 86, 12-7-1993; amd. Ord. 146, 4-14-2004)

6-3A-3: CONDITIONAL USES:

The following conditional uses and their accessory uses may be established when authorized in accordance with [chapter 6](#) of this title:

- A. Public or private schools.
- B. Churches.
- C. Commercial utility facilities for the purpose of generating power for public use by sale.
- D. A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the department of environmental quality together with equipment, facilities or buildings necessary for its operation.
- E. Operations conducted for:

1. Exploration for and production of oil and gas as defined by ORS 520.005, including the placement of operation compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.
 2. Mining and processing of geothermal resources as defined by ORS 522.005.
 3. Mining of aggregate and other mineral resources or other subsurface resources subject to section [6-4-7](#) of this title.
 4. Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement.
 5. Processing of other mineral resources and other subsurface resources.
- F. Private parks, playgrounds, hunting and fishing preserves and campgrounds.
- G. Parks, playgrounds or community centers owned and operated by a governmental agency or a nonprofit community organization.
- H. Golf courses.
- I. Personal use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A "personal use airport" means an airstrip restricted, except for aircraft emergencies, to use by the owner and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with resource management operations.
- J. Commercial activities that are in conjunction with farm or ranch use.
- K. The boarding of horses for profit.
- L. Home occupations or home businesses as provided in section [6-6-8-6](#) of this title and ORS 215.448.
- M. A facility for the primary processing of forest products; provided, that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a facility may be approved for a one year period, which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. "Forest products", as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
- N. Residential homes as defined in ORS 197.660, in existing dwellings.
- O. Feedlots.
- P. Single-family residential dwellings not provided in conjunction with the respective resource use, except dwellings on parcels partitioned pursuant to section [6-4-4](#) of this title, which shall be established as authorized in accordance with that section.
- Q. The temporary use of a manufactured dwelling during a family hardship condition, where such condition is related to the aged, the infirm, or to persons otherwise incapable of maintaining a completely separate residence apart from their family for health reasons. The zoning permit for such

use shall note that it is temporary and subject to renewal annually without additional fee. In the event the hardship no longer exists, the removal of the temporary use shall be required. If the temporary manufactured dwelling is to be connected to an existing sewage system, compliance with applicable rules of the department of environmental quality will be required. Application for a temporary manufactured dwelling shall consist of a letter describing the nature of the hardship and any form required by the planning department.

R. Nonresource land uses and land partitions are restricted and regulated by sections [6-6-8-1](#) and [6-6-8-2](#) of this title.

S. Construction of additional passing travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

T. 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.

U. Improvement of public roads 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.

V. Cemeteries in conjunction with churches.

W. Dog kennels.

X. Transmission towers over two hundred feet (200') in height. (Ord. 86, 12-7-1993; amd. Ord. 101, 4-25-1996; Ord. 146, 4-14-2004; Ord. 147, 4-14-2004; Ord. 184, 10-21-2009)

6-3A-4: APPROVAL OF FARM OR RANCH DWELLINGS:

The resource dwellings identified in subsections [6-3A-2A](#) of this article may be approved subject to a determination that the dwellings are in conjunction with the respective commercial farm or ranch use based on subsection A of this section and subsection [6-3A-5A](#) of this article and that the property and improvements constitute a commercial resource operation based on subsection C of this section.

A. Primary Resource Dwelling Determination: When determining whether a proposed primary dwelling to be permanently located on the property is "customarily provided in conjunction" with the farm or ranch use, the following factors shall be considered:

The size of the entire resource unit including all contiguous land in the same ownership; the types of farm crops and acreage for each type; operational requirements for the particular farm activity; the number of other permanent or temporary dwellings on or serving the entire farm or ranch unit (permanent and seasonal); the extent and nature of the work to be performed by occupants of the proposed dwelling.

B. Farm Hand Or Secondary Resource Dwelling: When determining whether a proposed farm hand or secondary dwelling may be provided, the following criteria shall apply:

An affidavit by the farm owner or operator making it clear the occupant will be an employee shall be signed and submitted.

C. Commercial Resource Determination: When determining whether an existing or proposed parcel is a commercial farm or ranch unit, the standards of subsection A shall be met and the following factors shall be considered:

1. Soil productivity; drainage; terrain; special soil or land conditions; availability of water; type and acreage of crops grown; crop yields; number and type of livestock; processing and marketing practices; and the amount of land needed to constitute a commercial farm or ranch unit.
 2. ORS 215.213(1)(g) and 215.283(1)(f) authorize a farm dwelling in an EFU zone only where it is shown that the dwelling will be situated on a parcel currently employed for farm use as defined in ORS 215.203. Land is not in farm use unless the day to day activities on the subject land are principally directed to the farm use of the land. Where land would be principally used for residential purposes rather than for farm use, a proposed dwelling would not be "customarily provided in conjunction with farm use" and could only be approved according to ORS 215.213(3) or 215.283(3).
- D. Notice Of Proposed Ministerial Approval: Notice of the proposed ministerial approval of a dwelling in conjunction with farm use shall be mailed to adjoining property owners. Within ten (10) days following notice to adjoining property owners, the application shall be considered for approval by the planning director. An objection by an adjoining property owner shall require any further action to be conducted by the planning commission as a conditional use permit. (Ord. 86, 12-7-1993)

6-3A-5: DIVISION OF LAND:

Subdivisions and planned developments are not consistent with the purpose and intent of this zone and are prohibited. Proposed lot line adjustments and partitions of land in an EFU, ERU or EFFU zone are subject to the provisions of the Malheur County subdivision and partitioning ordinance¹. In addition, proposed lot line adjustments and partitions shall meet the following requirements:

A. Resource Use: Persons proposing a division of land to create parcels for farm or ranch use shall satisfactorily demonstrate to the planning director in writing photographs, maps, charts, statistics and other easily preserved means of communication that the proposal will conform to the following requirements. Facts and collaborating evidence need to be presented in as concise and accurate a manner as is practical. Failure to bring adequate and convincing facts to bear on this issue will result in no approval being granted.

1. Is the proposed land division consistent with the state legislature's agricultural land policy as established in ORS 215.243 and 215.263(2)? How? Address each issue.
2. Are the proposed parcels appropriate for the continuation of the existing commercial agricultural operations in the area based on the evaluation prescribed in subsection [6-3A-4B](#)? Show substantiation. The evaluation shall include the subject property and commercial agricultural operations located in the same zone within one mile of the subject property.
3. Are the proposed parcels equal or greater in size than the typical commercial agricultural units in the area? Substantiate. Are they appropriate for more intensive commercial agricultural operations such as the growing of nursery stock, greenhouse or hydroponic products, the raising of small fur-bearing animals or poultry in large quantity, drylot dairies or feedlots? If so, submit a management plan for five (5) years and project an outline for the second or following five (5) years. If not, it must be shown that the proposed parcels will support commercial farm practices by being used in conjunction with other farmland in the area. A management plan is also required in this situation.

4. Will the addition and/or proposed location of new structures and other improvements on the property impose serious limitations on accepted farming practices on adjacent lands? How will this problem be avoided?
 5. Will the proposed land division materially alter the stability of the overall land use pattern of the area, assuming a principal dwelling may be allowed on the lot? Why not?
- B. Nonresource Land Partitions: Nonresource land partitions shall be approved as provided in sections [6-6-8-1](#) and [6-6-8-2](#) of this title.
- C. Financial Partitions:
1. Partitions for financial purposes which are eligible may proceed through foreclosure proceedings after notice to the county planning department. Lien and sales contracts eligible for financial partitioning are those established at the time of sale and purchase of the subject land. Following the 1989 date of adoption of this code, all property used as collateral in conjunction with the sale of property, shall conform to the size, access and other requirements of the county zoning and land division ordinance in effect at the time of the property transaction.
 2. Those parcels created by a financial partition shall be disqualified from the farm tax deferral and appropriate back taxes paid up unless one or both meet the criteria of subsection A of this section. (Ord. 86, 12-7-1993)

6-3A-6: DIMENSIONAL STANDARDS:

- A. Setbacks: No building or sight obscuring fence, other than a fence or facility associated with irrigation activities, shall be located closer than forty feet (40') from a street or road right of way line and fifteen feet (15') from any other property line. No sight obscuring fence exceeding three feet (3') in height shall be placed within the forty foot (40') street setback, also within this setback shrubbery other than trees shall be maintained at heights not exceeding three feet (3'). Dwellings and inhabitable structures, including associated sewage disposal facilities and removal of vegetation, shall be prohibited within one hundred feet (100') of rivers, streams, lakes, reservoirs and other wetlands, unless topographic features make such setback unnecessary to protect riparian habitat.
- B. Lot Area: The criteria in section [6-3A-5](#) of this article shall be used to determine the appropriate parcel size.
- C. Contiguous Ownership: Contiguous lots or parcel of land under the same ownership will be considered as one lot or parcel, except that lots created by subdivisions or partitions approved in accordance with the subdivision ordinance² will be considered separate lots, regardless of whether they are under one ownership. (Ord. 86, 12-7-1993)

6-3A-7: CREATION OF MORTGAGE LOTS:

A partitioning of land for the purpose of obtaining financing for farm dwellings and farm support buildings is allowed subject to the provisions of this title and the Malheur County subdivision and partitioning ordinance³. The resulting parcel and structure may not be sold separately by the owner from the parent lot from which it was originally partitioned unless allowed by this title and state law. (Ord. 86, 12-7-1993)

ARTICLE 3.00
A-2 AGRICULTURE-GRAZING ZONE

3.01 PURPOSE

The purpose of the A-2 Zone is to protect and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products. The A-2 Zone is also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat. It is also the purpose of the A-2 Zone to qualify farms for farm use valuation under the provisions of ORS Chapter 308.

The A-2 Zone has been applied to lands designated as Agriculture-Grazing in the Land Use Plan. The provisions of the A-2 Zone reflect the agricultural policies of the Land Use Plan as well as the requirements of ORS Chapter 215 and OAR 660-033. The minimum parcel size and other standards established by this zone are intended to promote commercial agricultural operations.

3.02 PERMITTED USES

In the A-1 Zone, the following uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance:

1. Farm use.
2. Propagation or harvesting of a forest product.
3. Other buildings customarily provided in conjunction with farm use.

3.03 ADMINISTRATIVE USES

The following uses may be established in an A-2 Zone subject to the review process identified in Section 24.02 (Planning Director Land Use Decision).

1. Creation of, restoration of, or enhancement of wetlands.
2. Climbing and passing lanes within the right of way existing as of July 1, 1987.
3. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
4. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

5. Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.
6. Fire service facilities providing rural fire protection services.
7. Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.
8. Firearms training facility in existence on September 9, 1995.
9. Dwelling customarily provided in conjunction with farm use subject to Subsection 2.05.26.B. and Section 2.07.
10. Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480 and listed on the National Register of Historic Places subject to Subsection 2.05.26.B.
11. Alteration, restoration, or replacement of a lawfully established dwelling subject to Subsection 2.05.26.B and Section 2.11.

3.04 CONDITIONAL USES WITH GENERAL REVIEW CRITERIA

In the A-2 Zone, the following uses and their accessory buildings and uses are permitted subject to county review under Article 24.03 Quasi-Judicial land use decision and the specific standards for the use set forth in Section 3.05, as well as the general standards for the zone and the applicable standards in Article 21.00 (Conditional Uses).

1. Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.
2. Operations for the exploration for minerals as defined by ORS 517.750.
3. Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
4. An outdoor mass gathering of more than 3,000 persons that is expected to continue for more than 24 hours but less than 120 hours in any three-month period, as provided in ORS 433.735.

5. A facility for the processing of farm crops, biofuel or poultry subject to Subsection 2.05.1.
6. Dog training classes or testing trials subject to Subsection 3.05.5.
7. Farm stands subject to Subsection 3.05.6.
8. A winery subject to Section 3.12.
9. Agri-tourism and other commercial events or activities subject to Section 3.13.
10. Utility facility service lines subject to Subsection 3.05.14.
11. Utility facilities necessary for public service, including associated transmission lines as defined in Section 1.08 and wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height as provided in Subsection 3.05.15.
12. A site for the takeoff and landing of model aircraft subject to Subsection 3.05.19.
13. Churches, and cemeteries in conjunction with churches, subject to Subsection 3.05.26.A. This use is not permitted on high value farmland except that existing churches on high value farmland may be expanded subject to Subsection 3.05.26.C.
14. Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by the county planning commission under ORS 433.763.
15. A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse if the farm operator does, or will, require the assistance of the relative in the management of the farm use subject to Subsections 3.05.3, and 3.05.26.B.
16. Accessory farm dwellings for year-round and seasonal farm workers subject to Subsection 3.05.26.B. and Section 3.08.
17. One single-family dwelling on a lawfully created lot or parcel subject to Subsection 3.05.26.B and Section 3.09.
18. Single-family residential dwelling, not provided in conjunction with farm use subject to Subsection 3.05.26.B and Section 3.10.
19. A facility for the primary processing of forest products subject to Subsection 3.05.1.

20. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the Oregon Fish and Wildlife Commission or insect species.
21. Temporary hardship dwelling subject to Subsection 3.05.4.
22. Residential home or facility as defined in ORS 197.660, in existing dwellings, subject to Subsection 3.05.26.B.
23. Room and board arrangements for a maximum of five unrelated persons in existing residences subject to Subsection 3.05.26.B.
24. Parking of up to seven log trucks.
25. Home occupations as provided in Subsection 3.05.7.
26. Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under Subsection 3.05.5.
27. An aerial fireworks display business that has been in continuous operation at its current location since December 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks.
28. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
29. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Subsection 3.04.5, subject to 3.05.9.
30. Guest ranch subject to Subsection 3.05.8.
31. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted.
32. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.
33. Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement subject to 3.05.10.
34. Processing of other mineral resources and other subsurface resources.

35. Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
36. 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.
37. 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 and subject to OAR 660-012-0065 where applicable.
38. Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065.
39. Personal use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities subject to Subsection 3.05.12.
40. Transmission towers over 200 feet in height.
41. Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities subject to Subsection 3.14.1.
42. Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale subject to Subsection 3.14.2.
43. Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale subject to Subsection 3.14.3.
44. A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation. This use is not permitted on high value farmland except that existing facilities on high value farmland may be expanded subject to Subsection 3.05.26.C.
45. Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060 subject to Subsection 2.05.17. This use is not permitted on high value farmland except that existing facilities on high value farmland may be expanded subject to Subsection 3.05.26.C.
46. Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.

47. Living history museum as defined in Section 1.08. and subject to Subsections 2.05.20 and 3.05.26.A.
48. Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community subject to Subsections 3.05.21 and 3.05.26.A.
49. Public parks and playgrounds subject to Subsections 3.05.22 and 3.06.25.A.
50. Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.
51. Operations for the extraction and bottling of water.
52. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located, subject to Subsection 3.05.26.A. This use is not permitted on high value farmland except that existing schools on high value farmland may be expanded subject to Subsections 3.05.23 and 3.05.26.C.
53. Private parks, playgrounds, hunting and fishing preserves, and campgrounds subject to Subsections 3.05.24 and 3.05.26.A. This use is not permitted on high value farmland except that existing private parks on high value farmland may be expanded subject to Subsection 3.05.26.C.
54. Golf courses as defined in Section 1.08 and subject to Subsections 3.05.25 and 3.05.26.A. This use is not permitted on high value farmland as defined in ORS 195.300 except that existing golf courses on high-value farmland may be expanded subject to Subsection 3.05.26.C.

3.05 USE STANDARDS

1. A farm on which a processing facility is located must provide at least one-quarter of the farm crops processed at the facility. A farm may also be used for an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment. A county may not approve any division of a lot or parcel that separates a processing facility or establishment from the farm operation on which it is located.

2. A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in Section 1.08. Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.
3. To qualify for a relative farm help dwelling, a dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm.
4. A temporary hardship dwelling is subject to the following:
 - A. One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:
 - (1) The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required;
 - (2) Doctor certification;
 - (3) The county shall review the permit authorizing such manufactured homes every two years; and
 - (4) Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use.
 - B. A temporary residence approved under this section is not eligible for replacement under Subsection 3.03.11. Department of Environmental Quality review and removal requirements also apply.
 - C. As used in this section “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons as determined by a certified doctor.

5. Dog training classes or testing trials conducted outdoors, or in farm buildings that existed on January 1, 2013, are limited as follows:
 - D. The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and
 - E. The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.
6. A farm stand may be approved if:
 - F. The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand.

Fee-based promotional activities may include farm-to-plate dinners and small-scale gatherings like farm-themed birthday parties, but not large-scale gatherings like weddings. Food carts may only be allowed if used for the sale of farm crops or livestock grown on the farm operation.
 - G. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.
 - H. As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.
 - I. As used in this section, "local agricultural area" includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.
 - J. Farm Stand Development Standards

- (1) Adequate off-street parking will be provided pursuant to provisions of the County.
- (2) Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.
- (3) All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways.
- (4) No farm stand building or parking is permitted within the right-of-way.
- (5) Approval is required from the County Public Works Department regarding adequate egress and access. All egress and access points shall be clearly marked.
- (6) Vision clearance areas. No visual obstruction (e.g., sign, structure, solid fence, wall, planting or shrub vegetation) may exceed three (3) feet in height within “vision clearance areas” at street intersections.
 - (a) Service drives shall have a minimum clear-vision area formed by the intersection of the driveway centerline, the road right-of-way line, and a straight line joining said lines through points twenty (20) feet from their intersection.
 - (b) Height is measured from the top of the curb or, where no curb exists, from the established street center line grade.
 - (c) Trees exceeding three (3) feet in height may be located in this area, provided all branches and foliage are removed to a height of eight (8) feet above grade.
- (7) All outdoor light fixtures shall be directed downward, and have full cutoff and full shielding to preserve views of the night sky and to minimize excessive light spillover onto adjacent properties, roads and highways, except as provided for up-lighting of flags and permitted building-mounted signs.
- (8) Signs are permitted consistent with Section 3.17 Development Standards.

K. Permit approval is subject to compliance with the Department of Environmental Quality Subsurface Sewage Disposal Program or Department of Agriculture requirements and with the development standards of this zone.

7. Home occupations:

L. A home occupation shall:

- (1) Be operated by a resident or employee of a resident of the property on which the business is located;
- (2) Employ on the site no more than one full-time or part-time persons at any given time;
- (3) Be operated substantially in:
 - (a) No more than 49% of the dwelling; or
 - (b) Other buildings where no more than 1,200 square feet is used for the home occupation and the building is normally associated with uses permitted in the zone where the property is located, except that such other buildings may not be utilized as bed and breakfast facilities or rental units unless they are legal residences.
- (4) Not unreasonably interfere with other uses permitted in the zone in which the property is located.
- (5) When a bed and breakfast facility is sited as a home occupation on the same tract as a winery established under Subsection 2.05.8. and is operated in association with the winery:
 - (a) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and
 - (b) The meals may be served at the bed and breakfast facility or at the winery.
- (6) The home occupation shall be accessory to an existing, permanent dwelling on the same parcel.
- (7) No materials or mechanical equipment shall be used which will be detrimental to the residential use of the property or adjoining residences because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.
- (8) All off-street parking must be provided on the subject parcel where the home occupation is operated.

- (a) Employees must use an approved off-street parking area.
 - (b) Customers visiting the home occupation must use an approved off-street parking area.
 - (9) One (1) sign identifying the home and occupation is permitted, not to exceed a total of 32 square feet in area and located outside of the public right of way.
 - (10) Retail sales shall be limited or accessory to a service.
 - (11) Auto or vehicle oriented activities (repair, painting, detailing, wrecking, transportation services, or similar activities) shall be prohibited.
8. A guest ranch must comply with the following provisions:
- M. Definitions
 - (1) “Guest lodging unit” means a guest room in a lodge, bunkhouse, cottage or cabin used only for transient overnight lodging and not for a permanent residence.
 - (2) “Guest ranch” means a facility for guest lodging units, passive recreational activities described in paragraph F and food services described in paragraph G that are incidental and accessory to an existing and continuing livestock operation that qualifies as a farm use.
 - (3) “Livestock” means cattle, sheep, horses and bison.
 - N. A guest ranch may be established unless the proposed site of the guest ranch is within the boundaries of or surrounded by:
 - (1) A federally designated wilderness area or a wilderness study area;
 - (2) A federally designated wildlife refuge;
 - (3) A federally designated area of critical environmental concern; or
 - (4) An area established by an Act of Congress for the protection of scenic or ecological resources.
 - O. The guest ranch must be located on a lawfully established unit of land that:
 - (1) Is at least 160 acres;

- (2) Contains the dwelling of the individual conducting the livestock operation; and
 - (3) Is not high-value farmland.
- P. Except as provided in paragraph E, the guest lodging units of the guest ranch cumulatively must:
 - (1) Include not fewer than four nor more than 10 overnight guest lodging units; and
 - (2) Not exceed a total of 12,000 square feet in floor area, not counting the floor area of a lodge that is dedicated to kitchen area, rest rooms, storage or other shared or common indoor space.
- Q. For every increment of 160 acres that the lawfully established unit of land on which the guest ranch is located exceeds the minimum 160-acre requirement described in paragraph C, up to five additional overnight guest lodging units not exceeding a total of 6,000 square feet of floor area may be included in the guest ranch for a total of not more than 25 guest lodging units and 30,000 square feet of floor area.
- R. A guest ranch may provide passive recreational activities that can be provided in conjunction with the livestock operation's natural setting including, but not limited to, hunting, fishing, hiking, biking, horseback riding, camping and swimming. A guest ranch may not provide intensively developed recreational facilities, including golf courses as identified in ORS 215.283.
- S. A guest ranch may provide food services only for guests of the guest ranch, individuals accompanying the guests and individuals attending a special event at the guest ranch. The cost of meals, if any, may be included in the fee to visit or stay at the guest ranch. A guest ranch may not sell individual meals to an individual who is not a guest of the guest ranch, an individual accompanying a guest or an individual attending a special event at the guest ranch.
- T. Notwithstanding ORS 215.283, the governing body of a county or its designee may not allow a guest ranch in conjunction with:
 - (1) A campground as described in ORS 215.283 (2).
 - (2) A golf course as described in ORS 215.283 (2).

- U. Notwithstanding ORS 215.263, the governing body of a county or its designee may not approve a proposed division of land:
 - (1) for a guest ranch; or
 - (2) to separate the guest ranch from the dwelling of the individual conducting the livestock operation.
- 9. Commercial activities in conjunction with farm use may be approved when:
 - V. The commercial activity is either exclusively or primarily a customer or supplier of farm products;
 - W. The commercial activity is limited to providing products and services essential to the practice of agriculture by surrounding agricultural operations that are sufficiently important to justify the resulting loss of agricultural land to the commercial activity; or
 - X. The commercial activity significantly enhances the farming enterprises of the local agricultural community, of which the land housing the commercial activity is a part. Retail sales of products or services to the general public that take place on a parcel or tract that is different from the parcel or tract on which agricultural product is processed, such as a tasting room with no on-site winery, are not commercial activities in conjunction with farm use.
- 10. Facilities that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
- 11. Mining, crushing or stockpiling of aggregate and other mineral and subsurface resources are subject to the following:
 - Y. A land use permit is required for mining more than one thousand (1,000) cubic yards of material or excavation preparatory to mining of a surface area of more than one (1) acre.
 - Z. A land use permit for mining of aggregate shall be issued only for a site included on a mineral or aggregate inventory in the land use plan.

12. A personal use airport, as used in this Article, prohibits aircraft other than those owned or controlled by the owner of the airstrip. Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.
13. Land Application of Reclaimed or Process Water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an EFU zone is subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of 215.246, 215.247, 215.249 and 215.251.
 - AA. Compost facility operators must prepare, implement and maintain a site-specific Odor Minimization Plan that:
 - (1) Meets the requirements of OAR 340-096-0150;
 - (2) Identifies the distance of the proposed operation to the nearest residential zone;
 - (3) Includes a complaint response protocol;
 - (4) Is submitted to the DEQ with the required permit application; and
 - (5) May be subject to annual review by the county to determine if any revisions are necessary.
 - BB. Compost operations subject to Section 2.05.15 include:
 - (1) A new disposal site for composting that sells, or offers for sale, resulting product; or
 - (2) An existing disposal site for composting that sells, or offers for sale, resulting product that:
 - (a) Accepts as feedstock non-vegetative materials, including dead animals, meat, dairy products and mixed food waste (type 3 feedstock); or
 - (b) Increases the permitted annual tonnage of feedstock used by the disposal site by an amount that requires a new land use approval.

14. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:
 - CC. A public right of way;
 - DD. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
 - EE. The property to be served by the utility.
15. A utility facility that is necessary for public service
 - FF. A utility facility is necessary for public service if the facility must be sited in the exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:
 - (1) Technical and engineering feasibility;
 - (2) The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 - (3) Lack of available urban and non-resource lands;
 - (4) Availability of existing rights of way;
 - (5) Public health and safety; and
 - (6) Other requirements of state and federal agencies.
 - GG. Costs associated with any of the factors listed in subparagraph A. of this paragraph may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

- HH. The owner of a utility facility approved under paragraph A shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this paragraph shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
- II. The county shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.
- JJ. Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under the A-1 Zone or other statute or rule when project construction is complete. Off-site facilities allowed under this paragraph are subject to Section 2.06 Conditional Use Review Criteria. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.
- KK. In addition to the provisions of subparagraphs A to D of this paragraph, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) shall be subject to the provisions of 660-011-0060.
- LL. The provisions of subparagraphs A to D of this paragraph do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
- 16. An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of subparagraph A or subparagraph B of this paragraph.
 - MM. An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:
 - (1) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;

- (2) The associated transmission line is co-located with an existing transmission line;
 - (3) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or
 - (4) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.
- NN. After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs 16(C) and 16(D), two or more of the following criteria:
- (1) Technical and engineering feasibility;
 - (2) The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 - (3) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;
 - (4) Public health and safety; or
 - (5) Other requirements of state or federal agencies.
- OO. As pertains to paragraph 16.B the applicant shall demonstrate how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.
- PP. The county may consider costs associated with any of the factors listed in subparagraph 16.B, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.

17. Composting operations and facilities shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle. This use is not permitted on high value farmland except that existing facilities on high value farmland may be expanded subject to Subsection 2.05.26.C.
18. Solid waste disposal facilities shall meet the performance and permitting requirements of the Department of Environmental Quality under ORS 459.245, shall meet the requirements of Section 2.06 and shall comply with the following requirements.
- QQ. The facility shall be designed to minimize conflicts with existing and permitted uses allowed under plan designations for adjacent parcels as outlined in policies of the Land Use Plan.
- RR. The facility must be of a size and design to minimize noise or other detrimental effects when located adjacent to farm, forest and grazing dwelling(s) or a residential zone.
- SS. The facility shall be fenced when the site is located adjacent to dwelling(s) or a residential zone and landscaping, buffering and/or screening shall be provided.
- TT. The facility does not constitute an unnecessary fire hazard. If located in a forested area, the county shall condition approval to ensure that minimum fire safety measures will be taken, which may include but are not limited to the following:
- (1) The area surrounding the facility is kept free from litter and debris.
 - (2) Fencing will be installed around the facility, if deemed appropriate to protect adjacent farm crops or timber stand.
 - (3) If the proposed facility is located in a forested area, construction materials shall be fire resistant or treated with a fire retardant substance and the applicant will be required to remove forest fuels within 30 feet of structures.
- UU. The facility shall adequately protect fish and wildlife resources by meeting minimum Oregon State Department of Forestry regulations.

- VV. Access roads or easements for the facility shall be improved to the county's Transportation System Plan standards and comply with grades recommended by the Public Works Director.
- WW. Road construction for the facility must be consistent with the intent and purposes set forth in the Oregon Forest Practices Act to minimize soil disturbance and help maintain water quality.
- XX. Hours of operation for the facility shall be limited to 8 am – 7 pm.
- YY. Comply with other conditions deemed necessary.
19. Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this section. An owner of property used for the purpose authorized in this section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.
20. A living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65.
21. A community center may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

22. Public parks may include:
- A. All uses authorized under ORS 215.283;
 - B. The following uses, if authorized in a local or park master plan that is adopted as part of the local Land Use Plan, or if authorized in a state park master plan that is adopted by OPRD:
 - (1) Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;
 - (2) Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;
 - (3) Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;
 - (4) Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;
 - (5) Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;
 - (6) Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;
 - (7) Park Maintenance and Management Facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging; and

- (8) Natural and cultural resource interpretative, educational and informational facilities in state parks: interpretative centers, information/orientation centers, self-supporting interpretative and informational kiosks, natural history or cultural resource museums, natural history or cultural educational facilities, reconstructed historic structures for cultural resource interpretation, retail stores not exceeding 1500 square feet for sale of books and other materials that support park resource interpretation and education.
 - C. Visitor lodging and retreat facilities if authorized in a state park master plan that is adopted by OPRD: historic lodges, houses or inns and the following associated uses in a state park retreat area only:
 - (1) Meeting halls not exceeding 2000 square feet of floor area;
 - (2) Dining halls (not restaurants).
- 23. Schools as formerly allowed pursuant to ORS 215.283(1)(a) that were established on or before January 1, 2009, may be expanded if:
 - A. The Conditional Use Review Criteria in Section 2.06 are met; and
 - B. The expansion occurs on the tax lot on which the use was established on or before January 1, 2009 or a tax lot that is contiguous to the tax lot and that was owned by the applicant on January 1, 2009.

24. Private Campgrounds are subject to the following:
- A. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds 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. 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. Campgrounds 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-month period.
 - B. 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 by paragraph C.
 - C. 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.
25. Accessory uses provided as part of a golf course shall be limited consistent with the following standards:
- A. An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;

- B. Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and
- C. Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

26. General Standards.

- A. Three-mile setback from the Urban Growth Boundary (UGB). For uses subject to this subsection:
 - (1) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.
 - (2) Any enclosed structures or group of enclosed structures described in paragraph (1) within a tract must be separated by at least one-half mile. For purposes of this Subsection, “tract” means a tract that is in existence as of June 17, 2010.
 - (3) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this ordinance.
- B. Single-family dwelling deeds. The landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

- C. Expansion standards. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of Subsection 2.04.54 and Section 2.06.

3.06 CONDITIONAL USE REVIEW CRITERIA

- 1. An applicant for a use permitted in Section 3.04 must demonstrate compliance with the following criteria in addition to the applicable standards in Article 21.00 and subject to the review process identified in Section 24.03.
- 2. The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- 3. The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

3.07 DWELLINGS CUSTOMARILY PROVIDED IN CONJUNCTION WITH FARM USE

- 1. Large Tract Standards. On land not identified as high-value farmland as defined in Section 1.08, a dwelling may be considered customarily provided in conjunction with farm use if:
 - A. The parcel on which the dwelling will be located is at least:
 - (1) 160 acres and not designated rangeland; or
 - (2) 320 acres and designated rangeland.
 - B. The subject tract is currently employed for farm use.
 - C. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.
 - D. Except for an accessory farm dwelling, there is no other dwelling on the subject tract.
- 2. Farm Capability Standards.
 - A. On land not identified as high-value farmland pursuant to OAR 660-033-0020(8), a dwelling may be considered customarily provided in conjunction with farm use if:

- (1) The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area that includes all tracts wholly or partially within one mile from the perimeter of the subject tract;
- (2) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subparagraph (1);
- (3) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subparagraph (1);
- (4) The subject lot or parcel on which the dwelling is proposed is not less than 20 acres;
- (5) Except for an accessory farm dwelling, there is no other dwelling on the subject tract;
- (6) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and
- (7) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subparagraph (3).

B. In order to identify the commercial farm or ranch tracts to be used in subparagraph A, the potential gross sales capability of each tract in the study area, including the subject tract, must be determined, using the gross sales figures prepared by the county pursuant to OAR 660-044-0135(2)(c).

3. Farm Income Standards (non-high value). On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

A. The subject tract is currently employed for the farm use on which, in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned the lower of the following:

- (1) At least \$40,000 in gross annual income from the sale of farm products; or

- (2) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and
- B. Except for an accessory farm dwelling, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 owned by the farm or ranch operator or on the farm or ranch operation;
- C. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in paragraph A; and
- D. In determining the gross income required by paragraph A:
 - (1) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
 - (2) Only gross income from land owned, not leased or rented, shall be counted; and
 - (3) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
- 4. Farm Income Standards (high-value). On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
 - A. The subject tract is currently employed for the farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years; and
 - B. Except for an accessory farm dwelling, there is no other dwelling on lands designated for exclusive farm use owned by the farm or ranch operator or on the farm or ranch operation; and
 - C. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in paragraph A;
 - D. In determining the gross income required by paragraph A:
 - (1) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

- (2) Only gross income from land owned, not leased or rented, shall be counted; and
- (3) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

5. Additional Farm Income Standards

- A. For the purpose of Subsections 3.07.3 or 3.07.4, noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Lots or parcels in eastern or western Oregon may not be used to qualify a dwelling in the other part of the state.
- B. Prior to the final approval for a dwelling authorized by Subsections 3.07.3 or 3.07.4 that requires one or more contiguous or non-contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" to OAR chapter 660, division 33 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:
 - (1) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and
 - (2) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
- C. 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;
- D. 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;

- E. The 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 property that is subject to the covenants, conditions and restrictions required by this section;
 - F. 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 the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.
6. Commercial Dairy Farm Standards. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm as defined in paragraph 7 if:
- A. The subject tract will be employed as a commercial dairy as defined in paragraph 7;
 - B. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;
 - C. Except for an accessory farm dwelling, there is no other dwelling on the subject tract;
 - D. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm;
 - E. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
 - F. The Oregon Department of Agriculture has approved the following:
 - (1) A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
 - (2) A Producer License for the sale of dairy products under ORS 621.072.
7. As used in this section, "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by Subsections 3 or 4, whichever is applicable, from the sale of fluid milk.

8. Relocated Farm Operations. A dwelling may be considered customarily provided in conjunction with farm use if:
 - A. Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by Subsection 3 or 4, whichever is applicable;
 - B. The subject lot or parcel on which the dwelling will be located is:
 - (1) Currently employed for the farm use that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by Subsection 3 or 4, whichever is applicable; and
 - (2) At least the size of the applicable minimum lot size under Section 2.16;
 - C. Except for an accessory farm dwelling, there is no other dwelling on the subject tract;
 - D. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in paragraph A; and
 - E. In determining the gross income required by paragraph A and subparagraph B(1):
 - (1) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and
 - (2) Only gross income from land owned, not leased or rented, shall be counted.

3.08 ACCESSORY FARM DWELLINGS -YEAR ROUND AND SEASONAL

1. Accessory farm dwellings as permitted by Section 3.05 may be considered customarily provided in conjunction with farm use if:
 - A. Each accessory farm dwelling meets all the following requirements:
 - (1) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;

- (2) The accessory farm dwelling will be located:
- (a) On the same lot or parcel as the primary farm dwelling;
 - (b) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract;
 - (c) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these provisions;
 - (d) On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subparagraph to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. "Farmworker housing" shall have the meaning set forth in 215.278 and not the meaning in 315.163; or
 - (e) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(3) or (4), whichever is applicable; and
- (3) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.

- B. In addition to the requirements in paragraph A, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:
- (1) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years or in an average of three of the last five years, the farm operator earned the lower of the following:
 - (a) At least \$40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
 - (b) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;
 - (2) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
 - (3) It is located on a commercial dairy farm as defined in Section 2.07.7; and
 - (a) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm;
 - (b) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
 - (c) A Producer License for the sale of dairy products under ORS 621.072.

- C. No division of a lot or parcel for an accessory farm dwelling shall be approved pursuant to this subsection. If it is determined that an accessory farm dwelling satisfies the requirements of this ordinance, a parcel may be created consistent with the minimum parcel size requirements in 3.16.1.
 - D. An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Subsection 3.04.18.
2. For purposes of this Subsection, "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.

3.09 OWNERSHIP LOT OF RECORD DWELLINGS

1. A dwelling may be approved on a pre-existing lot or parcel if:
- A. 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 paragraph 5:
 - (1) Since prior to January 1, 1985; or
 - (2) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
 - B. The tract on which the dwelling will be sited does not include a dwelling;
 - C. 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;
 - D. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged Land Use Plan and land use regulations and other provisions of law;
 - E. The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in paragraphs 3 and 4; and
 - F. When the lot or parcel on which the dwelling will be sited lies within an area designated in the Land Use Plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged Land Use Plan and land use regulations intended to protect the habitat are based.

2. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;
3. Notwithstanding the requirements of subparagraph 1.E, a single-family dwelling may be sited on high-value farmland if:
 - A. It meets the other requirements of paragraphs 1 and 2;
 - B. The lot or parcel is protected as high-value farmland as defined in OAR 660-033-0020(8)(a);
 - C. The Planning Commission determines that:
 - (1) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity.
 - (a) For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrates that a lot of parcel cannot be practicably managed for farm use.
 - (b) Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms.
 - (c) A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;
 - (2) The dwelling will comply with the provisions of 2.06; and
 - (3) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in paragraph 3.10.1.A

4. Notwithstanding the requirements of subparagraph 1.E, a single-family dwelling may be sited on high-value farmland if:
- (1) It meets the other requirements of paragraphs 1 and 2;
 - (2) The tract on which the dwelling will be sited is:
 - (a) Identified in OAR 660-033-0020(8)(c) or (d);
 - (b) Not sited on high-value farmland defined in Section 2.02; and
 - (c) Twenty-one acres or less in size; and
 - (3) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or
 - (4) The tract is not a flag lot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or
 - (5) The tract is a flag lot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:
 - (a) “Flag lot” means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
 - (b) “Geographic center of the flag lot” means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flag lot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot.

5. For purposes of paragraph 1, “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, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;
6. The county assessor shall be notified that the governing body intends to allow the dwelling.
7. An application for a single-family dwelling that is approved under this section may be transferred by a person who has qualified under this section to any other person after the effective date of the land use decision.
8. The county shall provide notice of all applications for ownership of record dwellings on high value farmland to the State Department of Agriculture. Notice shall be provided in accordance with land use regulations and shall be mailed at least 20 calendar days prior to the public hearing.

3.10 DWELLINGS NOT IN CONJUNCTION WITH FARM USE

1. Non-farm dwelling. A non-farm dwelling sited on a lot or parcel is subject to the following requirements:
 - A. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.
 - B. The following applies to a non-farm dwelling:
 - (1) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

- (2) A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the lot or parcel or portion of the lot or parcel is not "generally unsuitable". A lot or parcel or portion of a lot or parcel is presumed to be suitable if, in Eastern Oregon, it is composed predominantly of Class I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or
- (3) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if, in Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.

- C. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth below in subparagraphs (1) through (3). If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth below in subparagraphs (1) through (3).

- (1) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;
- (2) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under Subsections A and B and Section 2.10, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph; and
- (3) Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

If a single-family dwelling is established on a lot or parcel as set forth in Subsection 2.05.7 or (forest zone reference to dwellings in forest zones), no additional dwelling may later be sited under the provisions of this section.

2. Non-farm dwelling. A non-farm dwelling sited on a parcel created after January 1, 1993, as allowed in ORS 215.263(5), is subject to the following requirements:
 - A. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farm or forest practices on nearby lands devoted to farm or forest use.
 - B. No final approval of a non-farm dwelling shall be given unless any additional taxes imposed upon the change in use have been paid.
 - C. If a single-family dwelling is established on a lot or parcel as set forth in ORS 215.705 to 215.750, no additional dwelling may later be sited as a non-farm dwelling.
 - D. The dwelling will not materially alter the stability of the overall land use pattern of the area.
 - E. The non-farm dwelling complies with such other conditions as the governing body or its designee considers necessary.

3.11 ALTERATION, RESTORATION OR REPLACEMENT OF A LAWFULLY-ESTABLISHED DWELLING

1. A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the permitting authority finds to its satisfaction, based on substantial evidence that:
 - A. The dwelling to be altered, restored or replaced has, or formerly had:
 - (1) Intact exterior walls and roof structure;
 - (2) Indoor plumbing consisting of a 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 was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time; and

- B. Notwithstanding subsection 1.A(5), if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:
 - (1) The destruction (i.e., by fire or natural hazard), or demolition in the case of restoration, of the dwelling; or
 - (2) The applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner. “Improperly removed” means that the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the county stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.
- 2. For replacement of a lawfully established dwelling under Subsection 3.03.11:
 - A. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
 - (1) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
 - (2) If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and
 - (3) If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.
 - B. The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

- 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 2013 Oregon Laws, chapter 462, section 2 and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
- 3. A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
 - A. The siting standards of paragraph B apply when a dwelling qualifies for replacement because the dwelling:
 - (1) Formerly had the features described in paragraph 1.A;
 - (2) Was removed from the tax roll as described in paragraph 1.C; or
 - (3) Had a permit that expired as described under paragraph 4.C.
 - B. The replacement dwelling must be sited on the same lot or parcel:
 - (1) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and
 - (2) If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.
 - C. Replacement dwellings that currently have the features described in paragraph 1.A and that have been on the tax roll as described in paragraph 1.B may be sited on any part of the same lot or parcel.
- 4. A replacement dwelling permit that is issued under 3.03.11:
 - A. Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:

- (1) Formerly had the features described in paragraph 1.A; or
 - (2) Was removed from the tax roll as described in paragraph 1.C;
- B. Is not subject to the time to act limits of ORS 215.417; and
- C. If expired before January 1, 2014, shall be deemed to be valid and effective if, before January 1, 2015, the holder of the permit:
 - (1) Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and
 - (2) Causes to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

3.12 WINERIES

- 1. A winery may be established as a permitted use if the proposed winery will produce wine with a maximum annual production of:
 - A. Less than 50,000 gallons and the winery:
 - (1) Owns an on-site vineyard of at least 15 acres;
 - (2) Owns a contiguous vineyard of at least 15 acres;
 - (3) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
 - (4) Obtains grapes from any combination of subparagraph (1), (2) or (3); or
 - B. At least 50,000 gallons and the winery:
 - (1) Owns an on-site vineyard of at least 40 acres;
 - (2) Owns a contiguous vineyard of at least 40 acres;
 - (3) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;
 - (4) Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or
 - (5) Obtains grapes from any combination of subparagraph (1), (2), (3) or (4).

2. In addition to producing and distributing wine, a winery established under this section may:
 - A. Market and sell wine produced in conjunction with the winery.
 - B. Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
 - (1) Wine tastings in a tasting room or other location on the premises occupied by the winery;
 - (2) Wine club activities;
 - (3) Winemaker luncheons and dinners;
 - (4) Winery and vineyard tours;
 - (5) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;
 - (6) Winery staff activities;
 - (7) Open house promotions of wine produced in conjunction with the winery; and
 - (8) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.
 - C. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages:
 - (1) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - (2) Served in conjunction with an activity authorized by paragraph 2.A, D, or E.
 - D. Carry out agri-tourism or other commercial events on the tract occupied by the winery subject to Subsection 5
 - E. Host charitable activities for which the winery does not charge a facility rental fee.

3. A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in Subsection 2.C. Food and beverage services authorized under Subsection 2.C may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.
4. The gross income of the winery from the sale of incidental items or services provided pursuant to Subsection 2.C and 2.D may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. At the request of the county, the winery shall submit to the county a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.
5. A winery may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery. If a winery conducts agri-tourism or other commercial events authorized under this Section, the winery may not conduct agri-tourism or other commercial events or activities authorized by 2.13 1 to 4.
6. A winery operating under this section shall provide off-street parking for all activities or uses of the lot, parcel or tract on which the winery is established.
7. Prior to the issuance of a permit to establish a winery under Subsection 1, the applicant shall show that vineyards described in Subsection 1 have been planted or that the contract has been executed, as applicable.
8. Standards imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:
 - A. Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places unless the local government grants an adjustment or variance allowing a setback of less than 100 feet; and
 - B. Provision of direct road access and internal circulation.
9. In addition to a winery permitted in Subsections 1 to 8, a winery may be established if:
 - A. The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is a vineyard;
 - B. The winery owns at least 80 additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described in paragraph 9.A; and

- C. The winery has produced annually, at the same or a different location, at least 150,000 gallons of wine in at least three of the five calendar years before the winery is established under this subsection.
10. In addition to producing and distributing wine, a winery described in Subsection 9 may:
- A. Market and sell wine produced in conjunction with the winery;
 - B. Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
 - (1) Wine tastings in a tasting room or other location on the premises occupied by the winery;
 - (2) Wine club activities;
 - (3) Winemaker luncheons and dinners;
 - (4) Winery and vineyard tours;
 - (5) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;
 - (6) Winery staff activities;
 - (7) Open house promotions of wine produced in conjunction with the winery; and
 - (8) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery;
 - C. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages:
 - (1) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - (2) Served in conjunction with an activity authorized by paragraph 10.B(2), (4), or (5);

- D. Provide services, including agri-tourism or other commercial events, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:
 - (1) Are directly related to the sale or promotion of wine produced in conjunction with the winery;
 - (2) Are incidental to the retail sale of wine on-site; and
 - (3) Are limited to 25 days or fewer in a calendar year; and
 - (4) Host charitable activities for which the winery does not charge a facility rental fee.

11. Income Requirements

- A. The gross income of the winery from the sale of incidental items pursuant to paragraph 10.C and services provided pursuant to paragraph 10.D may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.
- B. At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement, prepared by a certified public accountant, that certifies compliance with paragraph A for the previous tax year.

12. A winery permitted under Subsection 9:

- A. Shall provide off-street parking for all activities or uses of the lot, parcel or tract on which the winery is established.
- B. May operate a restaurant, as defined in ORS 624.010, in which food is prepared for consumption on the premises of the winery.

13. Permit Requirements

- A. A winery shall obtain a permit if the winery operates a restaurant that is open to the public for more than 25 days in a calendar year or provides for agri-tourism or other commercial events authorized under Subsection 10.D occurring on more than 25 days in a calendar year.
- B. In addition to any other requirements, a local government may approve a permit application under this subsection if the local government finds that the authorized activity:

- (1) Complies with the standards described in Subsections 3.06.1, 2, and 3;
 - (2) Is incidental and subordinate to the retail sale of wine produced in conjunction with the winery; and
 - (3) Does not materially alter the stability of the land use pattern in the area.
- C. If the local government issues a permit under this subsection for agri-tourism or other commercial events, the local government shall review the permit at least once every five years and, if appropriate, may renew the permit.
- 14. A person may not have a substantial ownership interest in more than one winery operating a restaurant under Subsection 9.
- 15. Prior to the issuance of a permit to establish a winery under Subsection 9, the applicant shall show that vineyards described in Subsection 9 have been planted.
- 16. A winery operating under Subsection 9 shall provide for:
 - A. Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places; and
 - B. Direct road access and internal circulation.
- 17. A winery operating under Subsection 9 may receive a permit to host outdoor concerts for which admission is charged, facility rentals or celebratory events if the winery received a permit in similar circumstances before August 2, 2011.
- 18. As used in this section:
 - A. “Agri-tourism or other commercial events” includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.
 - B. “On-site retail sale” includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.

3.13 AGRI-TOURISM AND OTHER COMMERCIAL EVENTS

- 1. The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established:

2. A single agri-tourism or other commercial event or activity on a tract in a calendar year that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:
 - A. The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;
 - B. The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;
 - C. The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;
 - D. The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;
 - E. The agri-tourism or other commercial event or activity complies with the standards described in Subsections 3.06.1, 2, and 3;
 - F. The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and
 - G. The agri-tourism or other commercial event or activity complies with conditions established for:
 - (1) Planned hours of operation;
 - (2) Access, egress and parking;
 - (3) A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads; and
 - (4) Sanitation and solid waste.

3. In the alternative to Subsections 1 and 2, the county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:
 - A. Must be incidental and subordinate to existing farm use on the tract;
 - B. May not begin before 6 a.m. or end after 10 p.m.;
 - C. May not involve more than 100 attendees or 50 vehicles;
 - D. May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;
 - E. May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;
 - F. Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and
 - G. Must comply with applicable health and fire and life safety requirements.
4. In the alternative to Subsections 1 and 2, the county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:
 - A. Must be incidental and subordinate to existing farm use on the tract;
 - B. May not, individually, exceed a duration of 72 consecutive hours;
 - C. May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;
 - D. Must comply with the standards described in Subsections 2.06.1, 2, and 3;

- E. May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and
 - F. Must comply with conditions established for:
 - (1) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;
 - (2) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;
 - (3) The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;
 - (4) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and
 - (5) Sanitation and solid waste.
 - G. A permit authorized by this subsection shall be valid for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of Subsection 3, any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.
5. In addition to Subsections 1 to 3, the county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with Subsections 1 to 3 if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:
- A. Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;
 - B. Comply with the requirements of 3.C, D, E, and F;
 - C. Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and

- D. Do not exceed 18 events or activities in a calendar year.
- 6. A holder of a permit authorized by a county under Subsection 4 must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:
 - A. Provide public notice and an opportunity for public comment as part of the review process; and
 - B. Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by Subsection 4.
 - 7. Temporary structures established in connection with agri-tourism or other commercial events or activities may be permitted. The temporary structures must be removed at the end of the agri-tourism or other event or activity. Alteration to the land in connection with an agri-tourism or other commercial event or activity including, but not limited to, grading, filling or paving, are not permitted.
 - 8. The authorizations provided by section are in addition to other authorizations that may be provided by law, except that “outdoor mass gathering” and “other gathering,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial events and activities.
 - 9. Agri-Tourism and other Commercial Events or Activities Permit. Agri-tourism and other commercial events or activities related to and supportive of agriculture may be approved in an area zoned for exclusive farm use only if the standards and criteria in this section are met.
 - A. A permit application for an agri-tourism or other commercial event or activity shall include the following:
 - (1) A description of the type of agri-tourism or commercial events or activity that is proposed, including the number and duration of the event and activity, the anticipated daily attendance and the hours of operation and, for events not held at wineries, how the agri-tourism and other commercial events or activities will be related to and supportive of agriculture and incidental and subordinate to the existing farm use of the tract.
 - (2) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;
 - (3) A traffic management plan that meets the criteria in Section B(3) .

- (4) Authorization to allow inspection of the event premises. The applicant shall provide in writing a consent to allow law enforcement, public health, and fire control officers and code enforcement staff to come upon the premises for which the permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and the Exclusive Farm Use Zone and any other applicable laws or ordinances.

B. Approval Criteria.

- (1) The area in which the agri-tourism or other commercial events or activities are located shall be setback at least 100 feet from the property line.
- (2) Noise Control
 - (a) All noise, including the use of a sound producing device such as, but not limited to, loud speakers and public address systems, musical instruments that are amplified or unamplified, shall be in compliance with applicable state regulations.
 - (b) A standard sound level meter or equivalent, in good condition, that provides a weighted sound pressure level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA shall be available on-site at all times during agri-tourism and other commercial events or activities.
- (3) Transportation Management
 - (a) Adequate traffic control must be provided by the property owner and must include one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time. All traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.
 - (b) Adequate off-street parking will be provided adequate to accommodate anticipated attendance.
- (4) Health and Safety Compliance
 - (a) Sanitation facilities shall include, at a minimum, portable restroom facilities and stand-alone hand washing stations.

- (b) All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of the Oregon Uniform Building Code and any other applicable federal, state and local laws.
- (c) Compliance with the requirements of the building codes shall include meeting all building occupancy classification requirements of the State of Oregon adopted building code.

3.14 COMMERCIAL FACILITIES FOR GENERATING POWER

1. Commercial Power Generating Facility, except for wind and photovoltaic solar facilities.

- A. Permanent features of a power generation facility shall not preclude more than:
 - (1) 12 acres from use as a commercial agricultural enterprise on high value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4; or
 - (2) 20 acres from use as a commercial agricultural enterprise on land other than high-value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.
- B. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

2. Wind Power Generation Facility.

- A. For purposes of this ordinance a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility.
- (1) Temporary workforce housing described in Subsection 3.14.1.B must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete.
 - (2) Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.
- B. For wind power generation facility proposals on high-value farmland soils, as described at ORS 195.300(10), the governing body or its designate must find that all of the following are satisfied:
- (1) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:
 - (a) Technical and engineering feasibility;
 - (b) Availability of existing rights of way; and
 - (c) The long-term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under subparagraph (2);

- (2) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;
 - (3) Costs associated with any of the factors listed in subparagraph (1) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;
 - (4) The owner of a wind power generation facility approved under paragraph B shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and
 - (5) The criteria of paragraph C are satisfied.
- C. For wind power generation facility proposals on arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:
 - (1) The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;

- (2) The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
 - (3) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and
 - (4) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.
- D. For wind power generation facility proposals on nonarable lands, meaning lands that are not suitable for cultivation, the requirements of subparagraph C(4) are satisfied.
- E. In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in paragraphs C and D, the approval criteria of paragraph C shall apply to the entire project.
- 3. Photovoltaic Solar Power Generation Facility. A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:
 - A. “Arable land” means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.
 - B. “Arable soils” means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but “arable soils” does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.

- C. “Nonarable land” means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.
- D. “Nonarable soils” means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.
- E. “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.
- F. For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

- (1) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;
- (2) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
- (3) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;
- (4) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;
- (5) The project is not located on high-value farmland soils unless it can be demonstrated that:
 - (a) Non high-value farmland soils are not available on the subject tract;

- (b) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
 - (c) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and
- (6) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
 - (a) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.
 - (b) When at least 48 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

G. For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

- (1) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:
 - (a) Nonarable soils are not available on the subject tract;

- (b) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
 - (c) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;
- (2) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660, division 4;
- (3) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
 - (a) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.
 - (b) When at least 80 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and
- (4) The requirements of subparagraphs F(1), (2), (3), and (4) are satisfied.

- H. For nonarable lands, a photovoltaic solar power generation facility shall not preclude more than 250 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:
- (1) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:
 - (a) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
 - (b) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;
 - (2) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);
 - (3) No more than 20 acres of the project will be sited on arable soils unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4;
 - (4) The requirements of subparagraph F(4) are satisfied;
 - (5) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's Land Use Plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local Land Use Plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and

(6) If a proposed photovoltaic solar power generation facility is located on lands where the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive), or to wildlife species of concern identified and mapped by the Oregon Department of Fish and Wildlife (including big game winter range and migration corridors, golden eagle and prairie falcon nest sites, and pigeon springs), the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife species of concern are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife species of concern as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

(7) The provisions of paragraph (6) are repealed on January 1, 2022.

- I. The project owner shall sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).
- J. Nothing in this section shall prevent the county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

3.15 LAND DIVISIONS

- 1. Minimum Parcel Size. The minimum size for creation of a new parcel shall comply with Section 3.16.
- 2. A division of land to accommodate a use permitted by Section 3.04, except a residential use, smaller than the minimum parcel size provided in Subsection 1 may be approved if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.

3. A division of land to create up to two new parcels smaller than the minimum size established under Section 3.16, each to contain a dwelling not provided in conjunction with farm use, may be permitted if:
 - A. The nonfarm dwellings have been approved under paragraph 3.10.2;
 - B. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
 - C. The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum size in Section 3.16;
 - D. The remaining area of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size in Section 3.16; and
 - E. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.
4. A division of land to divide a lot or parcel by creating up to two parcels, each to contain one dwelling not provided in conjunction with farm use, may be permitted if:
 - A. The nonfarm dwellings have been approved under Subsection 3.10.2;
 - B. The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;
 - C. The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size in Section 3.16 but equal to or larger than 40 acres;
 - D. The parcels for the nonfarm dwellings are:
 - (1) Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber; and

- (2) Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage for grazing livestock. The Land Conservation and Development Commission, in cooperation with the State Department of Agriculture and other interested persons, may establish by rule objective criteria for identifying units of land that are not capable of producing adequate herbaceous forage for grazing livestock. In developing the criteria, the commission shall use the latest information from the United States Natural Resources Conservation Service and consider costs required to utilize grazing lands that differ in acreage and productivity level;
 - E. The parcels for the nonfarm dwellings do not have established water rights for irrigation; and
 - F. The parcels for the nonfarm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.
5. This section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.
 6. This section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.
 7. This section does not allow division of a lot or parcel described in 3.04.15 or 3.04.21.
 8. This section does not allow division of a lot or parcel that separates a processing facility from the farm operation specified in Section 3.04.19.
 9. A division of land may be permitted to create a parcel with an existing dwelling to be used:
 - A. As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under Section 3.10; and
 - B. For historic property that meets the requirements of Section 3.03.10.

10. Notwithstanding Section 3.16, a division of land may be approved for the purpose of establishing a park, provided the following are met:
 - A. A parcel created pursuant to this subsection that does contain a dwelling:
 - (1) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and
 - (2) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
 - B. A parcel created pursuant to this subsection that does not contain a dwelling:
 - (1) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - (2) May not be considered in approving or denying an application for siting any other dwelling;
 - (3) May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
 - (4) May not be smaller than 25 acres unless the purpose of the land division is to facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan or to allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.
11. A division of land smaller than the minimum lot or parcel size in Section 2.16 may be approved provided:
 - A. The division is for the purpose of establishing a church, including cemeteries in conjunction with the church;
 - B. The church has been approved under Subsection 3.04.;
 - C. The newly created lot or parcel is not larger than five acres; and

- D. The remaining lot or parcel, not including the church, meets the minimum lot or parcel size described in Subsection 3.16 either by itself or after it is consolidated with another lot or parcel.
- 12. Notwithstanding the minimum lot or parcel size described Section 3.16, a division for the nonfarm uses set out in Subsection 3.03.6 if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.
- 13. The governing body of a county may not approve a division of land for nonfarm use under subsection 2, 3, 5, 6, 7, or 8 unless any additional tax imposed for the change in use has been paid.
- 14. Parcels used or to be used for training or stabling facilities may not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.

3.16 MINIMUM PARCEL SIZE

- 1. The minimum parcel size for farm related parcels in the A-1 Exclusive Farm Use Zone shall be as follows:
 - A. 160 acres for land not designated rangeland.
 - B. 320 acres for land designated rangeland.
 - C. On a predominantly agricultural parcel a variance application may be submitted per Article 30.00 to create parcels per ORS 215.780(1) for resource related purposes only.

3.17 DEVELOPMENT STANDARDS

The following standards shall apply to all development in an A-1 Exclusive Farm Use Zone.

- 1. Any proposed division of land included within the A-1 Zone resulting in the creation of one or more parcels of land shall be reviewed and approved or disapproved by the County (ORS 215.263).
- 2. Setbacks from property lines or road rights-of-way shall be a minimum of 20-feet front and rear yards and 10-feet side yards.
- 3. Animal shelters shall not be located closer than 100 feet to an R-1 or R-2 Zone.
- 4. Signs shall be limited to the following:

- A. All off-premise signs within view of any State Highway shall be regulated by State regulation under ORS Chapter 377 and receive building permit approval.
- B. All on-premise signs shall meet the Oregon Administrative Rule regulations for on-premise signs which have the following standards:
 - (1) Maximum total sign area for one business is 8% of building area plus utilized parking area, or 2,000 square feet, whichever is less.
 - (2) Display area maximum is 825 square feet for each face of any one sign, or half the total allowable sign area, whichever is less.
 - (3) Businesses which have no buildings located on the premises or have buildings and parking area allowing a sign area of less than 250 square feet may erect and maintain on-premises signs with the total allowable area of 250 square feet, 125 square feet maximum for any one face of a sign.
 - (4) Maximum height of freestanding signs adjacent to interstate highways is 65 feet, for all other highways is 35 feet, measured from the highway surface or the premises grade, whichever is higher to the top of the sign.
- C. All on-premise signs within view or 660 feet of any State Highway shall obtain permit approval from the Permit Unit, Oregon State Highway Division. No sign shall be moving, revolving or flashing, and all lighting shall be directed away from residential use or zones, and shall not be located so as to detract from a motorists vision except for emergency purposes.