

# POLK COUNTY ZONING ORDINANCE

## TABLE OF CONTENTS

### CHAPTER

110	General Provisions and Definitions
111	Administration and Procedures
112	Development Standards
113	Enforcement
114	Nonconforming Buildings and Uses
115	Comprehensive Plan Amendments
116	Home Occupations
119	Conditional Uses
120.300	Solid Waste Disposal Sites
120.400	Sand and Gravel Resource Sites
122	Variances
125	Limited Uses
127	Suburban Residential (SR) Zoning District
128*	Acreage Residential (AR) Zoning District
128.500	Acreage Residential-Five Acre (AR-5) Zoning District
128.700*	Acreage Residential Ten Acre (AR-10) Zoning District
129*	Residential Agriculture (RA) Zoning District
129.200*	Residential Agriculture Mobile Home (RA-MH) Zoning District
130	Grand Ronde: Low Density Residential Zone
130.500*	Rural Recreation Zone
131*	Single Family Residential (RS) Zoning District
132*	Duplex Residential (RD) Zoning District
133*	Limited Multi-Family Residential (RL) Zoning District
134*	Multi-Family Residential (RM) Zoning District
135*	High Rise Apartment Residential (RH) Zoning District
136	Exclusive Farm Use (EFU) Zoning District
136.200*	Exclusive Farm Use 20 Acre (EFU-20) Zoning District
137*	Agriculture Forestry (AF) Zoning District
138	Farm Forest (FF) Zoning District
139	(Reserved)
140	Commercial Office (CO) Zoning District
141	Commercial Retail (CR) Zoning District
142	Commercial General (CG) Zoning District
143*	Central Business (CB) Zoning District
144	Rural Commercial (R-COM) Zoning District
145	Unincorporated Community Commercial Office (UC-CO) Zoning District
146	Unincorporated Community Commercial Retail (UC-CR) Zoning District
147	Unincorporated Community Commercial General (UC-CG) Zoning District
148	Grand Ronde: Commercial Zone
149	Grand Ronde: Commercial Highway/Tourist Zone
150*	Interchange District

\*Denotes zones no longer applied to property in Polk County

151	Industrial Commercial (IC) Zoning District
152	Unincorporated Community Industrial Commercial (UC-IC) Zoning District
153	Eola Unincorporated Community Commercial Zoning District
153.500	Rickreall Unincorporated Community Commercial Zoning District
153.700	Grand Ronde: Light Industrial Zone
154	Eola Unincorporated Community Industrial Commercial Zoning District
154.500	Rickreall Unincorporated Community Industrial Commercial Zoning District
154.700	Grand Ronde: Heavy Industrial Zone
155	Eola Unincorporated Community Industrial Zoning District
155.500	Rickreall Unincorporated Community Industrial Community Industrial Zoning District
156	(Reserved)
157	(Reserved)
158	(Reserved)
159	(Reserved)
160	Industrial Park (IP) Zoning District
161	Light Industrial (IL) Zoning District
162	Heavy Industrial (IH) Zoning District
163	(Reserved)
164	(Reserved)
165	Rural Industrial (R-IND) Zoning District
166	Unincorporated Community Industrial Park (UC-IP) Zoning District
167	Unincorporated Community Light Industrial (UC-IL) Zoning District
168	Unincorporated Community Heavy Industrial (UC-IH) Zoning District
169	(Reserved)
170	Public Zones
171*	Capitol (GI) Zoning District
172	(Reserved)
173	Greenway Management Overlay (GM) Zone
174	Mineral and Aggregate Overlay Zone
175	Mineral Extraction (ME) Zoning District
176	(Reserved)
177	Timber Conservation (TC) Zoning District
178	Floodplain Overlay Zone
179	Homestead Exception
180	Airport Development District
181	Airport Zone Height Limitations
182	Significant Resource Areas Overlay Zone
183	Historic and Archaeological Resources
184	Limited Use Overlay Zone
185	Grand Ronde: Public Assembly Zone
186	Grand Ronde: Public Works/Safety Zone
187	(Reserved)
188	(Reserved)
189	(Reserved)
190	(Reserved)

\*Denotes zones no longer applied to property in Polk County

## **CHAPTER 91**

### **SUBDIVISIONS, PARTITIONS, and PROPERTY LINE ADJUSTMENTS** (Short Title; Definitions)

91.110.	Short Title
91.120.	Purpose
91.150	Definitions
91.200	Procedures for Subdivisions and Partitions
91.210	Appeal of Subdivision or Partition Application
91.220	Partition Final Approval
91.250	Subdivision Final Approval
91.260	Filing of Final Plan
91.280	Board Signature on Subdivision Plats
91.290	General Approval Criteria for Partitions
91.300	General Approval Criteria for Subdivisions
91.700	Standards for Partitions and Subdivisions
91.720	Sale of Subdivision Lots and Partition Parcels
91.800	Exceptions to Ordinance Standards
91.820.	Appeals of Exceptions Decisions
91.840	Violations
91.910	Administration
91.920	Enforcement
91.930	Area Involved
91.940	Fees
91.950.	Lawfully Created Parcels
91.955	Creation of Parcels Which Were Improperly Formed
91.960.	Property Line Adjustments

## CHAPTER 91

### SUBDIVISIONS, PARTITIONS, AND PROPERTY LINE ADJUSTMENTS (Short title; Definitions)

**91.110. SHORT TITLE.** This chapter may be cited as the "Subdivision Ordinance".

**91.120. PURPOSE.** In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirement adopted for the public health, safety and welfare. To protect the people, among other purposes, such provisions are intended to provide for permanently wholesome community environment, adequate public services, and safe streets for accomplishing, among other things, the following objectives:

- (1) Better living conditions within new subdivisions and partitioned land;
- (2) Areas which may be properly developed and in conformance with existing ordinances;
- (3) Simplification and definiteness of land descriptions;
- (4) Establishment and development of street utilities, and public areas;
- (5) To uniformly enforce standards and regulations as set forth in this chapter to inform the person proposing the subdivision or partition of what is necessary to meet the requirements of subsections (1) to (4) of this section, and to minimize the need for additional requirements and regulations not set forth in this chapter.

#### **91.150. DEFINITIONS.**

- (1) **General Definitions.** For the purpose of this chapter, words used in the present tense include the future, the singular number includes the plural, and the term "this ordinance" includes all amendments hereafter made thereto.
- (2) "Access." The connection of any existing or proposed road or bike facility to a county or state road; for example, a private driveway or public road, for ingress or egress to property.
- (3) "Accessory Transportation Improvements." Transportation improvements that are incidental to a land use to provide safe and efficient access to the use.
- (4) "Alley." A public way not more than 20 feet wide, providing a secondary means of access to private property.
- (5) "Applicant." Any person as defined in this section who makes application to the County for approval of a subdivision or partitioning plan.
- (6) "Arterial Street (Road)." A state highway and other public road that principally provides service to through traffic. Such a roadway is intended to carry large volumes of traffic (typically 1,000 ADT or more outside of an urban growth boundary) and connect major traffic generators, cities, recreational areas, major destinations, and major segments of transportation networks. High capacity is achieved through allowing higher speed, limited access, wider roadway and movement preference at intersections with lesser standard roadways.

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

"Minor Arterials" connect areas of principal traffic generation to major urban and rural highways. The minor arterial network provides for through traffic movement to the major arterials and distribution into the network of collector and local streets.

- (7) "Block." An area or unit of land adjacent to one or more streets in a subdivision.
- (8) "Board." The Polk County Board of Commissioners.
- (9) "Building Lines." The building lines for all lots and parcels shall be coincident with the building setback requirements of the zone in which the development is occurring.
- (10) "Channelization." The separation or regulation of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings to facilitate the safe and orderly movements of both vehicles and pedestrians. Examples include, but are not limited to, left turn refuges, right turn refuges including the construction of islands at intersections to separate traffic, and raised medians at driveways or intersections to permit only right turns. "Channelization" does not include continuous median turn lands.
- (11) "Collector Street (Road)." A public road that provides access to property and that collects and distributes traffic between access roads and arterials or as specified in an acknowledged comprehensive plan. Any street designated as such on an official map adopted in conjunction with a comprehensive plan as allowed under ORS Chapter 215.
  - "Major Collectors" carry local traffic between neighborhood areas to arterial facilities. The major collector provides access from minor collectors to community services and to other neighborhoods within, or immediately adjacent to urban areas.
  - "Minor Collectors" serve as links between the local street system and the higher order roadways. Minor collectors carry traffic between minor traffic generators, such as neighborhood shopping and community centers and schools.
- (12) "Contiguous." Means all lots, tracts or parcels of land under single ownership being in actual contact, adjoining or touching, excluding those lots, tracts or parcels of land divided by a public way.
- (13) "Corner Lot." A lot or portion thereof situated at the intersection of two or more streets.
- (14) "Curb Line." The line indicating the edge of vehicular roadway within the overall right-of-way.
- (15) "Division." The act of creating a boundary.
- (16) "Easement." The grant of a right of use across or through an area or tract of land.
- (17) "Frontage Road." Also known as "Marginal Access Road." A service road generally parallel and adjacent to an arterial, and which provides access to abutting properties, but protected from through traffic. Also known as "Access Road." A low volume public road that principally provides access to property.
- (18) "Hearings Officer." An individual appointed by the Board of Commissioners to conduct hearings under this Chapter.
- (19) "Lot." A unit of land created by a subdivision of land.
- (20) "New Road." A public road or road segment that is not a realignment of an existing road or road segment.
- (21) "Official Map." Any map adopted by the Board of Commissioners in conjunction with the adoption of an ordinance, or in conjunction with the Comprehensive Plan allowed under ORS Chapter 215.
- (22) "Owner." The owner of record of real property as shown on the latest tax roles of Polk County or by the deed records of such county, or a person who is purchasing a unit or tract of land under contract.
- (23) "Parcel." A unit of land created by partitioning of land, or as created pursuant to Sections 91.950 and 91.955.

- (24) "Partition." Either an act of partitioning land or a parcel of land partitioned as defined in this section.
- (25) "Partition Land." To divide a parcel into two or three parcels within a calendar year when such parcel exists at the beginning of such year. "Partition land" does not include:
- (a) Divisions of land resulting from lien foreclosures or foreclosure of a recorded contract for the sale of real property;
  - (b) Divisions of land resulting from the creation of cemetery lots;
  - (c) Adjustment of a property line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum size established by any applicable zoning ordinance;
  - (d) The division of land resulting from the recording of a subdivision or condominium plat;
  - (e) A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(p) to (r). However, any property bisected by the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or
  - (f) A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the deed records of the county where the property is located.
- (26) "Person." Person, unless the context indicates otherwise, includes an individual partnership, corporation, both public and private, association, or club; and the singular includes the plural; and the masculine includes the feminine.
- (27) "Plan." A drawing or diagram made to scale of a proposed or tentative division of an area or tract of land.
- (28) "Planning Director." The designated representative authorized and appointed by the Board under ORS to administer the provisions of this chapter.
- (29) "Plat." Includes a final diagram, drawing, replat or other writing containing all the descriptions, location, specifications, dedications, provisions and information concerning a subdivision.
- (30) "Private Way." All rights-of-way not open to use by the general public.
- (31) "Property line" means the division line between two units of land.
- (32) "Property line adjustment" means the relocation of a common property line between two abutting properties.
- (33) "Public Way." Any city, county, state, or federal highway, roadway, right-of-way, or easement open to use by the general public.
- (34) "Realignment." Rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the

realigned roadway and a road that intersects the original alignment. The realignment shall maintain the function of the existing road segment being realigned as specified in the acknowledged comprehensive plan.

- (35) "Reserve Strip." A strip of land, one foot in width, across the end of or along the edge of a street or alley, for the purpose of controlling access which is reserved or held for future street extension or widening.
- (36) "Reverse Frontage Lot." A lot having frontage on two parallels or approximately parallel roads, where the rear of the lot, or structure on the lot faces an arterial.
- (37) "Road or Street." A public or private way created to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land.
- (38) "Roadway." The general term used to describe the strip of land, structures, surfacing, and shoulders over which motorized vehicles travel. The roadway includes the area between the edges of the shoulder or curb and the area two feet beyond the edge of shoulder or curb.
- (39) "Rural." Those areas within Polk County which lie outside an adopted Urban Growth Boundary (UGB) and outside an urban unincorporated community.
- (40) "Shall." The term "shall" is used in a mandatory sense.
- (41) "Subdivide Land." To divide a lot or parcel into four or more lots, within a calendar year, when such lot or parcel exists at the beginning of such year.
- (42) "Subdivider." Any person who undertakes to subdivide a lot or parcel for the purpose of transfer of ownership or development and including changes in street or lot lines.
- (43) "Subdivision." Either an act of subdividing land property subdivided as defined in this section.
- (44) "Transportation Impact Analysis (TIA)". A study which evaluates the adequacy of the existing transportation system to serve a proposed development and the expected effects of the proposed development on the transportation system. A TIA is required when a particular development is expected to generate more than 300 vehicle trips during a single day and/or more than 100 vehicle trips during a single hour. The TIA should provide adequate information for Public Works to evaluate the development proposal and, if necessary, identify traffic mitigation measures.
- (45) "Urban." Those areas of Polk County which lie within an adopted Urban Growth Boundary (UGB) or within an urban unincorporated community.
- (46) "Urban Growth Boundary (UGB)." A boundary adopted by both the city and county which includes the estimated supply of various land types (commercial, industrial, public, and residential) intended to serve the city's needs over a 20-year planning period.
- (47) "Walkway." A transportation facility built for use by pedestrians, including persons in wheelchairs. Walkways include sidewalks, paths and paved shoulders.
- (48) "Vicinity Map." A drawing or diagram, to scale, showing the location of the proposed partition or subdivision relative to abutting properties, to nearby roads or streets, or to other known landmarks such as rivers townsites, rural community centers and such.

## 91.200 PROCEDURES FOR SUBDIVISIONS AND PARTITIONS

- (1) A Partition application shall be submitted to the Planning Division on the form provided by the Planning Director. The application shall include a map of the area proposed for partitioning, with approximate dimensions and acreage identified. The Planning Director shall provide for the notification to affected agencies as identified in Chapter 111 of the Polk County Zoning Ordinance. A Partition application is reviewed and a decision may be made by the Planning Director. The Planning Director shall provide notification of the decision pursuant to PCZO Chapter 111. The notice of decision shall include the following statement:

“This approval is valid, subject to conditions identified herein, unless otherwise modified by the process identified in Section 91.800 (Exceptions to Ordinance Standards).”

- (2) A Subdivision application shall be submitted to the Planning Division on the form provided by the Planning Director. The Planning Director and applicant shall provide for notification pursuant to PCZO Chapter 111.

The Hearings Officer reviews a subdivision application at a public hearing. The Hearings Officer shall conduct the public hearing pursuant to PCZO Chapter 111 procedures. The Hearings Officer shall deliberate and provide a final written decision. The Planning Director shall provide notification of the decision of the Hearings Officer pursuant to PCZO Chapter 111. The notice of decision shall include the following statement:

“This approval is valid, subject to conditions identified herein, unless otherwise modified by the process identified in Section 91.800 (Exceptions to Ordinance Standards).”

A subdivision application shall include the following additional information and data:

- (a) One reproducible copy of the tentative plan for the proposed subdivision on 8.5 inch by 11 inch paper.
- (b) Subdivision Name. No tentative plan of a subdivision shall be approved which bears a name using a word which is similar to or pronounced the same as a word in the name of any other subdivision in the same county, except for the words "town", "city", "place", "court", "addition", or similar words unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the subdivision bearing that name. All plats must continue the block numbers of the plat of the same name last filed, or as provided in ORS 92.090.
- (c) Vicinity map.
- (d) A plan of the proposed subdivision at a scale of one inch equals 200 feet or on a larger scale if desired and including the following information and data;
  - (A) The township, range, section or donation land claim, tax lot, and the county in which the subdivision is located.
  - (B) The location of all existing or proposed roads within or on the boundary of the proposed subdivision.
  - (C) Total land area of the proposed subdivision with lot layout and approximate dimensions.
  - (D) The zoning in and adjacent to the proposed subdivision shall be shown on the tentative plans and the tentative plans shall indicate any uses proposed other than single family residential.



- (E) An outline of proposed deed restrictions or covenants, if any, shall also be indicated.
  - (F) The location of all buildings within the proposed subdivision and their present uses. Those to remain shall be indicated.
  - (G) The location, size, and use of all contemplated and existing public areas within the proposed subdivision, and a description of the adaptability of the area for uses contemplated. Areas for public use approved by the Hearings Officer shall be dedicated for such use and indicated on the final plat before recording.
  - (H) The location and kind of public utilities in or adjacent to the proposed subdivision. If possible, the locations should be shown on the vicinity map.
  - (I) Location of any drainage ways or easements in or adjacent to the proposed subdivision.
  - (J) Topography shall be provided at a contour interval of 10 feet when slopes within the proposed subdivision exceed 10%. The base for such information shall be the datum obtained from any official benchmark in Polk County or the City of Salem providing its location, description, and elevation is furnished. When an official benchmark is not available, a survey monument shall be set in a concrete monument, and the monuments set in a secure place. An assumed elevation shall be assigned from which all map elevations for that subdivision shall be referenced.
  - (K) North point, scale and date.
  - (L) The location of all proposed pedestrian and bicycle facilities.
  - (M) The names and addresses of all landowners within the proposed subdivision, the subdivider, if other than the owners, and the engineer or surveyor responsible for laying out the subdivision.
  - (N) Written statements from the applicant showing compliance with applicable approval criteria and development standards in Sections 91.270 and 91.700.
- (3) The Planning Director, Hearings Officer, or Board of Commissioners may require additional information to complete review of the application if it is determined that such information is needed to complete the application review process. The applicant shall be responsible for providing identified additional information.

**91.210. APPEAL OF SUBDIVISION OR PARTITION APPLICATION.** Upon approval or disapproval of a subdivision or partition, the decision may be appealed to the Board of Commissioners by any person who is adversely affected or aggrieved, or who is entitled to notice of the decision as identified in PCZO 111.350. A decision on an application for a subdivision or partition may be appealed by submitting an appeal form to the Planning Division, with the appropriate appeal fee, within twelve (12) days of the mailing of the decision. An appeal of a subdivision decision must include documentation of participation in the proceedings either through written or oral testimony.

**91.220. PARTITION FINAL APPROVAL.** An application that has received conditional approval as provided above in this section, and other applicable sections of this Ordinance and the Zoning Ordinance, shall be reviewed for final approval upon the applicant submitting documentation showing compliance with all conditions. The County Surveyor shall examine the

plat for accuracy and completeness and he may collect such fees as are provided by state law for such review. Approval of the submitted plat shall be considered final when properly endorsed by the County Surveyor, the County Road Official, the Planning Director, and the Assessor. The Board of Commissioners shall sign if required for acceptance of a dedicated area. The plat shall be recorded with the County Clerk. Recording of the plat with the County Clerk shall constitute final approval by Polk County of the partition request by the applicant.

**91.250. SUBDIVISION FINAL APPROVAL.** The following conditions shall be met prior to final approval of a subdivision.

- (1) The final plat and all supporting evidence and documentation showing compliance with conditions of approval shall be submitted to applicable agency within 12 months after the effective date granting conditional approval.
- (2) All lots shall be served from an established public or private water system or private source with the water available at each lot prior to recording the subdivision plat. The water quality shall be in accordance with the requirements of the Oregon Health Division, the Oregon Water Resources Department, and the Oregon Department of Environmental Quality.
- (3) A subdivision plat, when ready for final approval prior to recording, shall substantially conform to the approved tentative plan, however, the final subdivision plat may contain all or only a portion of the approved tentative plan.
- (4) After the final plat has been submitted to the County Surveyor for review, the Planning Director's staff shall review the final plat and compare it with the approved tentative plan to ascertain whether the final plat conforms substantially to the approved tentative plan and with such conditions of approval of the tentative plan which may have been made. The County Surveyor shall examine the plat for accuracy and completeness and may collect such fees as are provided by law for such review.
- (5) If the Planning Director or County Surveyor finds there has not been full conformity with the conditionally approved plan, either or both shall advise the subdivider of the changes or additions that must be made, and afford the subdivider an opportunity to make such changes or additions. The applicant shall submit documentation showing compliance within 60 days of notification of needed changes, or prior the end of the period of validity as outlined in the initial decision, whichever is longer.
- (6) When the final plat has been reviewed and is in substantial conformity with conditions of approval, the Planning Director shall sign the plat without further action.
- (7) If the final plat is not in full conformance, it shall be submitted to further review by the Hearings Officer.
- (8) If the final plat is referred to the Hearings Officer for signature, the Hearings Officer may elect either to sign the plat or reconsider it.

**91.260. FILING OF FINAL PLAT.** When approved and signed by the County Surveyor, Planning Director, Road Official, County Assessor and Tax Collector, the plat shall be forwarded to the Board of Commissioners for approval and signatures prior to being signed and recorded by the County Clerk. Any bond agreements, deeds, Bancroft petitions and statements of financial responsibility shall be submitted with the final plat for approval by the Board. Recording of the plat with the County Clerk shall constitute final approval by Polk County of the partition request by the applicant.

**91.280. BOARD SIGNATURE ON SUBDIVISION PLATS.** For purposes of ORS 92.100 and Polk County Code 91.730, the chairperson of the Board of County Commissioners is delegated the authority to sign subdivision plats on behalf of the Board of Commissioners. In the event that the chairperson is not available, any other commissioner may act in place of the chairperson and sign subdivision plats for the Board.

**91.290. GENERAL APPROVAL CRITERIA FOR PARTITIONS**

- (1) In order to approve a partition application, the Planning Director, Hearings Officer, or Board of Commissioners shall consider information submitted by the applicant and other sources into the record for the proceeding and make findings that:
  - (a) The proposal is consistent with the provisions and intent of the adopted comprehensive plan and transportation systems plan; and
  - (b) The proposal is consistent with the provisions of this chapter and the zoning ordinance.
- (2) The Planning Director, Hearings Officer, or Board of Commissioners may prescribe conditions or make changes or modifications, which are within this chapter and the zoning ordinance.
- (3) If a partition application cannot meet the above conditions or requirements and conditions, the Board, Hearings Officer or Planning Director shall deny the proposal.

**91.300. GENERAL APPROVAL CRITERIA FOR SUBDIVISIONS**

- (1) In order to approve a subdivision application, the Hearings Officer shall consider information submitted by the applicant and other sources into the record for the proceeding and make findings that:
  - (a) The proposal is consistent with the provisions and intent of the adopted comprehensive plan and transportation systems plan; and
  - (b) The proposal is consistent with the provisions of this chapter and the zoning ordinance.
- (2) The Hearings Officer may prescribe conditions or make changes or modifications, which are within this chapter and the zoning ordinance.
- (3) If such a subdivision application cannot meet the above conditions or requirements and conditions, the Hearings Officer shall deny the proposal.
- (4) Conditional approval of a subdivision in any unincorporated area of Polk County in accordance with the procedures of this chapter shall not be granted unless it can be shown that minimum adequate levels of service for schools, fire protection and water can be provided. Minimum adequate levels of service shall be determined in accordance with the following standards:
  - (a) The required minimum level of service for educational facilities will be as determined by the relevant school district.
  - (b) The required minimum level of service for fire protection will be the existence of fire protection service provided by a municipal fire department or rural fire protection district.
  - (c) The required minimum level of service for the provision of rural domestic water will be a source that conforms to County and State regulations regarding location and construction and which meets state health specifications.

- (d) If comment is received from a service agency that the proposed subdivision will use and may cause an exceeding of capacity, but existing services can accommodate excess by planned expansion or modification, the permit process may proceed. If comment is received from a service agency that the proposed subdivision will exceed capacity and no modification to existing services is planned which can serve the additional requirements of the subdivision, the application will be denied.

## **91.700 STANDARDS FOR PARTITIONS AND SUBDIVISIONS**

### **(1) SEWAGE DISPOSAL.**

- (a) All parcels created in a partition shall have:
  - (A) Public sewage facilities available, or
  - (B) An on-site area approved pursuant to State Department of Environmental Quality rules for the installation of a sewage disposal system, or
  - (C) The property owner sign an acknowledgement that no building permits will be issued for structures or uses that require sewage disposal, and that the parcel(s) created have not obtained on-site sewage disposal system approval.
- (b) All lots created in a subdivision shall have:
  - (A) Public sewage facilities available, or
  - (B) An on-site area approved pursuant to State Department of Environmental Quality rules for the installation of a sewage disposal system.

### **(2) ROAD, STREET, AND HIGHWAY STANDARDS.** New public and private roads created by partitions and subdivisions shall be designed and constructed pursuant to the *Polk County Road Standards* adopted by the Polk County Board of Commissioners, as identified in Ordinance 98-6, as amended. Hereafter “road” includes “street”.

- (a) Roads shall be aligned with existing roads in the vicinity of the proposed subdivision or partition either by prolongation of existing centerline or by connection with suitable curves. A road shall conform to the location, alignment, and width as indicated on a Corridor Refinement Plan for roads and highways now or hereafter adopted by Polk County. Roads shall intersect at or as near right angles as practicable. Road alignments shall be consistent with the adopted Transportation Systems Plan, or County adopted Corridor Refinement Plan. A property located within an urban growth boundary shall provide for the extension of roads and highways consistent with the adopted City Transportation Systems Plan.
- (b) No partition or subdivision shall create a dedicated road in unincorporated Polk County without the approval of Polk County. No instrument dedicating land in unincorporated Polk County to public use shall be accepted for recording unless such instrument bears the approval of the Polk County Board of Commissioners.
- (c) Unless an exception to the easement width has been granted pursuant to PCSO 91.800, the minimum widths for easements granting vehicular access across the subject property shall be:
  - (A) Sixty (60) feet wide for access easements that are intended to become preferred alternatives for “proposed” roads as identified in the Polk County Transportation Systems Plan.
  - (B) Forty (40) feet wide for all other access easements.

(3) PROPERTY DIMENSIONS

- (a) LOT OR PARCEL SIZE. All lots and parcel sizes shall conform to the requirements of the zone in which the subdivision or partition is requested. When sub-surface sewage disposal means are proposed for the subdivision or partition, state and local health regulations, soil types, drainage, terrain, and location shall be included as part of the criteria reviewed to determine the minimum lot sizes that will safely accept subsurface sewage disposal.
- (b) CORNER LOTS OR PARCELS. All corner lots or parcels shall be at least 100 feet wide adjacent to each road.
- (c) PROPERTY LINES. Side property lines shall be as close to right angles to the front property line as practicable. Unless otherwise approved, rear property lines shall be not less than one-half the width of the front property lines.
- (d) In a cul-de-sac, the minimum property line fronting the turnaround shall be 50 feet and in no cases shall the property width be less than 60 feet at the building line.

(4) SUBDIVISION ROAD IMPROVEMENTS. All road improvements, including pavement, curbs, sidewalks and surface drainage shall be constructed pursuant to the specifications of the Polk County Road Standards. The applicant shall provide for all improvements identified herein or by reference. The Board may require a performance bond to ensure the development of roads to required standards. Subdivision plats shall not have final approval until such time as the Board is satisfied that any required road improvements will be completed pursuant to the specifications and standards set forth in this section:

- (a) Subdivision roads shall be constructed as follows:
  - (A) For subdivisions located within an urban growth boundary, the road design and construction standards of the affected city shall apply. If the city has no adopted standards then the urban geometric design standards described in the Polk County Road Standards shall apply. The design and construction of all roads shall be based on the functional classification of such roads.
  - (B) For subdivisions located outside an urban growth boundary the rural geometric design standards described in the Polk County Road Standards shall apply. The design and construction of all roads shall be based on the functional classification of such roads.
- (b) Mitigation may be required based on the traffic impacts identified through the Transportation Impact Analysis as defined in the Polk County Road Standards.
  - (A) Mitigation may require the dedication of land for improving existing roadways or constructing future roadways as development occurs. This includes roadway dedication on lands for which building permits are requested for new structures as well as lands proposed for major development.
  - (B) Mitigation may include the improvement of existing roadways intersecting or bordering a development to a standard that coincides with anticipated use. The classification of an existing road may increase based upon the results of a traffic analysis. An increase in classification shall necessitate an improvement in the roadway in accordance with the Polk County Road Standards.
- (c) Access onto arterials will require the approval, through the permit process, from the Oregon Department of Transportation. The applicant(s) will need to follow ODOT's construction requirements for that portion of the access within state-owned right-of-way.

**91.720. SALE OF SUBDIVISION LOTS AND PARTITION PARCELS**

- (1) No person shall sell any lot in any subdivision with respect to which approval is required by this ordinance, until such approval is obtained. No person shall negotiate to sell any lot in a subdivision until a tentative plan has been approved.
- (2) A person may negotiate to sell any parcel in a partition with respect to which approval of a tentative plan is required by this ordinance, prior to the approval of the tentative plan for the partition. However, no person may sell any parcel in a partition for which approval of a tentative plan is required by this ordinance, prior to such approval.

**91.800. EXCEPTIONS TO ORDINANCE STANDARDS.**

- (1) The Planning Director or Hearings Officer may authorize an exception to any partition, subdivision, or property line adjustment requirements set forth in these standards.
- (2) Consideration for an exception from these regulations shall be based upon a written statement by the subdivider or person requesting the partition in which is given complete details of conditions and reasons why a specific exception should be granted. A request for an exception from these regulations shall be filed with the Planning Director prior to final approval of the final plat. No exception to a subdivision and partition ordinance standard will be considered after a plat has been recorded.
- (3) The basic reason for granting an exception will be proof that:
  - (a) Special conditions or circumstances peculiar to the property under consideration make an exception necessary. The applicant shall specifically identify the condition or circumstance that requires an exception to the standard.
  - (b) The exception is necessary for the proper development of the subdivision or partition and the preservation of property rights and values.
  - (c) The exception will not at present or hereafter be detrimental to the public welfare or injurious to other properties adjacent to or in the vicinity of the proposed subdivision or partition.
  - (d) The exception is the minimum variation to the standard that will allow relief and provide for use of the property.
- (4) The Planning Director or Hearings Officer may impose conditions to minimize potential impacts to public facilities, services, or other land uses in the area.

**91.820. APPEALS OF EXCEPTION DECISIONS.** A decision regarding an exception to a standard for a subdivision or partition may be appealed to the Board of Commissioners by any person who is adversely affected or aggrieved, or who is entitled to notice of the decision as identified in PCZO 111.350. The Board may affirm the action, reverse the decision or direct the request back to the Planning Director or Hearings Officer for reconsideration. A decision on an application for an exception to a subdivision or partition standard may be appealed by submitting an appeal form to the Planning Division, with the appropriate appeal fee, within twelve (12) days of the mailing of the decision. The appeal must identify the ordinance provisions that have not been met in the reasons for the appeal.

**91.840. VIOLATIONS.** It shall be unlawful for any person to violate any provision of this chapter, to permit or maintain any such violation, to refuse to obey any provision hereof, or to fail or refuse to comply with any such provision except as exception may be allowed under this chapter. Proof of such unlawful act or failure to act shall be deemed prima facie evidence that such act is that of the owner. Prosecution or lack thereof of either the owner or the occupant shall not be deemed to relieve the other. When a lot or parcel is created in violation of this chapter, the Polk County Building Official may withhold building permits or may stop the construction or order the removal of any structure on the property that is found to be in violation.

**91.910. ADMINISTRATION.** All matters pertaining to the administration of this chapter shall be charged to the Planning Director, unless otherwise identified herein. All matters pertaining to the issuance of any permits for the use of land or structures or the erection or alteration of any structure on the land shall be charged to the Building Office.

**91.920. ENFORCEMENT.** It shall be the duty of the Polk County Planning Director to enforce this chapter.

**91.930. AREA INVOLVED.** This chapter shall be applicable to all lands within Polk County lying outside of the corporate limits of incorporated cities exercising general planning and zoning functions or when access to a County road is required.

**91.940. FEES.** Fees for applications, plans and plats for partitions and subdivisions may be set by Resolution of the Board of Commissioners.

**91.950. LAWFULLY CREATED PARCELS.** A parcel created by deed instrument or sales contract prior to May 15, 1974, shall be considered a lawfully created parcel unless the parcel lines are vacated or the parcel is further divided, as provided by law.

- (a) A parcel created by deed instrument or sales contract prior to the May 15, 1974 (the date of adoption of the Polk County Subdivision and Partition Ordinance), shall be considered a lawfully created parcel unless the parcel lines are vacated or the parcel is further divided, as provided by law.
- (b) A parcel created after May 15, 1974 shall be considered lawfully created provided that the parcel was created in accordance with the provisions of the Polk County Subdivision and Partition Ordinance. Such parcels shall remain separate and discrete parcels unless the parcel lines are vacated or the parcel is further divided, as provided by law.
- (c) All development on lawfully created parcels is subject to the standards and requirements of the Polk County Zoning Ordinance.

**91.955. CREATION OF PARCELS WHICH WERE IMPROPERLY FORMED.** Upon proper application, Polk County will recognize parcels which were formed solely by deed instrument or sales contract executed and recorded between May 15, 1974 (the date of adoption of the Polk County Subdivision and Partition Ordinance) and April 21, 1999. Such parcels will be recognized as lawful parcels through a land use determination decision by the Polk County Planning Director. In this process, such parcels shall be recognized regardless of whether or not they meet the minimum parcel size in the zoning district. The date of creation for such parcels shall be the effective date of the land use determination that recognizes the subject parcel as lawfully created.

Polk County will not recognize as lawfully created those parcels formed solely by deed instrument or sales contract executed and recorded after April 21, 1999 unless through the property line adjustment process, such parcels are consolidated with a lawfully created parcel or agglomerated with sufficient land so as to meet or exceed the minimum parcel size within the applicable zoning district. All property line adjustment applications are subject to the requirements of Section 91.960.

All development on parcels which were improperly formed, but which are recognized as lawfully created under the provisions of this section is subject to the standards and requirements of the Polk County Zoning Ordinance.

## **PROPERTY LINE ADJUSTMENTS**

**91.960. PROPERTY LINE ADJUSTMENTS.** A property line adjustment requires an application to and approval from the Planning Director, except for those exclusions in Section (1) below. A survey of the adjusted property line may be required pursuant to Oregon law. A resulting property description is recommended that describes both resulting properties.

For all adjustments requiring review and approval, the applicant(s) must demonstrate that the adjustment will meet the General Standards listed in (2) below.

- (1) **EXCLUSIONS.**
  - (a) In all zones, review and approval is not required if:
    - (i) The total area to be adjusted is less than 10 percent of the current size of the smallest affected parcel, and
    - (ii) No parcel is being reduced below the minimum parcel size, and
    - (iii) The resulting parcels would retain sufficient area to comply with setback and siting standards for the zone.
  - (b) In all zones, review and approval is not required to correct a legally built structure located on or over the property line, or
  - (c) In farm or forest zone (EFU, TC, FF and FFO), review and approval is not required if all affected parcels are as large or larger than the minimum parcel size and would remain as large or larger than the minimum parcel size after the adjustment.
  - (d) For all such excluded adjustments identified in (a) through (c) of this subsection, the affected property owners shall sign and submit a statement of mutual consent for the adjustment to the Planning Director, prior to the adjustment. The consent form is available in the Community Development Department. The property owners shall complete the mutual consent adjustment by recording an ownership document with the Polk County Clerk that describes the area transferred.
  - (e) The adjustment will not create a split-zoned parcel(s) that does not comply with the standards for creation of a parcel in each zone unless the property owner provides for the recording of a restrictive covenant in the deed records for the subject property that prohibit the property from being partitioned along the zoning boundary until such time as each parcel would comply with the minimum standards for the creation of a parcel in each zone.
- (2) **GENERAL STANDARDS.** Except for those exclusions noted in Section (1) above, all property line adjustments shall meet the following criteria:
  - (a) The adjustment shall be consistent with the Comprehensive Plan and meet the intent and purpose of the zone; and
  - (b) The adjustment shall not decrease required setbacks, access, yard areas, lot widths or other standards of the zone; and
  - (c) All parcels will retain any on-site septic system and associated repair area on the parcel it serves; and
  - (d) The adjustment will create no additional parcel(s); and
  - (e) The adjustment will not create a split-zoned parcel(s) that does not comply with the standards for creation of a parcel in each zone unless the property owner provides for the recording of a restrictive covenant in the deed records for the subject property that prohibit the property from being partitioned along the zoning boundary until such time as each parcel would comply with the minimum standards for the creation of a parcel in each zone.



- (3) **ADJUSTMENTS IN RESOURCE ZONES.** Except for those exclusions noted in Section (1) above, property line adjustments must meet the General Standards listed in (2) above. In addition, the applicant(s) must demonstrate that such adjustments meet the following criteria:
- (a) An adjustment between a parcel(s) which is as large or larger than the minimum parcel size and a parcel(s) which is smaller than the minimum parcel size will result in the same number of parcels as large or larger than the minimum parcel size; or
  - (b) An adjustment between parcels which are smaller than the minimum parcel size will increase the resource productivity of at least one of the affected parcels; and
  - (c) The adjustment will not result in a parcel(s) which will conflict with commercial farm or forest operations in the area.
- (4) **ADJUSTMENTS IN RESIDENTIAL ZONES.** Except for those exclusions noted in Section (1) above, a property line adjustment between parcels in the SR, AR-5, and GR/LDR zones must meet the General Standards listed in (2) above. In addition, the applicant(s) must demonstrate that the adjustment would retain all parcels of adequate size, as detailed by the applicant and determined by the Planning Director, to provide adequate area for the intended or existing structures and uses, setbacks, parking, access, and spacing required for water supply and on-site sewage disposal (including repair area).
- (5) **ADJUSTMENTS IN COMMERCIAL, INDUSTRIAL, AND PUBLIC ZONES.** Except for those exclusions in Section (1) above, a property line adjustment between parcels in a commercial, industrial, or public zone must meet the General Standards listed in (2) above. In addition, the applicant(s) must demonstrate that the adjustment would retain all parcels of adequate size, as detailed by the applicant and determined by the Planning Director, to provide adequate area for the intended or existing structures and uses, setbacks, parking, access, landscaping, and spacing required for water supply and on-site sewage disposal (including repair area).

## **CHAPTER 110**

### **GENERAL PROVISIONS AND DEFINITIONS**

110.001.	Short Title
110.005. - 110.615.	Definitions
110.620.	Application of Zoning Regulations
110.630.	Conformance and Permits Required
110.640.	Amendment of Text Only
110.650.	Savings Clause
110.660.	Repealing Conflicting Ordinances

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

## **DEFINITIONS**

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

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

[Amended by Ordinance 98-5, dated July 8, 1998.]

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

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

[Amended by Ordinance #01-10, dated November 14, 2001.]

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

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

[Amended by Ordinance #89-17, dated December 6, 1989.]

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

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

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

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

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

[Amended by Ordinance #01-10, dated November 14, 2001.]

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

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

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

**110.162. CORRIDOR REFINEMENT PLAN OR REFINEMENT PLAN.** - An amendment to the Polk County transportation systems plan, which resolves, at a systems level, determinations on function, mode or general location which were deferred during transportation system planning because detailed information needed to make those determinations could not reasonably be obtained during that process. [Amended by Ordinance #01-10, dated November 14, 2001.]

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

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

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

“Minor arterials” connect areas of principal traffic generation to major urban and rural highways. The minor arterial network provides for through traffic movement to the major arterials and distribution into the network of collector and local streets. [Adopted by Ordinance 98-5, dated July 8, 1998.]

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

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

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

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

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

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

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

**110.107. BED AND BREAKFAST FACILITY.** Any establishment located in a structure designed for a single-family residence and associated structures regardless of whether the owner or operator resides in any of the structures which:

- (A) Has more than two rooms for rent on a daily basis to the public; and
- (B) Offers a breakfast meal as part of the cost of the room.

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

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

**110.112. BOARD.** The Polk County Board of Commissioners.

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

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

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

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

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

**110.140. CELLAR.** See Basement.

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

**110.147. CHANGE OF USE.** Any change of a structure, land, waterway, activity within a building, or use of the land in such a way as to substantially alter or affect the land or waterway. See DEVELOPMENT. [Adopted by Ordinance #219, dated September 22, 1978.]

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

**110.155. COMMISSION(S).** The Polk County Planning Commission and/or any other Commission established by the Polk County Board of Commissioners. [Adopted by Ordinance #219, dated September 22, 1978.]

**110.160. CONVALESCENT HOME.** See Nursing Home.

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

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

- (A) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;
- (B) Of a marketable species;
- (C) Managed to produce trees meeting U. S. No. 2 or better standards for Christmas trees as specified for the Agricultural Marketing Services of the U. S. Department of Agriculture; and
- (D) Evidencing periodic maintenance practices of shearing for Douglas Fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, and irrigation. [Amended by Ordinance #89-17, December 6, 1989.]

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

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

- (A) For the purpose of this ordinance, the term development shall include the following:
  - (1) Any use or activity, which requires a building, permit under the provisions of the Uniform Building Code.
  - (2) Any use or activity which requires a manufactured home placement permit.
  - (3) Any use or activity which requires a permit from the Oregon State Division of Lands.
  - (4) Any use or activity which requires a permit under the provisions of the Oregon Forestry Practices Act.
  - (5) Any use or activity which requires a permit for sub-surface on-site disposal of sewage from the Polk County Division of Environmental Health.
  - (6) Any use or activity which requires a conditional use permit or floodplain development permit under the provisions of this ordinance.
- (B) For the purpose of this ordinance, the term development shall exclude the following:
  - (1) Landscaping.
  - (2) Construction or placement of accessory structures that are usual and necessary for the use and enjoyment of existing improvements.
  - (3) Construction of driveways.
  - (4) Maintenance and repair usual and necessary for continuance of an existing use or activity. [Amended by Ordinance #256, dated September 19, 1979.]

**110.175. DIRECTOR.** The Polk County Planning Director or designated representative.  
[Amended by Ordinance #219, dated September 22, 1978.]

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

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

**110.186. DWELLING.** "Dwelling" means a building or portion thereof which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily, but excluding hotels and motels. [Amended by Ordinance #89-17, dated December 6, 1989.]

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

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

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

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

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

**110.215. ENFORCEMENT OFFICER.** The Director or other persons designated by the Board of Commissioners to assist the Director in enforcing this ordinance. [Amended by Ordinance #88-16, dated July 27, 1988.]

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

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

As used in the definition "farm use":

- (A) "Current employment" of land for farm use includes:
  - (1) Farmland, the operation or use of which is subject to any farm-related government program;
  - (2) Land lying fallow for one year as a normal and regular requirement of good animal agricultural husbandry;
  - (3) Land planted in orchards or other perennials, other than land specified in paragraph (4) of this section, prior to maturity;

- (4) Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
  - (5) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable or grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
  - (6) Land under buildings supporting accepted farm practices;
  - (7) Water impoundments lying in or adjacent to and in common ownership with farm use land; and
  - (8) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued at true cash value for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
  - (9) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such illness results in death;
  - (10) Any land described in ORS 321.267(1)(e); and,
  - (11) Any land in an exclusive farm use zone used for the storage of agricultural products that would otherwise be disposed of through open field burning or propane flaming. [Amended by Ordinance #89-17, December 6, 1989.]
- (B) "Preparation of products or by-products" includes but is not limited to the cleaning, treatment, sorting, composting or packaging of the products or by products.
  - (C) "Products or by-products raised on such land" means that those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided that preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land. [Amended by Ordinance 04-12, November 18, 2004.]

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

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

**110.232. FRONTAGE ROAD.** Also known as "Marginal Access Road." A service road generally parallel and adjacent to an arterial, and which provides access to abutting properties, but protected from through traffic. Also known as "Access Road." A low volume public road that principally provides access to property. [Amended by Ordinance #00-10, dated November 14, 2001.]

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

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

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



**110.247. GOVERNING BODY.** Polk Board of Commissioners.

**110.250. GRADE (GROUND LEVEL).** The lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point 5 feet distant from said wall, or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line whichever is nearest to said wall. In case walls are parallel to and within 5 feet of a public sidewalk, alley or other public way, the grade shall be the elevation of the sidewalk, alley or public way.

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

**110.257. HEARINGS OFFICER.** The Polk County Hearings Officer.

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

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

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

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

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

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

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

**110.286. INOPERABLE VEHICLE.**

- (A) A dismantled, unserviceable, inoperable, junked, or abandoned vehicle or any vehicle legally or physically incapable of being operated for a period exceeding 30 days unless such vehicle, or parts thereof, is completely enclosed within a building, or stored on property lawfully designated under the zoning ordinances of Polk County as a place where such vehicles may be stored.

- (B) An inoperable vehicle shall not mean a licensed or unlicensed camper trailer, utility trailer, or licensed or unlicensed operable vehicle which are used on private property for the production, propagation or harvesting of agricultural or forest products grown or raised on such lands or which are used in the extraction or processing of mineral and aggregate products. [Adopted by Ordinance #219, dated September 22, 1978.]

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

**110.290. JUNK CAR.** See AUTOMOBILE WRECKING YARD.

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

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

- (A) The facility receives more than \$250 in gross receipts during a year for the sheltering of dogs which are not the property of the operator of the facility;
- (B) The facility is privately operated as animal shelter, whether for profit or not for profit;
- (C) The facility is operated for the production or sheltering of dogs which are to be offered for commercial sale. [Adopted by Ordinance 91-15 dated July 24, 1991.]

**110.303. LIMITED LAND USE DECISION.** A final decision or determination pertaining to a site within an urban growth boundary which concerns:

- (A) The approval or denial of a subdivision or partition, as described in ORS Chapter 92.
- (B) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including, but not limited to, site review and design review.

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

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

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

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

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

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

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

**110.338. LOT LINE ADJUSTMENT.** A change or re-configuration of the lines bounding a lot or parcel. A lot line adjustment does not create a new parcel.

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

**110.345. LOT LINE, REAR.** A lot line which is opposite and most distant from the front lot line. In the case of a triangular shaped lot, the rear lot line, for building purposes, shall be assumed to be a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line.

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

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

**110.367. MANUFACTURED HOME** [Amended by Ordinance #04-01, dated January 21, 2004.]

**110.368. MANUFACTURED DWELLING.** "Manufactured dwelling" includes:

- (A) Mobile home, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
- (B) Manufactured home, a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction

"Manufactured dwelling" does not mean any building or structure constructed to conform to the State of Oregon Structural Specialty Code or the One and Two Family Dwelling Code adopted pursuant to ORS 455.100 to 455.450 and 455.610 to 455.630 or any unit identified as a recreational vehicle by the manufacturer. [Adopted by Ordinance #04-01, dated January 21, 2004.]

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

**110.375. MATERNITY HOME.** See HOSPITAL.

**110.380. [Repealed by Ord. 89-17, Sec. 50]** [Amended by Ordinance #89-17, dated December 6, 1989.]

**110.385. MANUFACTURED HOME PARK.** Any place where four (4) or more manufactured homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured home park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one mobile home per lot if the subdivision was approved by Polk County. [Amended by Ordinance #89-17, dated December 6, 1989.]

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

or other onsite construction or nonsurface impacts of underground mines. [Amended by Ordinance #89-17, dated December 6, 1989.]

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

**110.392. NEW ROAD.** A public road or road segment that is not a realignment of an existing road or road segment. [Amended by Ordinance #00-10, dated November 14, 2001.]

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

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

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

**110.407. [Repealed by Ord. 89-17, Sec. 50]** [Amended by Ordinance #219, dated September 22, 1978.]

**110.410. NURSERY.** See DAY NURSERY.

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

**110.420. OVERLAY ZONE.** A zone which establishes special requirements and provisions in addition to those of the primary zone. [Adopted by Ordinance #219, dated September 22, 1978.]

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

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

- (A) By partitioning land as defined in ORS 92.010;
- (B) In compliance with all applicable planning, zoning or partitioning ordinances or regulations; or
- (C) By deed or sales contract, if there were no applicable planning, zoning or partitioning ordinances or regulations;
- (D) A parcel so created shall remain a discrete parcel, unless the parcel lines are vacated, or the parcel is further divided, as provided by law. [Amended by Ordinance #89-17, dated December 6, 1989.]

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

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

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

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

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

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

**110.452. PARTITION LAND.** To divide land into two or three parcels within a calendar year, but does not include:

- (A) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
- (B) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance;
- (C) The division of land resulting from the recording of a subdivision or condominium plat; or
- (D) A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(p) to (r). However, any property divided by the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned. [Adopted by Ordinance #219, dated September 22, 1978.]

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

**110.462. PRIMARY ZONE.** The zone which establishes the basic requirements and provisions for the use of land in a particular area. See OVERLAY ZONE. [Adopted by Ordinance #219, dated September 22, 1978.]

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

**110.465. RECREATIONAL VEHICLE.** A vehicle with or without motive power, which is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes, or as further defined by ordinance. [Adopted by Ordinance #04-01, dated January 21, 2004.]

**110.466. RECREATIONAL VEHICLE PARK.** A lot or parcel on which two or more travel trailer/RV sites are located, established or maintained for occupancy by the general public as temporary living quarters for recreation or vacation purposes, and as defined by ORS 446.310(9) (1989 edition). [Adopted by Ordinance 91-15, dated July 24, 1991.]

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

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

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

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

[Amended by Ordinance #89-17, dated December 6, 1989.]

**110.477. RESIDENTIAL HOME.** A residential treatment or training or an adult foster home licensed by or under the authority of the department as defined in ORS 443.400, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home. [Amended by Ordinance #89-17, dated December 6, 1989.]

**110.480. REST HOME.** See NURSING HOME.

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

**110.487. REVERSE FRONTAGE LOT.** A lot having frontage on two parallel or approximately parallel roads, where the rear of the lot, or structure on the lot faces an arterial. [Adopted by Ordinance 98-5, dated July 8, 1998.]

**110.488. ROAD REALIGNMENT.** Rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment. The realignment shall maintain the function of the existing road segment being realigned as specified in the acknowledged comprehensive plan. [Amended by Ordinance #00-10, dated November 14, 2001.]

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

**110.502. SEASONAL FARM WORKER.** A person who, for an agreed remuneration or rate of pay, performs temporary labor for another to work in the production of farm products or planting, cultivating or harvesting of seasonal agricultural crops or in forestation or reforestation of lands, including but not limited to the planting, transporting, tubing, precommercial thinning and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related activities. [Amended by Ordinance #89-17, dated December 6, 1989.]

**110.503. SEASONAL FARM WORKER HOUSING.** Housing limited to occupancy by seasonal farm workers and their immediate families which is occupied no more than nine months a year. [Amended by Ordinance #89-17, dated December 6, 1989.]

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

**110.510. SCHOOL, ELEMENTARY, JUNIOR HIGH OR HIGH.** An institution, public or parochial, offering instruction in the several branches of learning and study, in accordance with

the rules, and regulations of the State Department of Education. [Adopted by Ordinance #219, dated September 22, 1978.]

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

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

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

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

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

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

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

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

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

**110.556. SUBDIVIDE.** Subdivide land means to divide land into four or more lots within a calendar year. [Adopted by Ordinance #219, dated September 22, 1978; Amended by Ordinance #289, dated March 24, 1982.]

**110.557. TRAILER (TRAVEL OR VACATION).** A vehicle or structure equipped with wheels for highway use that is intended for human occupancy, which is not being used for residential purposes and is being used for vacation and recreational purposes. [Amended by Ordinance #219, dated September 22, 1978.]

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

**110.575. TOURIST COURT.** See MOTEL.

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

- (b) The term includes:
- (i) Accessory transportation improvements that are allowed or conditionally permitted in the EFU, FF, FFO, or TC zoning districts;
  - (ii) Transportation improvements that are allowed or conditionally permitted in the EFU, FF, FFO, or TC zoning districts;
  - (iii) Channelization;
  - (iv) Realignment;
  - (v) Replacement of an intersection with an interchange;
  - (vi) Continuous median turn lane;
  - (vii) New access roads and collectors within a built or committed exception area, or in other areas where the function of the road is to reduce local access to or local traffic on a state highway. These roads shall be limited to two travel lanes. Private access and intersections shall be limited to rural needs or to provide adequate emergency access.
  - (viii) Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road;
  - (ix) Park-and-Ride areas;
  - (x) Railroad mainlines and branchlines;
  - (xi) Pipelines;
  - (xii) Navigation channels;
  - (xiii) Replacement of docks and other facilities without significantly increasing the capacity of those facilities;
  - (xiv) Expansion or alterations of public use airports that do not permit service to a larger class of airplanes; and
  - (xv) Transportation facilities, services and improvements other than those listed in the Zoning Ordinance that serve local travel needs. The travel capacity and level of service of the facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the Comprehensive Plan or to provide adequate emergency access.



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

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

**110.587. UTILITY FACILITY NECESSARY FOR PUBLIC SERVICE.** A major physical component of an enterprise that performs an essential public service, such as a natural gas plant, water supply facility, sewage treatment facility, telephone switching station, electrical substation, or radio, microwave, fiber optic, or television transmission tower. However, this does not include components such as poles, wires, cables, lines or pipes. [Adopted by Ordinance 91-15, dated July 24, 1991.]

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

**110.592. WATER-DEPENDENT USE.** A use or activity which can be carried out only, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water. [Adopted by Ordinance #219, dated September 22, 1978.]

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

Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, and mobile home parks are not generally considered dependent on or related to water location needs. [Adopted by Ordinance #219, dated September 22, 1978.]

**110.594. WETLANDS.** Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions. [Adopted by Ordinance #88-17, dated December 6, 1989.]

**110.595. WINERY DEFINED.**

- (A) As used in Sections 136.040 and 178.030, "winery" means a facility that produces wine with a maximum annual production of:
  - (1) Less than 50,000 gallons, and that:
    - (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 the grapes from at least 15 acres of a vineyard contiguous to the winery; or
    - (iv) Obtains grapes from any combination of subparagraphs (i), (ii) and (iii) of this paragraph.
  - (2) At least 50,000 gallons but no more than 100,000 gallons, and that:
    - (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 subparagraphs (i), (ii) and (iii) of this paragraph.
- (B) A “winery”, as defined in this section means, a facility that produces wine and, shall allow the sale of:
  - (1) Wines produced in conjunction the winery; and
  - (2) Items directly related to wine, the sales of which are incidental to retail sale of wine on site, including those served by a limited service restaurant as defined in ORS 624.010.
- (C) A “winery”, as defined in this section, shall allow only the bulk processing and wholesale distribution of wines produced on site. [Amended (added) by Ordinance #89-17, dated December 6, 1989.]

**110.595. ["Yard" redesignated Sec. 110.599 by Ord. 89-17, Sec. 30]**

**110.599. YARD.** A space other than a court on the same lot with a building open from the ground upward, except as otherwise provided herein. [Amended by Ordinance #89-17, dated December 6, 1989.]

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

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

- (A) Location or site: The required Landscaped Yard (110.605) areas adjacent to a street shall not be used for parking or loading areas and the yards shall be the same as is required for the main building in the district in which the parking area is to be located and such yard area adjacent to a street shall be landscaped with trees, shrubs, grass or evergreen ground cover and other complementary materials and maintained in a neat and well appearing manner. The side and rear yards, other than those adjacent to a street, may be used for parking and loading areas when such areas have been developed and are maintained as required by this ordinance. [Amended by Ordinance 90-19, dated January 2, 1991.]

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

**110.615. YARD, SIDE.** A yard between the main building and the side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard; the width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the foundation of the main building. [Amended by Ordinance #219, dated September 22, 1978.]

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

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

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

In every case of a proposed amendment, the director shall fix a date for a public hearing before the Planning Commission and shall cause notice to be given as provided in Chapter 111. After the public hearing, the Planning Commission shall refer its recommendations to the Board of Commissioners. [Section 110.850 repealed by ORD. #88-19, dated Sept. 29, 1988.]

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

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

Ordinance No. 18	12-22-64
Ordinance No. 24	4-19-66
Ordinance No. 35	5-18-67
Ordinance No. 45	12-29-67
Ordinance No. 52	8-03-68
Ordinance No. 56	9-13-68
Ordinance No. 63	5-23-69
Ordinance No. 82	6-18-71
Ordinance No. 85	8-31-71
Ordinance No. 93	11-09-71
Ordinance No. 94	11-30-71
Ordinance 88-21	11-30-88
Ordinance 89-17	12-06-89
Ordinance 04-01	01-21-04
Ordinance 04-12	11-18-04

## CHAPTER 111

### ADMINISTRATION AND PROCEDURES

- 111.010. Administration of the Ordinance
- 111.020. Minimum Requirements
- 111.030. Effect on Other Ordinances, Agreements Between Parties
- 111.040. Interpretation of Ordinance
- 111.050. Similar Uses
- 111.060. Fees
- 111.070. Zones: Official Map
- 111.080. Certification
- 111.090. Arrangement of Map
- 111.100. Location
- 111.110. Amending Official Zoning Map
- 111.120. Replacement of Official Zoning Map
- 111.130. Rules for Interpretation of Zone Boundaries
- 111.140. Zoning Map Amendments
- 111.150. Initiation of Zone Change Proceedings by Polk County
- 111.160. Initiation of Zone Change
- 111.170. Zone Change Signatures: How Counted
- 111.180. Filing and Checking Petition
- 111.190. Zone Change Hearing Before the Hearings Officer
- 111.200. Zone Change Hearing Before the Board of Commissioners
- 111.210. Final Action by the Board of Commissioners
- 111.220. Filing a Land Use Application
- 111.230. Notice of Application
- 111.235. Special Transportation Notification
- 111.240. Administrative Review
- 111.245. Notice of Type A Procedure
- 111.250. Action by Planning Director or Hearings Officer
- 111.260. Referral by Planning Director
- 111.270. Notice of Action by Planning Director or Hearings Officer
- 111.275. Zone Change Criteria
- 111.280. Appeal to Board of Commissioners
- 111.290. Call of Board of Commissioners
- 111.300. Action by Board of Commissioners

- 111.310.           Effective Date
- 111.320.           Holding Public Hearings
- 111.330.           Appearances of Interested Person, Remonstrances
- 111.340.           Notice of Public Hearing; Content
- 111.350.           Mailing of Notice; Notification Area; Failure to Receive Notice
- 111.360.           Posting Notice
- 111.370.           Publishing Notices
- 111.380.           Conduct of Hearing; Continuance; Extension; Reopening Record

**111.010. ADMINISTRATION OF THE ORDINANCE.** This ordinance shall be jointly administered by the County Building Official and the Director of Planning.

The Building Official or other designated officer, prior to issuing any permit pertaining to the use of land or structures, or the erection or alteration of any structure, shall ascertain that the proposed use or construction shall in all ways conform to the requirements set forth in this ordinance.

The Planning Director shall handle all matters pertaining to zone changes, variances, and conditional uses, and other administrative matters as prescribed by this ordinance; and such other matters as directed by the Board of Commissioners.

**111.020. MINIMUM REQUIREMENTS.** In interpreting and applying this ordinance, the provisions herein shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.

**111.030. EFFECT ON OTHER ORDINANCES, AGREEMENTS BETWEEN PARTIES.** It is not intended by this ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or ordinance, previously adopted, relating to the use of buildings or premises, or relating to the erection, construction, establishment, alteration, or enlargement of any buildings or improvements; nor is it intended by this ordinance to interfere with or abrogate or annul any easement, covenant, or other agreement between parties; provided, however, that where this ordinance imposes a greater restriction upon the erection, construction, establishment, alteration, or enlargement of buildings, structure, or improvements, or the use of any such structures or premises in said several zones or districts, or any of them, than is imposed or required by such existing provisions of this ordinance, the greater restriction shall control, except that such precedence of this ordinance shall not apply to valid and unexpired permits and/or uses previously granted under the terms and provisions of any ordinance.

**111.040. INTERPRETATION OF ORDINANCE.**

- (A) When, in the administration of this ordinance, there is doubt regarding the intent of the ordinance, the Director shall request an interpretation of the provision by the Board of Commissioners, who may issue an interpretation of the question if they have determined that such interpretation is within their power and is not a legislative act. Any interpretation of the ordinance shall be based on the following:
  - (1) The purpose and intent of the ordinance as applied to the particular section and question; and,
  - (2) The opinion of the County Counsel when requested by the Board of Commissioners.
- (B) The Board of Commissioners may decide that the interpretation of the question is not within their power without an ordinance amendment or that there is insufficient basis upon which to make an interpretation and may request the Director to study the problem, and where necessary, propose an amendment to the ordinance. [Amended by Ordinance #88-21, dated November 30, 1988.]

**111.050. SIMILAR USES.** The Director may permit in any zone any use not described or listed in this ordinance for any other zone if, in the opinion of the Director, the requested use is of the same general type and is similar to the uses permitted in the zone. Such review and permission shall be made in the same manner as other interpretations of this ordinance, as described in Section 111.040.

**111.060. FEES.** Fees shall be required by the Director to be paid at the time of filing of each petition or application for a farm or forest dwelling, lot-of-record determination, land use determination, conditional use, planned development, variance, land partition, lot line

adjustment, similar use decision, comprehensive plan amendment, or zone change. The fees required by this section shall be set by resolution adopted by the Board of County Commissioners. [Amended by Ordinance #267, dated September 3, 1980.]

**111.070 ZONES: OFFICIAL MAP**

<u>FULL NAME</u>	<u>DESIGNATION</u>
Suburban Residential Zone	SR Zone
Acreage Residential 5 Acre Zone	AR-5 Zone
Limited Multi-Family Residential Zone	RL Zone
Multi-Family Residential Zone	RM Zone
High Rise Apartment Residential Zone	RH Zone
Exclusive Farm Use Zone	EFU Zone
Farm/Forest Zone	F/F Zone
Farm Forest Overlay Zone	FFO Zone
Public Amusement and Recreation Zone	PA Zone
Public and Private Cemeteries Zone	PC Zone
Public and Private Education Facilities Zone	PE Zone
Public and Private Hospital Zone	PH Zone
Public Park Zone	PP Zone
Public Service Zone	PS Zone
Commercial Office Zone	CO Zone
Commercial Retail Zone	CR Zone
Commercial General Zone	CG Zone
Industrial Commercial Zone	IC Zone
Industrial Park Zone	IP Zone
Light Industrial Zone	IL Zone
Heavy Industrial Zone	IH Zone
Rural Industrial Zone	R-IND Zone
Mineral Extraction Zone	ME Zone
Timber Conservation Zone	TC Zone
Rural Commercial Zone	R-COM Zone
Unincorporated Community Commercial Office Zone	UC-CO Zone
Unincorporated Community Commercial Retail Zone	UC-CR Zone
Unincorporated Community Commercial General Zone	UC-CG Zone
Unincorporated Community Industrial-Commercial Zone	UC-IC Zone
Unincorporated Community Industrial Park Zone	UC-IP Zone
Unincorporated Community Light Industrial Zone	UC-IL Zone
Unincorporated Community Heavy Industrial Zone	UC-IH Zone
Eola Unincorporated Community Commercial	Eola UC-C Zone
Eola Unincorporated Community Industrial Commercial	Eola UC-IC Zone
Eola Unincorporated Community Industrial	Eola UC-I Zone
Rickreall Unincorporated Community Commercial	Rickreall UC-C Zone
Rickreall Unincorporated Community Industrial Commercial	Rickreall UC-IC Zone
Rickreall Unincorporated Community Industrial	Rickreall UC-I Zone
Grand Ronde Commercial	GR / C Zone

Commercial Highway / Tourist	CH / T Zone
Grand Ronde Light Industrial	GR / LI Zone
Grand Ronde Heavy Industrial	GR / HI Zone
Grand Ronde Public Assembly Zone	GR / PA Zone
Grand Ronde Public Works / Safety	GR / PW Zone
Limited Use Overlay Zone	LU Zone

**111.080. CERTIFICATION.** The Board of Commissioners and the County Clerk shall certify that "this is the official zoning map referred to in Section 113.060 of the Polk County Zoning Ordinance". [Amended by Ordinance #88-19, dated 1989.]

**111.090. ARRANGEMENT OF MAP.** The official map may consist of several sheets or pages, which pages shall be listed on a cover page together with the date and number of each page. The certification of the official zoning map shall appear on the cover page.

**111.100. LOCATION.** Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, there shall be only one official zoning map which shall be located in the County Clerk's office, and which official zoning map shall be the final authority as to the zoning status of land and water areas, buildings and other structures. An administrative counterpart of the official zoning map shall be maintained in the Planning Division office.

**111.110. AMENDING OFFICIAL ZONING MAP.** When an ordinance has been enacted amending the official zoning map, the Director shall so change and annotate the official map and the cover sheet to show the ordinance or resolution number and date of the change. The Director shall certify that the map has been changed as set forth in the amending ordinance and shall indicate the date the map was changed.

**111.120. REPLACEMENT OF OFFICIAL ZONING MAP.** In the event the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature and number of changes and additions, or when it is necessary or desirable for some other reason, the Board of Commissioners, upon recommendation of the Planning Commission, may adopt all or part of a new zoning map by resolution, and such map shall supersede the prior official zoning map. The superseded map shall be filed for reference purposes for at least one (1) year. The new official map may correct drafting or other errors or omission in the prior official zoning map, but no such correction shall have the effect of amending the ordinance or any subsequent amendment thereof. The replacement map or each page in the case of individual sheets or pages shall be certified by the Board of Commissioners and County Clerk that "this official zoning map supersedes and replaces the official zoning map (date of map being replaced) as part of the Polk County Zoning Ordinance."

**111.130. RULES FOR INTERPRETATION OF ZONE BOUNDARIES.** Where uncertainty exists as to the boundaries of zones as shown on the official zoning map, the following rules shall apply:

- (A) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- (B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (C) Boundaries indicated as approximately following county boundaries shall be construed as following county boundaries;
- (D) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.



- (E) Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
- (F) Boundaries indicated as parallel to our extensions of features indicated in subsections (A) through (E) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;
- (G) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (A) through (F) above, the director shall interpret the zone boundaries, and if need be, may refer the matter to the Board of Commissioners for their interpretation. [Amended by Ordinance #88-19, dated September 29, 1988.]

**111.140. ZONING MAP AMENDMENTS.** A map zone change is a reclassification of any area from one zone or district to another, after the proposed change has been reviewed and a recommendation made by the Hearings Officer or the Planning Commission. Such change shall be an ordinance enacted by the Board of Commissioners after proceedings have been accomplished in accordance with the provisions of this chapter. [Amended by Ordinance #88-21, dated November 30, 1988.]

**111.150. INITIATION OF A ZONE CHANGE BY POLK COUNTY.**

- (A) A zone change may be initiated by Polk County only when the change proposed is in the public interest.
- (B) Proceedings to reclassify premises as to zone initiated by Polk County shall be by resolution, and the resolution shall be referred to the Planning Commission, if legislative, and the Hearings Officer, if quasi-judicial. The Director shall hereupon fix a date for hearing before the hearing body and give notice of such hearing as provided in Sections 111.340 through 111.370.
- (C) After the hearing, the Planning Commission or Hearings Officer shall make a recommendation to the Board of Commissioners. [Amended by Ordinance #88-21, dated November 30, 1988. Sections 123.030 and 123.040 repealed by Ordinance #88-21, dated November 30, 1988.]

**111.160. INITIATION OF ZONE CHANGE.** Property owners, or persons purchasing property under contract, if they state in writing that they are purchasing the property under contract, may file a zone change petition. The petition shall be in writing on forms provided by the Planning Director and shall be filed with the Planning Director not less than 45 days prior to the date of the hearing. The petition shall contain the following information:

- (A) The present zone;
- (B) The proposed zone;
- (C) The street address, or where none exists, the location of the property;
- (D) The legal description of the property sought to be reclassified;
- (E) The names, addresses and zip codes of the owner(s) of the property sought to be reclassified; and
- (F) The signatures of the owners of at least 50 percent of the area of the property sought to be reclassified and the extent or percentage of interest or portion of the property as may be owned by the person signing the petition.

**111.170. ZONE CHANGE SIGNATURES: HOW COUNTED.** Pursuant to Section 111.160 (F), the following rules shall apply:

- (A) Tenants in Common. When but one tenant in common, or several but less than all, signs a zone change petition or waiver it shall be counted only for such interest or portion of the common property as the person or persons signing may own.
- (B) Tenants by the Entirety; Joint Tenancy. Where property is owned by a husband and wife as tenants by the entirety and only one of them signs, he or she shall be deemed the owner of 1/2 of the property and shall be counted accordingly. Where property is owned by two (2) or more persons under an estate having the attributes of a joint tenancy or right of survivorship each tenant shall be deemed the owner of so much of the property as he would receive if the joint property were divided equally between such tenants.
- (C) Purchasers Under Contract. Any person purchasing property under a contract of sale may sign a petition, waiver, or other instrument required by this ordinance, as owner, provided that he states he is purchasing the property under contract.
- (D) Government Property. Notwithstanding the fact that the consent of the federal, state, county, or local government, or the agents thereof, is not necessary to any zone change petition or other petition required by this ordinance, any such governmental unit or agency may, however, remonstrate and object to any proposed change, and such objection, remonstrance, or other instrument shall be signed by the administrative head of such governmental unit having authority over the property.
- (E) Corporations. Where property is owned by a private corporation, a petition, waiver, or other instrument convening such property under this ordinance shall be signed by an authorized officer of the corporation.
- (F) Prima Facie Proof of Ownership. When any person signs as the owner of property or as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any such owner, or when any person states that he is buying the property under contract, the Hearings Officer and the governing body may accept such statements to be true, unless the contrary be approved, and except where otherwise in this ordinance more definite and complete proof is required, the Hearings Officer or governing body may demand proof that the signer is such owner, officer, attorney in fact, or agent. [Amended by Ordinance #88-21, dated November 30, 1988.]

**111.180. FILING AND CHECKING PETITION.** After the complete zone change petition has been filed with the Planning Director, the staff shall check the petition and determine if the petition is complete under the provisions of Section 111.170, and if the petition is sufficient, the Planning Director shall then fix the time of the hearing on such petition before the Planning Commission or Hearings Officer and cause notice of hearing to be given as provided in Sections 111.340 through 111.370. [Amended by Ordinance #88-21, dated November 30, 1988.]

**111.190. ZONE CHANGE HEARING BEFORE THE HEARINGS OFFICER.** The Hearings Officer shall hold a public hearing as prescribed in Chapter 111 on the complete petition for zone change. After concluding this hearing, the Hearings Officer shall prepare a report setting forth a summary of facts and conditions involved in the reclassification and submit the same, together with a recommendation to the Board of Commissioners. [Amended by Ordinance #88-21, dated November 30, 1988.]

**111.200. ZONE CHANGE HEARING BEFORE THE BOARD OF COMMISSIONERS.** The Board of Commissioners shall hold a public hearing on the proposed zone change as provided in Chapter 111. Final decision by the Board of Commissioners shall not be effective until 21 days after mailing of the decision. Filing of an appeal to the Land Use Board of Appeals stays all proceedings by all parties in connection with the matter appealed until the appeal has been resolved. [Amended by Ordinance #88-21, dated November 30, 1988.]

**111.210. FINAL ACTION BY THE BOARD OF COMMISSIONERS.** Any zone change or reclassification of property shall be by ordinance which shall be passed by the Board of Commissioners. Any denial of a proposed zone change shall be by order. A final decision by the Board of Commissioners shall not be effective until 21 days after mailing of the decision. Filing of an appeal to the Land Use Board of Appeals stays all proceedings by all parties in connection with the matter appealed until the appeal has been resolved. Whenever any premises are reclassified as to zone, or a new zone established, or boundary lines of a zone changed, the official zoning map shall be changed as provided in Section 111.140. [Amended by Ordinance #88-21, dated November 30, 1988. Sections 123.073, 123.076, 123.077, 123.079, 123.082, 123.085 and 123.088 repealed by Ordinance #88-21, dated November 30, 1988.]

**111.220. FILING A LAND USE APPLICATION.**

- (A) Application for any land use permit or determination under this ordinance shall be submitted to the Community Development Department on forms provided by the County Planning Director. The application shall be accompanied by the appropriate fee(s) as adopted by the Board of Commissioners. An application may be filed by:
  - (1) The owner of the subject property;
  - (2) A purchaser thereof under a duly executed written contract, when the purchaser states on the application he or she is the contract purchaser and the seller consents in writing to the application;
  - (3) A lessee in possession of the subject property, when the owner consents in writing to the application; or
  - (4) The agent for any of the foregoing persons when duly authorized in writing by the owner of the property.
- (B) Concurrent requests do not require multiple fees; however, the higher of multiple application fees shall be charged
- (C) If an application for a land use permit, partition request within an acknowledged urban growth boundary, or zone change is incomplete, the Planning Director shall notify the applicant of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete upon receipt by the Planning Director of the missing information. If the applicant refuses to submit the missing information, the application shall be deemed complete on the 31st day after the Planning Division first received the application. This provision does not preclude the applicant from submitting additional information at a later date.

**111.230. NOTICE OF APPLICATION.**

- (A) Notice of an application which requires a public hearing shall be made as prescribed in Sections 111.340 through 111.370 of the Polk County Zoning Ordinance.
- (B) Notification shall be made at least 20 days before the date on which the application is to be heard. Those notified have an opportunity to comment in writing to the Planning Director concerning the application.[Amended by Ordinance 90-19, dated January 2, 1991.]

**111.235 SPECIAL TRANSPORTATION NOTIFICATION**

Polk County will provide ODOT notification to ensure that ODOT is involved as early as possible in the assessment of any redevelopment or new development proposal within the Rickreall community with a trip generation potential that significantly exceeds the trip generation assumptions for the Rickreall community adopted into the Polk County TSP as part of the Rickreall Junction Facility Plan. The ODOT contact for any such development shall be the ODOT Area 3 Planner.

**111.240. ADMINISTRATIVE REVIEW.** Administrative review shall be conducted by the Planning Director as follows:

- (A) Type A Procedure. This procedure shall apply to applications for land partitions; farm dwellings in the Exclusive Farm Use (EFU) and Farm Forest (F/F) zones; lot line adjustments (except for those exclusions noted in Chapter 91 of the Polk County Code; forest dwellings in the Timber Conservation (TC) and Farm Forest (F/F) zones; lot-of-record determinations as specified by this ordinance; placement of manufactured homes in the Suburban Residential (SR) zone; use of a manufactured home for temporary hardship in all zones; administrative variances; land use determinations; and all other listed uses as specified. Under this procedure, the Planning Director shall render a final decision or, alternatively, may refer the matter to the Hearings Officer as provided under Section 111.260. Decisions under this procedure may be appealed to the Board of Commissioners.
- (B) Type B Procedure. This procedure shall apply to all applications not specified under Section 111.240 (A), unless an initial hearing is required by a specific provision of the Polk County Zoning Ordinance. Notice of the proposed action shall be made pursuant to Section 111.350. Those notified, including the applicant, shall be given 10 days from the date of the notification to either submit a written request for public hearing before the Hearings Officer, or bring to the attention of the Planning Director objections to approval or any adverse consequences or incompatibilities that may result from approval. A request for a hearing shall be in writing and shall state the basis for requesting the hearing and shall be accompanied by payment of a fee, specified in the County's fee resolution, to defray the cost of the hearing. The amount of the fee shall not exceed the limits established by ORS 215.416(11). No fee is required if the hearing is requested by the Board, Commission, appropriate Area Advisory Committee, Department of Land Conservation and Development, County recognized neighborhood or community organization whose boundaries include the site of the land use action or the Director. [Amended by Ordinance #92-38, dated September 9, 1992.] [Amended by Ordinance #97-9, dated December 17, 1997.]

**111.245. NOTICE OF TYPE A PROCEDURE.**

- (A) Notice of applications under Section 111.240 (A) shall be sent for review and comment to the appropriate Area Advisory Committee whose boundaries include the site of the land use action and any affected jurisdiction, state, or local agency as determined by the Planning Director. [Adopted by Ordinance #97-9, dated December 17, 1997.]
- (B) Notice shall be mailed to the Oregon Department of Transportation for any land use change or development requiring County review and approval which requires direct access to a state highway or which is located within 500 feet of a state highway or public use airport. [Adopted by Ordinance #98-5, dated July 8, 1998.]

**111.250. ACTION BY PLANNING DIRECTOR OR HEARINGS OFFICER.**

- (A) Applications submitted under section 111.240 may be granted only if they meet criteria established in the Polk County Zoning Ordinance and/or Comprehensive Plan. Decisions shall be made by the Polk County Planning Director or Hearings Officer only after reviewing materials submitted with the application and other applicable evidence and hearing testimony from Planning Division staff, the applicant(s) and other interested parties.
- (B) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

- (C) Polk County shall take final action on an application for a permit, limited land use decision, or zone change, including resolution of all appeals as provided by Section 111.280, within 120 days after the application is deemed complete, pursuant to Section 111.220 (C).
- (D) The 120-day period set in subsection (C) of this section may be extended for a reasonable period of time at the request of the applicant.
- (E) The 120-day period set in subsection (C) of this section does not apply to an amendment to the Polk County Comprehensive Plan or the provisions of the Zoning Ordinance.

**111.260. REFERRAL BY PLANNING DIRECTOR.**

- (A) The Polk County Planning Director may decline to act on an application under section 111.240 and refer it to the Polk County Hearings Officer. Referral shall be made within 30 days after the date on which the application is received, and shall be heard at the first regular meeting of the Hearings Officer scheduled after the referral.
- (B) Action of the Hearings Officer on a referral is final and may be appealed to the Polk County Board of Commissioners in accordance with section 111.280.
- (C) The Director shall notify the applicant in writing of a referral to the Hearings Officer. Notice shall be sent within seven days after the date of referral.

**111.270. NOTICE OF ACTION BY PLANNING DIRECTOR OR HEARINGS OFFICER.**

The Polk County Planning Director shall send notice of any action taken on an application under Section 111.240. to the Chairman of any active Area Advisory Committee in the area of the request, all property owners of record within the notification area as specified in Section 111.350, and any person who is adversely affected or aggrieved by the decision. Notification shall be mailed within ten days after action is taken on the application. However, failure to receive notice does not affect the validity of the action. [Amended by Ordinance No. 97-9, dated December 17, 1997.]

**111.275. ZONE CHANGE CRITERIA.** Pursuant to Section 111.160, a zone change may be approved, provided that the request satisfies all applicable requirements of this ordinance, and provided that with written findings, the applicant(s) clearly demonstrate compliance with the following criteria:

- (A) The proposed zone is appropriate for the comprehensive plan land use designation on the property and is consistent with the purpose and policies for the applicable comprehensive plan land use classification;
- (B) The proposal conforms with the purpose statement of the proposed zone;
- (C) The uses allowed in the proposed designation will not significantly adversely affect allowed uses on adjacent lands;
- (D) Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property;
- (E) The proposed change is appropriate taking into consideration the following:
  - (1) Surrounding land uses,
  - (2) The density and pattern of development in the area,
  - (3) Any changes which may have occurred in the vicinity to support the proposed amendment;
- (F) The proposal complies with any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land; and

- (G) The proposal complies with Oregon Revised Statutes, all applicable statewide planning goals and associated administrative rules. If an exception to one or more of the goals is necessary, the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4 shall apply. [Adopted by Ordinance No. 98-3, dated March 25, 1998.]

#### **111.280. APPEAL TO BOARD OF COMMISSIONERS.**

- (A) An appeal may be taken to the Polk County Board of Commissioners by any person whose interests are affected adversely or who is aggrieved by action on an application under Section 111.240, or by the appropriate Area Advisory Committee whose boundaries include the site of the land use action. An appeal must be filed with the Community Development Department within 10 days after the mailing of notice to the applicant.
- (B) On receiving an appeal the Community Development Department shall certify and deliver to the Board a copy of the original application and copies of all other papers constituting the record of the action under appeal.
- (C) Upon receipt of an appeal by the Community Development Department, the Board of Commissioners shall set the matter for a public hearing and cause notice of the time and place of the hearing to be given as provided under Section 111.340. The Planning Director shall send notice of the public hearing to the Chairman of any active Area Advisory Committee in the area of the request, all property owners of record within the notification area as specified in Section 111.350, and any person who is adversely affected or aggrieved by the decision. A hearing may be continued from time to time if the Board considers it advisable.
- (D) The appeal shall be accompanied by payment of a fee, specified in the County's fee resolution, to defray the cost of the hearing. No fee is required if the hearing is requested by the appropriate Area Advisory Committee whose boundaries include the site of the land use action.
- (E) Filing of an appeal stays all proceedings by all parties in connection with the matter appealed until the Board of Commissioners has made a decision on the appeal.  
[Amended by Ordinance #89-1, dated February 22, 1989.] [Amended by Ordinance #97-9, dated December 17, 1997.]

#### **111.290. CALL OF BOARD OF COMMISSIONERS.**

- (A) Two or more members of Polk County Board of Commissioners may call up an action by the Polk County Hearings Officer or the Planning Director. However, the call must be made at the first meeting after notice of the decision is presented.
- (B) The provisions of Section 111.280 (B) and (C) apply with respect to a matter called up under this section. [formerly 122.070]

#### **111.300. ACTION BY BOARD OF COMMISSIONERS.**

- (A) Pursuant to Sections 111.280 and 111.290, the Polk County Board of Commissioners shall review any action of the Polk County Hearings Officer or the Polk County Planning Director. The Board may remand the matter for further investigation and consideration, in which case the Hearings Officer or Planning Director shall conduct such further investigation as is necessary and report findings and conclusions in writing to the Board.
- (B) Pursuant to Section 111.290, after conducting a public hearing to consider an action and appeal, and finding that the facts therein stated do not warrant further hearing, the Board may summarily affirm the action and deny the appeal.

- (C) Pursuant to Section 111.290, after conducting a public hearing to consider an action and appeal, the Board may affirm or reverse wholly or partly, or modify, any action appealed, and may impose such additional conditions as it finds warranted by the facts.

**111.310. EFFECTIVE DATE.** Land use actions granted under section 111.240 become effective on the 10th day after mailing of the notice of the decision or after the regular meeting of the Polk County Board of Commissioners following such mailing, whichever is later. However, if the matter has been called up by the Board under Section 111.290, or the matter has been appealed under Section 111.280, the land use action does not become effective until the Board has taken final action. A final decision by the Board of Commissioners shall not be effective until 21 days after mailing of the decision. An appeal of a land use action by the Board of Commissioners to the Land Use Board of Appeals stays all proceedings by all parties in connection with the matter until the appeal has been resolved. [Amended by Ordinance #97-9, dated December 17, 1997.]

**111.320. HOLDING PUBLIC HEARINGS.** Any hearing shall be public and may be continued or postponed from time to time. At any such hearing all persons shall be given an opportunity to be heard.

**111.330. APPEARANCES OF INTERESTED PERSONS, REMONSTRANCES.** Any person or persons desiring to be heard for or against the subject of the hearing may file with the governing body, Hearings Officer or the Planning Commission, whichever holds the hearing, a statement in writing, or may appear and respond orally at the hearing, either in person or by authorized representative. Written remonstrances or objections to the proposed zone change, variance, conditional use or other subject of hearing, may be filed with the hearings body.

[Amended by Ordinance #88-21, dated November 30, 1988.]

**111.340. NOTICE OF PUBLIC HEARING; CONTENT.** Upon the fixing of the time of public hearing on all matters before the appropriate hearing body, the Director shall give notice as set forth in this chapter. The notice shall:

- (A) Explain the nature of the application and the proposed use or uses which could be authorized;
- (B) List the applicable criteria from the ordinance and the plan that apply to the application at issue;
- (C) Set forth the street address or other easily understood geographical reference to the subject property.
- (D) State the date, time and location of the hearing.
- (E) State that failure of an issue to be raised in a hearing, in person or in writing, or failure to provide sufficient specificity to afford the hearings body an opportunity to respond to the issue, precludes appeal to the Land Use Board of Appeals on that issue;
- (F) State that a copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria, are available for inspection at no cost and will be provided at reasonable cost;
- (G) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and will be provided at a reasonable cost; and include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings. [Amended by Ordinance 89-17, dated December 6, 1989.]

[Amended by Ordinance 88-21, dated November 30, 1988.]

**111.350. MAILING OF NOTICE; NOTIFICATION AREA; FAILURE TO RECEIVE NOTICE.**

- (A) Notices of public hearing to be held by the hearing body, notice of an application to be processed as a Type B procedure pursuant to Section 111.240 (B), or notice of any action taken on an application by the Planning Director or Hearings Officer shall be mailed to the applicant and to owners of record on the most recent property tax assessment roll where such property is located:
  - (1) Within 100 feet of the property which is the subject of the notice, where the subject property is wholly or partly within an urban growth boundary;
  - (2) Within 250 feet of the property which is the subject of the notice, where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
  - (3) Within 750 feet of the property which is the subject of the notice, where the subject property is within a farm or forest zone.
- (B) Notices of public hearing to be held by the hearing body shall be mailed 20 days prior to the date of the hearing.
- (C) Failure to receive notice by mail as provided in this section shall not affect the validity of the proceedings if the County can demonstrate by affidavit that such notice was given.
- (D) Notice of an application to be processed as a Type B procedure pursuant under Section 111.240 (B) and public hearing notices shall be mailed to the chairperson of the pertinent Area Advisory Committee. [Amended by Ordinance #89-17, dated December 6, 1989.] [Amended by Ordinance #97-9, dated December 17, 1997.]
- (E) Notice of a public hearing shall be mailed to the owners of public-use airports if the property subject to the land use permit or zone change is located:
  - (1) Within 5,000 feet of a visual airport.
  - (2) Within 10,000 feet of an instrument airport. [Adopted by Ordinance #98-5, dated July 8, 1998.]

**111.360. POSTING NOTICE.**

- (A) Notice of public hearing related to an application to be processed as a Type B procedure pursuant to Section 111.240 (B), shall be given by posting a sign on the subject property within 10 feet of whatever boundary line of such land abuts the most traveled public road or street, and if no public road abuts thereon, then facing in such a manner as may be most readily seen by the public.
- (B) It shall be the responsibility of the applicant to provide the sign frame and place such notice at least 20 days prior to the public hearing. A placard with printed information on the proposed change shall be provided by the Planning Director for the sign structure, and shall be obtained for mounting by the applicant or his representative prior to posting.
- (C) The posted sign shall be removed by the applicant or the applicant's representative within five days after final action on the application. [Amended by Ordinance #89-17, dated December 6, 1989.]

**111.370. PUBLISHING NOTICES.** Notice of public hearings to be held on amendments to the text of the ordinance, on zone changes and Comprehensive Plan amendments, shall be given by publishing such notice in a newspaper of general circulation in the county at least once not less than



20 days prior to said hearing. [Amended by Ordinance #88-21, dated November 30, 1988, and Ordinance #219, dated September 22, 1978.]

**111.380. CONDUCT OF HEARING; CONTINUANCE; EXTENSION; REOPENING RECORD.**

- (A) At the beginning of a hearing under the Comprehensive Plan or land use regulations of Polk County, a statement shall be made to those in attendance that:
  - (1) Lists the applicable substantive criteria;
  - (2) States that testimony and evidence must be directed toward the criteria described in paragraph (1) of this subsection, or other criteria in the Plan or implementing ordinances which the person believes to apply to the decision; and
  - (3) States that failure to raise an issue with sufficient specificity to afford the hearings body an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals.
- (B) If additional documents or evidence in support of an application is submitted at a public hearing, any party shall be entitled to a continuance of the hearing. Such a continuance is not subject to the limitations of ORS 215.428.
- (C) Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall not be subject to the limitations of ORS 215.428.
- (D) When the Board of Commissioners, Planning Commission or Hearings Officer reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.[Adopted by Ordinance #89-17, dated December 6, 1989.]

## **CHAPTER 112**

### **DEVELOPMENT STANDARDS**

#### **LOT AREA, YARDS, HEIGHT RESTRICTIONS, AND ACCESS**

- 112.010. New Buildings to be on a Lot
- 112.020. Lots Not to be Reduced below Minimum
- 112.030. Lot or Yard Areas Not to be Separated from the Lot Containing the Building
- 112.040. Yard Areas Not to be Reduced
- 112.050. Yards Apply Only to One Building
- 112.060. Yards to be Unobstructed
- 112.070. No Parking in Front Yard or Landscaped Areas
- 112.080. Average Yard Setback Adjacent to a Street
- 112.090. Stream Setback
- 112.100. Front Yard Projections
- 112.110. Side Yard Projections
- 112.120. Rear Yard Projections
- 112.130. Height Exceptions
- 112.135. Communication and Broadcast Tower Standards
- 112.140. Vision Clearance Area
- 112.150. Lots Abutting a Partial Street
- 112.160. Dwellings to be Accessible
- 112.170. Minimum Street Width
- 112.175. Access Onto Arterials

#### **FUTURE RIGHT-OF-WAY LINES**

- 112.180. Establishment, Alterations, or Elimination of Future Right-of-Way Lines
- 112.190. Setback Distances
- 112.200. Amendment by Resolution

#### **OFF-STREET PARKING AND LOADING**

- 112.210. New and Existing Facilities to Provide Parking and Loading
- 112.220. Diminution of Parking Area Prohibited
- 112.230. Location
- 112.240. Joint Use
- 112.250. Off-Street Automobile Parking Requirements
- 112.260. Off-Street Loading Requirements
- 112.270. Parking and Loading Area Development Requirements

#### **ACCESSORY STRUCTURES**

- 112.280. Application of Regulations Regarding Accessory Structures
- 112.290. Lot Coverage by All Accessory Structures
- 112.300. Height Standards for Accessory Structures
- 112.310. Front Yards and Yards Adjacent to Streets With Accessory Structures
- 112.320. Side Yards, Interior With Accessory Structures
- 112.330. Rear Yards With Accessory Structures
- 112.340. Accessory Structures Attached to the Main Building
- 112.350. Fences-Location, Height and Density
- 112.360. Measurement of Height of Fences
- 112.370. Fences-Use of Hazardous Materials

## **ZONE-SPECIFIC DEVELOPMENT STANDARDS**

- 112.390. Residential Zone Development Standards
- 112.400. Commercial Zone Development Standards
- 112.410. Industrial Zone Development Standards
- 112.420. Public Zone Development Standards
- 112.430. Resource Zone Development Standards

**112.010. NEW BUILDINGS TO BE ON A LOT.** Every building erected shall be located on a lot as herein defined.

**112.020. LOTS NOT TO BE REDUCED BELOW MINIMUM.** No lot or parcel of land held under separate ownership at the effective date of this ordinance (November 13, 1970) shall be separated in ownership or reduced in size below the minimum lot width or lot areas required by this ordinance, nor shall any lot or parcel of land held under separate ownership at the effective date of this ordinance, which has a width or an area less than required by this ordinance, be further reduced unless approved in accordance with this ordinance, including provisions and standards for the creation of new parcels in the zone. [Amended by Ordinance No. 91-8, dated March 27, 1991.]

**112.030. LOT OR YARD AREAS NOT TO BE SEPARATED FROM THE LOT CONTAINING THE BUILDING.** No portion of a lot necessary to provide the required area per dwelling unit shall be separated in ownership from the portion of the lot on which the building containing dwelling units is located. No required yard or other open space around an existing building shall be separated in ownership from the portion of the lot upon which the building is located.

**112.040. YARD AREAS NOT TO BE REDUCED.** No lot area shall be so reduced or diminished that the yards or other open space shall be smaller than prescribed by this ordinance, nor shall the number of dwelling units be increased in any manner except in conformity with the regulations herein established.

**112.050. YARDS APPLY ONLY TO ONE BUILDING.** No required yard or other open space or required driveway provided around or for any building or structure for the purpose of complying with the provisions of this ordinance shall be considered as providing a yard or open space for any other building, or shall any yard or other required space on an adjoining lot be considered as providing a yard or open space on the lot whereon the building is to be erected.

**112.060. YARDS TO BE UNOBSTRUCTED.** Every required front, side and rear yard shall be open and unobstructed by buildings or structures from the ground to the sky, except for those projections and accessory structures permitted by this ordinance.

**112.070. NO PARKING IN FRONT YARD, YARDS ADJACENT TO A STREET, OR LANDSCAPED AREAS.** No parking shall be allowed exclusive of driveways within the required front yard area. The side yard and rear yard areas may be used for parking of vehicles unless otherwise prohibited by this ordinance.

The yard areas and driveways adjacent to a street shall not be used for the permanent storage of utility trailers, house or vacation trailers, boats or other similar vehicles.

**112.080. AVERAGE YARD SETBACK ADJACENT TO A STREET (FRONT AND EXTERIOR SIDE YARDS).** Every building shall set back from the front lot line at least 20 feet, except in the instance where the average depth of the other buildings on the same side of the street are between ten (10) and 20 feet, then the average depth may be used. The average depth is the average of the distance from the closest part of the foundation of the existing buildings to the front property line where the existing buildings are within 200 feet of the center of the proposed building, on the same side of the street, within the same block.

If existing buildings are within ten (10) feet of the property line, then no less than 10 feet shall be used in figuring the average, or if existing buildings are more than 20 feet from the property line then the minimum requirement of 20 feet shall be used in figuring the average.

When, by this ordinance or any other ordinance, a greater setback or a front yard of greater depth is required than specified in this section, then such greater setback line or front yard depth shall apply.

**112.090. STREAM SETBACK.** To permit or afford better light, air, vision, stream pollution control, and to preserve the natural scenic amenities and vistas along the streams in all zones, the following setbacks shall apply:

- (A) All septic tank, septic tank drainfield, cesspool and pit privy disposal facilities shall be set back from the highwater line or mark along all streams a minimum of 100 feet measured at right angles to the highwater line or mark. In those cases where practical difficulties preclude the location of these facilities at a distance of 100 feet and the County Environmental Health Department finds that a closer location will not endanger health by pollution of the stream, the Environmental Health Department may permit the location of these facilities closer to the stream, but in no event, may such facility be located closer to the stream than 50 feet.
- (B) All structures, buildings, or similar permanent fixtures shall be set back from the mean highwater line or mark along all streams a minimum of 15 feet measured at right angles to the highwater line or mark excluding decks, patios, fences, and covered porches. Where a stream represents a lot or parcel line the applicable setback shall be either this standard or the applicable setback for the zoning district as described in this chapter, whichever is greater. For waterways identified on the Polk County Significant Resources Map, additional development setback standards pursuant to Chapter 182 of the PCZO are also applicable. Additional setbacks may also be required, as determined by the State Department of Forestry, along riparian management areas subject to the provisions of the Oregon Forest Practices Act.

**112.100. FRONT YARD PROJECTIONS.** Planter boxes, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels and other ornamental features of not more than 24 inches from main buildings, uncovered porches, covered but unenclosed porches when not more than one story high and which do not extend more than 10 feet beyond the front walls of the building, but in no case shall such projection come closer than ten (10) feet from the property line and the floor which are not more than four (4) feet above grade, are exempt from the front yard setback provisions and need not be included when determining the average setback.

**112.110. SIDE YARD PROJECTIONS.**

- (A) Cornices, eaves, gutters, and fire escapes when not prohibited by any other code or ordinance, may project into a required side yard not more than one-third (1/3) of the width of the side yard, nor more than three (3) feet in any case.
- (B) Chimneys, flues, belt courses, leaders, sills, pilasters, lintels and ornamental features may project not more than one and one-half (1-1/2) feet into a required side yard, provided, however, chimneys and flues shall not exceed six (6) feet in width.
- (C) Uncovered decks and patios attached to the main building when measured directly beneath the outside edge of the deck or patio may be extended to the side yard property line when they are three (3) feet or less in height from ground level.

**112.120. REAR YARD PROJECTIONS.**

- (A) Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, gutters and other ornamental features, may project not more than one and one-half (1-1/2) feet into a required rear yard, provided, however, chimneys and flues shall not exceed six (6) feet in width.
- (B) A fire escape, balcony, outside stairway, cornice or other unenclosed, unroofed projections may project not more than five (5) feet into a required rear yard and set back at least six (6) feet from any property line.

- (C) Planter boxes, steps, uncovered porches, covered but unenclosed porches including covered patios when not more than one (1) story high and the floor, which are not more than four (4) feet above grade and which shall not come closer than 14 feet from the rear lot line, are exempt from the minimum rear yard depth requirement. (See Accessory structures - Section 112.350.)
- (D) No permitted projection into a required rear yard shall extend within ten (10) feet of the centerline of an alley, or of a rear lot line if no alley exists, or within six (6) feet of an accessory building.
- (E) Uncovered decks and patios attached to the main building when measured directly beneath the outside edge of the deck or patio may be extended to the rear yard property line when they are three (3) feet or less in height from ground level.

### **112.130. HEIGHT AND OTHER EXCEPTIONS.**

- (A) Chimneys may exceed the maximum height of the zone in which they are located.
- (B) Electronic communication antennas and towers, such as radio, television, and telecommunications receiving antennas, may exceed the height limits of the zone, but must meet provisions regulating such installation as provided in Section 112.135, and applicable provisions from the zoning district.
- (B) Ham (non-commercial) radio transmitting towers and antennas are not subject to the provisions of Section 112.135 and may exceed the height requirements for structures as required by the zone, and must meet all state and federal provisions regulating such facilities and comply with manufacturers installation requirements.
- (D) Steeples may exceed the maximum height of the zone in which they are located provided:
  - (1) That they do not contain any habitable space
  - (2) That they do not exceed 185 feet in height
  - (3) That the Planning Director permits a greater height, as a conditional use, when they are within 185 feet of or are located within the SR zone. [Amended by Ordinance #89-17, dated December 6, 1989.]
- (E) Replacement of an existing utility pole along or within the right-of-way used for electric, cable, telephone, etc., that is located along a right-of-way is permitted without land use review including the establishment of a pole that is suitable for use for wireless communication. The multi-purpose monopole must not exceed the height of other existing poles along the adjacent utility corridor by more than twenty-five (25) feet.
- (F) Co-location of a utility on an existing tower is not subject to the land use provisions of Section 112.135 below, however, the applicant shall submit engineering documentation that the proposed facility complies with the emission standards for maximum permissible exposure as identified in 47 C.F.R. Section 1.1307(b), or as amended or replaced in Federal Register. The applicant shall obtain any other required local permit (electrical, building, etc.). [Amended by Ordinance 01-3]

### **112.135 COMMUNICATION AND BROADCAST TOWER STANDARDS**

All new or replacement communication towers and broadcast towers (hereafter referred to as communications towers) shall be reviewed through the administrative review process as a land use determination, unless otherwise provided for in the zoning district for the proposed location.

A utility provider shall be the applicant or co-applicant for any communications tower that is proposed in unincorporated Polk County, or a condition of approval shall be that the tower may not be constructed until such time as a utility provider is identified, and all other conditions have been met. Public agencies are also subject to the standards of this section. It is the intent of this

section to provide for maximum compatibility between communications towers and the surrounding land uses.

- (A) All new or replacement communications towers shall comply with the following standards:
- (1) All communication towers shall be less than 180 feet in height and shall be a monopole type of construction unless otherwise provided. An applicant may request modification of this height limitation or type of construction (e.g. lattice tower) through a Land Use Determination review process. Such height modification or type of construction shall include a demonstration for any modification requested. Such justification shall include documentation showing:
    - (a) Coverage limitations,
    - (b) Type of system (e.g. broadcast, FM radio, television),
    - (c) Technical and engineering feasibility;
    - (d) Public safety; or
    - (e) Other requirements of local, state, and federal agencies.
  - (2) Whip antennae shall not exceed the height of the tower by more than twenty (20) feet.
  - (3) Directional / parabolic antennae shall not exceed seven (7) feet in diameter or width and a rectangular type antenna shall not exceed seven (7) feet in width and fifteen (15) feet in height when attached to a tower.
  - (4) The applicant shall identify all existing structures, or properties that have obtained approval for a tower or currently contain a communications antenna within two miles of the proposed tower location. The applicant shall provide evidence that co-location at all existing or approved towers and structures within two miles is not feasible, and provide documentation for locating a new tower, based on either of the following:
    - (a) Lack of available co-location space; or
    - (b) Inability to meet service coverage area needs.
  - (5) The tower shall comply with all required State of Oregon and Federal licenses for communication tower facilities. The application shall include a certification that the completed installation will comply with all Federal standards. The applicant shall submit documentation demonstrating compliance with the radio frequency emission standards as set forth by the Federal Communications Commission (FCC). If the calculated radio frequency emission level at any point is calculated at more than one-third the maximum radio frequency emission level permitted by the FCC, then the documentation shall be prepared by an Oregon registered professional engineer qualified to conduct radio frequency analyses.
  - (6) No lighting of communication facilities is allowed, except as required by the Federal Aviation Administration or other federal or state agency. In coordination with the applicable federal or state agency, the applicant shall determine the maximum height of the tower that would not require lighting. If a proposed communications tower would require lighting, the applicant shall demonstrate that a tower height that requires lighting is necessary. Such justification shall include documentation showing:
    - (a) Coverage limitations,
    - (b) Type of system (e.g. broadcast, FM radio, television),
    - (c) Technical and engineering feasibility; and

- (d) Other requirements of local, state, and federal agencies.

If a tower height that requires lighting is justified, the applicant shall demonstrate how the lighting will be shielded from the ground. Shielding of tower lighting onto nearby properties shall be installed as part of construction of the tower.

- (7) The setbacks for a tower shall be the setback otherwise allowed for all other structures in the zone except that:
  - (a) The tower shall be setback at least the height of the tower from an existing dwelling on adjacent property.
  - (b) A tract (contiguous property under the same ownership) may be considered as a single parcel for purposes of setbacks.
- (8) The applicant shall submit a site-specific study of the tower site identifying the proposed color and surfacing of the tower and associated fixtures. Based on the existing conditions and vegetation at the proposed site, the tower must be constructed with material to reduce visibility of the tower by:
  - (a) Use of non-reflective materials that minimize glare and are colored similar to the sky or adjacent background. A light gray shade is appropriate for blending the tower into the sky background. Nothing in this subsection preempts the coloring requirements of the Federal Aviation Administration or the Oregon Department of Aviation.
  - (b) Use of non-reflective materials painted to match the existing or attached structure to blend into the surrounding environment, and
  - (c) Antenna and associated equipment shall be surfaced in a non-reflective material color to match the structure on which it is located.
- (9) Equipment areas may be enclosed by a chain link fence or equivalent with or without slats for screening.
- (10) If access is obtained from a private road, the applicant shall be responsible as required by Oregon law for providing for improvements and maintenance to the private road that provides access to the subject property. In general, the applicant is responsible for impacts to the private road as a result of activities conducted by the applicant. The applicant shall maintain all necessary access easements and maintenance agreements for the private road as required by State law.
- (11) Warning and safety signs, up to three square feet in area, are allowed. All other signs are prohibited.
- (12) If the tower is discontinued from operating as a communication tower for a period of one year, the tower shall be removed. The operator shall be responsible for removal of the communication tower and equipment facilities within six (6) months. The property owner shall bear the ultimate responsibility for removal of facilities. The property owner is responsible for removal of the communication tower and shall sign a document that is recorded in the deed history of the subject property with the Polk County Clerk recognizing such responsibility. Nothing in this subsection shall prevent the owner of the property or Polk County from requiring a bond or other security from a tower operator or otherwise imposing on a tower operator the responsibility for removal and restoration.
- (13) An Oregon registered professional engineer shall certify that the construction of the tower complies with building code structural standards.
- (14) Prior to submission of an application, the applicant must notify and hold a meeting with area property owners as outlined in (a) and (b) below. The



- (a) The applicant has mailed notification of the proposed tower to property owners that would otherwise be notified pursuant to Polk County Zoning Ordinance Section 111.350. The notification shall state that the topic has been scheduled for discussion at the Area Advisory Committee meeting, or a community meeting has been scheduled, as described in (b) below. The notification shall state the date, time, and location of the meeting.
  - (b) The applicant has contacted the Area Advisory Committee (AAC) and attended an AAC meeting to discuss the proposed application. If there is no active AAC, the applicant shall post the subject property as described in Polk County Zoning Ordinance Section 111.360 and hold a meeting with the community to allow for concerns regarding the proposed tower to be addressed. Nothing in this subsection limits the applicant from providing additional opportunity for input from area property owners and residents.
- (15) All new or replacement tower facilities under 100 feet in height shall provide for a minimum of two (2) users (the primary user and one co-location site).
- (16) Within an Urban Growth Boundary (UGB) a communications tower shall be 40-feet or less in height. An applicant may request a modification of this height limitation. Such height modification shall include a demonstration for any modification requested. Such justification shall include documentation showing:
- (a) Coverage limitations demonstrating that the proposed height of the tower is needed in order to meet the service type and area coverage needs. Propagation maps stamped by a professional engineer that demonstrate service type and area coverage shall be provided for the 40-foot height, and each 20-foot interval to the proposed tower height;
  - (b) Type of system (e.g. broadcast, FM radio, television);
  - (c) Other requirements of local, state, and federal agencies; and
  - (d) The location, size, design and functional characteristics of the tower are reasonably compatible with the existing conditions and vegetation at the proposed site. The tower must be designed and constructed with material to reduce visibility of the tower by:
    - 1) A site-specific study of the tower site identifying a proposed stealth (i.e. camouflage) construction type that may include but is not limited to a tree, or flagpole (no external antennas).
    - 2) The proposed color and surfacing of the tower and associated fixtures.
- (17) Upon receipt of an application for a communication or broadcast tower, the Planning Director shall mail notification to the Independence State Airport and the Oregon Department of Aviation and provide at least ten (10) days to comment on the application.
- (a) A Communication tower over 100 feet shall comply with the following:
    - 1) All new tower facilities shall provide space for a minimum of three (3) users (the primary user and 2 co-location sites),
    - 2) Prior to issuance of building permits for the tower, the applicant shall submit to the Building Official documentation from the Federal Aviation Administration and local or state agency with jurisdiction that the tower has been reviewed and is not determined

to be a hazard if constructed as proposed. [Amended by Ordinances 01-3 and 04-09]

**112.140. VISION CLEARANCE AREA.** In the SR Zone or any public zone, the vision clearance area for corner lots at street intersections shall have a minimum of 30-foot legs along each street and for alley-street intersections in said zones, the vision clearance area shall have legs of a minimum of ten (10) feet along both alley and street. The vision clearance area shall not contain any plantings, walls, structures, or temporary or permanent obstructions to vision exceeding 30 inches in height above the curb level, or street shoulder where there is no curb, except a supporting pillar or post not greater than 12 inches in diameter or 12 inches on the diagonal of a rectangular pillar or post; and further, excepting those posts or supporting members of street signs, street lights, and traffic control signs installed as directed by the department of public works, or any other sign erected for public safety.

Vision clearance shall not be required at a height of seven (7) feet or more above the curb level, or seven (7) feet, six (6) inches above the shoulder of a street that does not have a curb.

This section shall not be construed as waiving or altering any yard requirements or setback requirements that may be required by this or any other ordinance.

**112.150. LOTS ABUTTING A PARTIAL STREET.** No building permit shall be issued for a building or structure on a lot which abuts a street dedicated to a portion only of its required width and is located on that side which has not yet been dedicated or condemned, unless the yards provided on such lot include both that portion of the lot lying within the required street and the required yards. This provision shall not be construed as being in lieu of or waiving any subdivision or partitioning requirement of this or any other ordinance.

**112.160. DWELLINGS TO BE ACCESSIBLE.** Every dwelling shall have access to a public road or to an easement.

- (A) An easement that is designated as a future route of a preferred alternative public road in the Polk County Transportation Systems Plan providing access to a parcel created after July 10, 1998, shall be sixty (60) feet wide, unless an exception to the easement width has been granted pursuant to PCSO 91.800.
- (B) An easement that is not designated as a future route of a preferred alternative public road in the Polk County Transportation Systems Plan that would provide access to two (2) or more parcels or to two (2) or more dwellings on parcels established after May 29, 2002 shall be at least 40 feet wide, unless an exception to the easement width has been granted pursuant to PCSO 91.800. [Amended by Ordinance #02-01 dated May 15, 2002]

**112.170. MINIMUM STREET WIDTH.** All street rights-of-way shall be not less than as set forth in the most recently adopted version of the Polk County Road Standards.

**112.175. ACCESS ONTO ARTERIALS.**

- (A) The number of access points onto arterial roads from any development shall be minimized whenever possible through the use of driveways common to more than one development, and interior circulation design, including frontage or marginal access roads, which further this requirement. Generally, no driveway or County or public road access will be permitted onto the rural portions of State Highways 18, 22, 51, 99W, 221, and 223 unless the following standards are met:

State Highway Access Distance

Access Type	Distance From Nearest Access Point
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	Hwy 18	Hwy 22	Hwy 51	Hwy 99W	Hwy 221	Hwy 223
Driveway	1,200 feet <sup>1</sup>	1,200 feet	500 feet	1,200 feet	500 feet	300 feet
County or Public Use Road	1-3 miles	1-3 miles	.5 mile	1 mile	.5 mile	.25 mile

<sup>1</sup> Right turn only access permitted

- (B) Access onto arterials will require the approval, through the permit process, from the Oregon Department of Transportation. The applicant(s) will need to follow ODOT's construction requirements for that portion of the access within state-owned right-of-way.
- (C) Where property, such as a reverse frontage lot, is located abutting a county or public use road, and a state highway, the preferred access will be onto the county or public use road. [Adopted by Ordinance #98-5, dated July 8, 1998.]

**112.180 ESTABLISHMENT, ALTERATIONS, OR ELIMINATION OF FUTURE RIGHT-OF-WAY LINES.** The governing body may establish, vary, modify, alter, or eliminate any future right-of-way line for any reason or purpose by resolution. Polk County will require dedication or reservation for future dedication of right-of-way for transportation improvements, as identified in an adopted Corridor Refinement Plan in the adopted Polk County Transportation Systems Plan.

- (A) The dedication or reservation will be required at the time that a partition or subdivision is proposed on a particular property. The dedication or reservation shall be for the property subject to the development proposal.
- (B) For development activity other than in (a) above, the property owner shall sign a Waiver of Remonstrance document for other development activity. Polk County will require setbacks for new structures or additions to existing structures from the future road right-of-way identified in the adopted Transportation Systems Plan. [Amended by Ordinance #01-10 dated November 14, 2001.]

**112.190. SETBACK DISTANCES.** An existing building or part thereof that extends into the front yard, side yard, or rear yard, shall be treated as a non-conforming building. [Amended by Ordinance #93, dated November 9, 1971.]

- (A) To permit or afford better light, air and vision on the more heavily traveled streets and roads; to protect the arterial streets and highways and to permit the expansion of street areas for traveling purposes, or eventual widening of streets or roads; every building, or structure, exclusive of signs, floodlight standards, and their supporting members shall set back from the streets or parts of streets or roads hereafter named, the number of feet set forth below, measured at right angles to the property line adjacent to the street or road right-of-way.

PRINCIPAL ARTERIAL (STATE 18,22)	MINOR ARTERIAL (STATE 51,99,221,223)	MAJOR & MINOR COLLECTOR (COUNTY)	LOCAL ROADS (COUNTY)
30 feet from existing R.O.W. for all <u>commercial &amp; industrial</u>	30 feet *(measured from 80 foot R.O.W.)	30 feet *(measured from 60 foot R.O.W.)	See zone listing
30 feet from a 120 foot R.O.W. for all non-			

commercial & industrial

\* Indicates additional right of way may be required where existing is deficient.

The above setback provisions are minimum requirements, and are to be considered as supplementary and additional to any such requirements contained in any other part of this ordinance; provided, however, should a greater setback line or front yard be required along any portion of any street herein before named by any other section or provision of this ordinance, then such greater setback line or front yard area shall be the minimum permitted by this ordinance.

- (B) Required yard areas adjacent to a street shall be measured from the proposed future right-of-way line as set forth in this section. [Amended by Ordinance 90-14, dated November 28, 1990.]

**112.200. AMENDMENT BY RESOLUTION.** Future amendments to the road classification map shall be accomplished by resolution of the Board of Commissioners. [Amended by Ordinance 90-14, dated November 28, 1990.]

**112.210. NEW AND EXISTING FACILITIES TO PROVIDE PARKING AND LOADING.** Off-street automobile parking areas and off-street loading areas as hereinafter set forth shall be provided and maintained.

- (A) For any new building or structure erected.
- (B) For additional seating capacity, floor area, guest rooms, or dwelling units added to any existing building or structure.
- (C) When the use of the building or structure as set forth in Section 112.250 is changed, which changed use would require additional parking areas and off-street loading areas under the provisions of this ordinance.

**112.220. DIMINUTION OF PARKING AREA PROHIBITED.** Off-street parking and loading areas which existed on the effective date of this ordinance (November 13, 1970) or which subsequent thereto are provided for the purpose of complying with the provisions of this code shall be retained and maintained or the equivalent parking and loading areas provided.

**112.230. LOCATION.** Off-street parking and loading areas shall be provided on the same lot with the main building or structure or use except that:

- (A) In the SR zone, automobile parking areas for dwellings and other uses permitted in that zone may be located on another lot if such lot is within 200 feet of the lot containing the main building, structure or use;
- (B) In any other zone the parking area may be located off the site of the main building, structure or use if it is within 500 feet of such site.

**112.240. JOINT USE.** A parking area may be used for a loading area during those times when the parking area is not needed or used. The automobile parking space provided by churches and schools may be made available as a public or private parking lot when the use thereof is not required by the church or school for which such parking was provided, regardless of the zone wherein located, provided the lot is developed as prescribed in this ordinance.

**112.250. OFF-STREET AUTOMOBILE PARKING REQUIREMENTS.** Off-street automobile parking shall be provided as required by Section 112.270 and approved by the Planning Director in the amounts not less than those listed below:

<u>USE</u>	<u>AMOUNT REQUIRED</u>
(A) 1, 2 and 3 family dwellings	1 space per dwelling unit
(B) Multi-family dwelling containing 4 or more dwelling units located on the same lot	3 spaces per 2 dwelling units (equal to 1.5 the number of units)
(C) Residential hotel; rooming or boarding house	4 spaces per 5 guest accommodations (equal to 8 percent of the number of guest accommodations, plus 1 additional space for the owner or manager)
(D) Fraternities, sororities, dormitories (off campus)	1 space for every 4 student houses or beds
(E) High rise apartments (3 stories or more)	1 space per unit
(F) Hotel	1 space per guest room or suite
(G) Motel	1 space per guest room or suite, plus 1 additional space for the owner or manager
(H) Club; lodge	Spaces sufficient to meet the combined minimum requirements of the daytime uses being conducted, such as hotel, restaurant, auditorium, etc.
(I) Welfare or correctional	1 space per 5 beds for institution patients or inmates
(J) Convalescent hospital, nursing home, sanitarium, rest home, home for aged, group care facility	1 space per 2 beds for patients or residents
(K) Hospital	3 spaces per 2 beds (equal to 1.5 times the number of beds)
(L) Church	1 space per 4 seats or every 8 feet of bench length in the main auditorium
(M) Library; reading room	1 space per 400 sq. ft. of floor area, plus 1 space per 2 employees
(N) Pre-school nursery; kindergarten	2 spaces per teacher, plus off-street student loading and unloading facility

(O)	Elementary or Junior High School	2 spaces per classroom, plus off-street student loading and unloading facility
(P)	High School	1 space per classroom, plus 1 space per administrative employee, plus 1 space for each 6 students, plus off-street student loading and unloading facility
(Q)	College, commercial school for adults	1 space for each 4 students enrolled in school
(R)	Other auditorium; meeting	1 space per 4 seats or 8 feet room of bench length
(S)	Parks - other than neighborhood parks or playgrounds, where a use is specifically listed herein, then the off-street parking requirements for that use shall apply	1 space per 3 picnic tables, plus 5 spaces sufficient parking for all activities within the park shall be provided when sufficient on-street parking is not available
(T)	Stadium; arena; theater	1 space per 4 seats or 8 feet of bench length
(U)	Bowling alley	5 spaces per alley, plus 1 space per 2 employees
(V)	Dance hall; skating rink	1 space per 100 sq. ft. of gross floor area, plus 1 space per 2 employees
(W)	Golf Course	4 spaces for each tee, plus 1 space per 200 sq. ft. of gross floor area of each building, plus 1 space per every 2 employees
(X)	Retail store, except as provided in paragraph (Y) of this subsection	1 space per 200 sq. ft. of gross floor area, plus 1 space per every 2 employees
(Y)	Service or repair shop store handling exclusively bulky merchandise such as automobiles and furniture	1 space per 600 sq. ft. of gross floor area, plus 1 space per every 2 employees
(Z)	Bank; office buildings (except medical and dental)	1 space per 300 sq. ft. of gross floor area, plus 1 space per 2 employees
(AA)	Medical and dental clinic	1 space per 300 sq. ft. of gross floor area, plus 1 space per 2 employees
(BB)	Eating or drinking establishments	1 space per 200 sq. ft. of gross floor area
(CC)	Mortuaries	1 space per 4 seats or 8 feet of bench length in chapels

- |   |  |
|---|--|
| (DD) Storage Warehouse; manufacturing establishment; rail or trucking freight terminal  | <p><u>0-49,999 sq. ft. of floor area:</u> 1 space per 5,000 sq. ft. or 1 space per employee, whichever is greater</p> <p><u>50,000-99,999 sq. ft. of floor area:</u> 1 space per 10,000 sq. ft. or 1 space per employee, whichever is greater</p> <p><u>100,000 sq. ft. and over of floor area:</u> 1 space per 15,000 sq. ft. or 1 space per employee, whichever is greater</p> |
| (EE) Wholesale establishment  | 1 space per employee or 1,000 sq. ft. of gross floor area, whichever is greater, plus 1 space per 700sq. Ft. of patron-serving area  |
| (FF) Governmental Office Buildings  | 1 space per 600 sq. ft. of gross floor area, plus 1 space per 2 employees  |
| (GG) When a parking requirement is stated in terms of employees, it means the maximum number of employees who will be at the site at one time, either on a single shift or an overlap of shifts |  |

**112.260. OFF-STREET LOADING AREA DEVELOPMENT REQUIREMENTS.** Off-street loading space shall be provided in the amounts listed below except that, in appropriate cases, the Hearings Officer or Planning Director may waive the requirements for loading space, after proceedings are had as for a conditional use as provided in Chapter 119, and when the Hearings Officer or Planning Director has determined that the use to which the building is to be put is of a kind not requiring the loading or unloading or delivery of merchandise or other property by commercial trucks or delivery vehicles; provided, however, whenever the use of such building is changed to another use, then such loading space as is required by this ordinance shall be provided.

- (A) A minimum loading space size of 12 feet wide, 20 feet long, and 14 feet high shall be required as follows:
  - (1) For multi-family dwellings with ten (10) or more dwelling units, 1 space;
  - (2) For buildings used entirely for office occupancy, up to 2,000 square feet gross floor area, one (1) space; for each additional 40,000 square feet of gross floor area, or any portion thereof, one (1) space;
- (B) A minimum loading space size of 12 feet wide, 30 feet long and 14 feet high shall be required as follows:
  - (1) For all buildings except residential and those used entirely for office use: Up to 2,000 square feet gross floor area, one (1) space;
  - (2) For each additional 40,000 square feet of floor area or any portion thereof, one (1) space.

**112.270. PARKING AND LOADING AREA DEVELOPMENT REQUIREMENTS.** All parking and loading areas except those for single family dwellings shall be developed and maintained as follows:

- (A) Location or site: The required yard areas adjacent to a street shall not be used for parking or loading areas and the yards shall be the same as is required for the main building in the district in which the parking area is to be located and such yard area adjacent to a street shall be landscaped with trees, shrubs, grass or evergreen ground cover and other complementary materials and maintained in a neat and well appearing manner. The side and rear yards, other than those adjacent to a street, may be used for parking and loading areas when such areas have been developed and are maintained as required by this ordinance.
- (B) Surfacing: Inside an adopted urban growth boundary all driveways, parking and loading areas shall be paved with asphalt or concrete surfacing and shall be adequately designed, graded and drained as required by the director of public works except where existing. When existing gravel lots inside the UGB are expanded in excess of 50 percent above the existing lot size they shall be paved. Outside of urban growth boundaries, gravel, asphalt or concrete may be used for surfacing based on the standard of: six (6) inches of one (1) inch minus gravel to three (3) inch minus; if three (3) inch minus is used the top two (2) inches shall be one (1) inch minus or an alternative as approved by the Director of Public Works. A paved access apron to any paved access road is required regardless of the parking lot surface. [Subsection (b) amended by Ordinance 90-19, dated January 2, 1991.]
- (C) Bumper guards or wheel barriers: Bumper guards or wheel barriers shall be so installed that no portion of a vehicle will project into a public right-of-way or over adjoining property. The area beyond the wheel barriers or bumper guards shall be paved or covered with evergreen ground cover.
- (D) Size of parking spaces and driveways: The parking area, each parking space and all driveways shall be of sufficient size and all curves and corner of sufficient radius to permit the safe operation of a standard size automobile, to wit:
- (1) Parking space (See Appendix 1);
  - (2) Maximum 12 percent grade for driveways;
  - (3) Directional signs and pavement marking shall be used to control vehicle movement in the parking lot;
  - (4) One-way drives shall have an improved width of at least 12 feet, and the inside radius at the curb shall be 25 feet for any curves or corners and signs shall be erected indicating the one-way direction;
  - (5) Two-way driveways shall have an improved width of at least 20 feet and the inside radius at the curb shall be 25 feet for any curves or corners.
- (E) Access: All parking or loading areas shall be served with either separate ingress and egress driveways or with an adequate turn-around, which is always available and useable. All entrances and exits onto a public right-of-way shall first have the approval of the Director of Public Works or County Engineer.
- (F) Fences, walls and hedges:
- (1) When the parking or loading area is within the SR zone such parking or loading area shall be screened from all obscuring ornamental fence, wall or compact evergreen hedge, except along an alley;
  - (2) When the parking or loading area is adjacent to the SR zone, there shall be a sight obscuring ornamental fence, wall, or compact evergreen hedge between the parking or loading area and the SR zone, except along an alley;
  - (3) The ornamental fence or wall shall be erected and maintained at a height of at least four (4) feet but not more than seven (7) feet; a compact evergreen hedge shall be not less than three (3) feet at planting and capable of reaching a height



of six (6) feet. Fences, walls or hedges shall have the same setback requirements from all streets and the same vision clearance areas as required for a one (1) story building in the zone in which such parking or loading area is located. In yard areas other those adjacent to a street, the fence wall or hedge may be located on the property line.

- (G) Lighting: Any light used to illuminate a parking or loading area shall be so arranged as to be directed entirely onto the loading or parking area, shall be deflected away from any residential use and shall not cast a glare or reflection onto moving vehicles on public right-of-way.
- (H) Landscaping: In every residential, commercial, and industrial zone other than the SR zone, there shall be provided a landscaped yard as set forth in the appropriate development standards sections of this chapter. In addition to other landscape requirements every newly developed automobile off-street parking area or if any graveled or unimproved lot is paved, such lot shall have at least one (1) percent of the gross parking lot area devoted to landscaping. The gross parking lot area, as used in this instance, is the outer boundaries of the specific area devoted to parking of automobiles exclusive of any buildings and/or other landscaping areas otherwise provided.
- (I) Plans and Permits: Plans at a workable scale shall be referred to the Director of Public Works or County Engineer for a recommendation prior to the issuance of a permit by the Building Official.
- (J) Loading spaces shall be marked for loading only.

**112.280. APPLICATION OF REGULATIONS REGARDING ACCESSORY**

**STRUCTURES.** The regulations regarding accessory structures set forth in this Chapter shall apply to customary residential accessory buildings for private use in the Suburban Residential Zoning District. These regulations do not apply to accessory structures in the Acreage Residential Five Acre (AR-5) and Ten Acre (AR-10) Zones, or Agriculture and Forestry Ten Acre (AF-10) zone.

**112.290. LOT COVERAGE BY ALL ACCESSORY STRUCTURES.** The lot coverage by all accessory structures shall not be more than 25 percent of rear yard area.

**112.300. HEIGHT STANDARDS FOR ACCESSORY STRUCTURES.** The maximum height (as defined by Section 110.260) of any accessory structure shall be eight (8) feet when the foundation of the accessory structure is located at the lot line as provided by Section 112.330.

For properties which are not located within adopted urban growth boundaries, the maximum height for an accessory structure may be increased one (1) foot for each one (1) foot of distance from the lot line to a maximum height of 35 feet.

For properties within adopted urban growth boundaries, the maximum height for accessory structures shall be the applicable city standard. No variances to this standard shall be allowed, however the affected city may waive this requirement, in writing, to allow construction of an accessory structure up to 35 feet in height. If a waiver is granted by the affected city, the maximum height for the accessory structure may be increased one (1) foot for each one (1) foot of distance from the lot line to the maximum height of 35 feet.

**112.310. FRONT YARDS AND YARDS ADJACENT TO STREETS WITH ACCESSORY STRUCTURES.** Any accessory structure, except fences, which has any portion extending above grade shall observe the yard requirements the same as the main building, otherwise all such structures shall be at or below grade.

**112.320. SIDE YARDS, INTERIOR WITH ACCESSORY STRUCTURES.** Accessory structures not attached to the main building located in an interior side yard shall be set back at least five (5) feet from any lot line.

**112.330. REAR YARDS WITH ACCESSORY STRUCTURES.** Within interior rear yards and portions of rear yards not abutting a street, an accessory structure may be placed on the property line except along an alley; all structures except fences shall be at least one (1) foot from the alley. Note: The Building Code may require a setback from the property line.

**112.340. ACCESSORY STRUCTURES ATTACHED TO THE MAIN BUILDING.** Covered or enclosed accessory buildings which are attached to the main building shall be considered as a portion of the main building and shall observe the same requirements as the main building except for certain projections, as provided in Sections 112.100, 112.110, and 112.120. Accessory structures shall be considered as being attached to the main building when any portion of the accessory structure is located within four (4) feet of the main building.

**112.350. FENCES-LOCATION HEIGHT AND DENSITY.** In any yard adjacent to a street and within ten (10) feet from the property line adjacent to such street, fences, walls and hedges may be up to 48 inches in height, when that portion of the fence above 24 inches is at least 75 percent open when measured at 90 degrees to the fence. Fences located in a yard area other than above described may be up to seven (7) feet in height.

**112.360. MEASUREMENT OF HEIGHT OF FENCES.** All fences along a public right-of-way will be measured from and along the sidewalk, or if no sidewalk exists, from and along the curb, or if no curb exists, from and along the finished shoulder grade of the right-of-way. All other fences will be measured from and along the finished grade of the property along the fence.

**112.370. FENCES-USE OF HAZARDOUS MATERIALS.** Fences shall not be constructed of or contain any material which will do bodily harm, such as barbed wire, electric wire, (other than stock fences), broken glass, spikes, and any other hazardous or dangerous materials.

#### **112.390. RESIDENTIAL ZONE DEVELOPMENT STANDARDS**

(A) Suburban Residential Zoning District (SR)

- (1) **LOT AREA COVERAGE AND WIDTH.** The front building line of every lot in an SR Zone shall have a minimum width of 60 feet. Total lot coverage by a dwelling, main building and accessory building in combination shall not exceed 40 percent of the lot area.
- (2) **FRONT YARD.** Every building erected, constructed, or altered in an SR Zone shall set back from the front lot line at least 20 feet, except in the instance where the average depth of the other buildings on the same side of the street are between ten (10) and 20 feet, then the average depth may be used. The average depth is the average of the distance from the closest part of the foundation of the existing buildings to the front property line where the existing buildings are within 200 feet of the center of the proposed building, on the same side of the street, within the same block.

If existing buildings are within ten (10) feet of the property line, then no less than 10 feet shall be used in figuring the average, or if existing building are more than 20 feet from the property line then the minimum requirement of 20 feet shall be used in figuring the average.

When by this ordinance or any other ordinance a greater setback or a front yard of greater depth is required than specified in this section, then such greater setback line or front yard depth shall apply.

- (3) **SIDE YARDS.** There shall be a side yard on each side of the main building on every lot in an SR Zone in width not less than five (5) feet for a one-story building; not less than six (6) feet for a two and one-half (2-1/2) story building; provided, however, any side yard adjacent to a street shall conform to the setback set forth in Section 112.080.
- (4) **REAR YARDS.** There shall be a rear yard on every lot in an SR Zone, which rear yard shall have a minimum depth of 24 feet for a one (1) story building, 30 feet for a two (2) story building and 36 feet for a two and one-half (2-1/2) story building. In the case of a corner lot, the minimum depth shall be 14 feet for a one (1) story building, 20 feet for a two (2) story building adjacent to either interior lot line; provided, however, any rear yard provided adjacent to a street shall conform to the setback set forth in Section 112.080.
- (5) **HEIGHT.** In the SR Zone, no buildings or structure shall exceed 35 feet or two and one-half (2-1/2) stories in height, except churches and public and semi-public buildings, where permitted, may be built to a height of 70 feet or six (6) stories, provided any such buildings set back from every street and lot line one (1) foot for each foot of height of the building in excess of 35 feet, in addition to other yard and setback requirements herein specified.
- (6) **MINIMUM SIZE FOR THE CREATION OF NEW PARCELS OR LOTS.** The minimum size for newly created lots or parcels in the Suburban Residential Zone shall be as follows:
  - (a) 1.00 acre within unincorporated communities, or
  - (b) 2.00 acres outside urban growth boundaries and outside unincorporated community boundaries, or
  - (c) Within an urban growth boundary, the minimum size for newly created parcels or lots shall conform to the lot area requirements identified in the urban growth management agreement between Polk County and the affected City.

Note: Nothing in this section provides for an exemption from compliance with Polk County Subdivision Ordinance Section 91.350 which requires that each lot or parcel be of proper size to provide for adequate sub-surface sewage disposal facilities.

(B) **Acreage Residential and Agriculture and Forestry Zoning Districts (AR-5, AR-10, and AF-10)**

(1) **LOT AREA.**

- (a) The minimum lot size in the AR-5 Zone shall be five (5) acres.
- (b) The minimum lot size in the AR-10 and AF-10 Zones shall be ten (10) acres.

(2) **YARDS.**

- (a) There shall be front, side, and rear yards of the following depths for lots in the AR-5, AR-10, and AF-10 Zoning Districts:

All buildings and structures

Front	Side	Rear
30 feet	20 feet	20 feet

- (b) Any side or rear yard adjacent to a street shall meet the yard requirement for a front yard.

- (c) When by this ordinance or any other ordinance, a greater setback or front yard of greater depth is required by this section, the greater setback line or front yard depth shall apply. If a lesser setback or yard is required, the provisions of this ordinance shall apply.
  - (d) All structures are subject to any special setback lines, where specified on designated arterials or collectors, in addition to the above setbacks.
- (3) **HEIGHT.** In the AR-5, AR-10, and AF-10 Zones, no buildings or structure shall exceed 35 feet or two and one-half (2-1/2) stories in height, except churches and public and semi-public buildings, where permitted, may be built to a height of 70 feet or six (6) stories, provided any such buildings set back from every street and lot line one (1) foot for each foot of height of the building in excess of 35 feet, in addition to other yard and setback requirements herein specified. [Amended by Ordinance #04-01, dated January 21, 2004.]
- (C) **Residential Multi-Family Zoning District (RM)**
- (1) **LOT AREA AND WIDTH.** In the RM zone the minimum requirements for lot area shall be 6,000 square feet for a single-family dwelling. The minimum lot area requirements for other residential uses shall be 5,000 square feet additional lot area computed as follows:
    - (a) For the 1st through the 5th unit:
      - (i) For each dwelling unit with one (1) or less bedrooms - 750 square feet;
      - (ii) For each dwelling with two (2) bedrooms - 1,000 square feet;
      - (iii) For each dwelling with three (3) or more bedrooms - 1,200 square feet.
    - (b) For the 6th dwelling unit and each succeeding dwelling unit the following additional lot area shall be required:
      - (i) For each dwelling unit with one (1) or less bedrooms:
        - (A) One (1) story - 1,250 square feet
        - (B) Two (2) story - 1,000 square feet
      - (ii) For each dwelling with two (2) bedrooms:
        - (A) One (1) story - 1,675 square feet
        - (B) Two (2) story - 1,300 square feet
      - (iii) For each dwelling with three (3) or more bedrooms:
        - (A) One (1) story - 2,150 square feet
        - (B) Two (2) story - 1,700 square feet
    - (c) No main building or group of buildings shall occupy more than 40 percent of the lot area, and no detached accessory structure may occupy more than 25 percent of any side or rear yard, except that covered or enclosed parking structure limited to one story in height shall be excluded from these coverage provisions;
    - (d) Every lot in the RM zone shall have a minimum width of 50 feet at the front building line. The minimum lot area requirements for buildings other than dwellings shall be of an area not less than the sum of the area occupied by the building or buildings, and the area required for yards herein, or 5,000 square feet, whichever is greater.

- (e) Subdivision or partition proposals for property located within an adopted Urban Growth Boundary shall conform to the lot area requirements of all urban growth management agreements adopted between Polk County and the participating city prior to granting of final approval.
- (2) FRONT YARDS. In the RM zone, there shall be a minimum front yard of 20 feet. No parking shall be allowed in the required minimum front yard.
- (3) SIDE AND REAR YARD.
  - (a) There shall be a side yard and a rear yard on every lot in the RM zone, which yards shall have a minimum depth as follows:
    - (i) One story - six (6) feet
    - (ii) Two story - seven (7) feet
    - (iii) Two and one-half (2 1/2) story - eight (8) feet

There shall be added to these minimum side yard and the rear yard requirements, one (1) foot for each multiple of 15 feet or portion thereof, that the length of the side of the building measures over 30 feet. Notwithstanding Section 110.610, the rear yard in the RM zone shall be measured from the property line.

- (b) In lieu of subsection (a) of this section, side and rear yards may be provided which will allow placement of portions of a main building with offsets and jogs at varying yard depths, provided the said yards shall conform to the following conditions:
  - (i) The minimum yard depth for any continuous wall between offsets and jogs shall be computed and provided as in subsection (a) of this section for that portion of the wall between offsets and jogs, provided the total yard area equals that which would have been otherwise provided in said subsection (a) which area shall be determined by multiplying the length of the yard times the depth of the yard.
  - (ii) The minimum yard depth for any portion of a building shall be six (6) feet for a one (1) story, seven (7) feet for a two (2) story, and eight (8) feet for a two and one-half (2 1/2) story building.

(4) LANDSCAPED YARDS.

- (a) In the RM zone, the following landscaped yard shall be provided for residential uses other than single and two (2) family dwellings:
  - (i) For each dwelling unit with one (1) or less bedrooms - 300 square feet;
  - (ii) For each dwelling with two (2) bedrooms - 400 square feet;
  - (iii) For each dwelling with three (3) bedrooms - 500 square feet;
  - (iv) For each dwelling with more than three (3) bedrooms - 500 square feet, plus 100 square feet for each additional bedroom in each unit.
- (b) In the RM zone all required yards adjacent to a street shall be landscaped, save that portion devoted to off-street parking. Such landscaping may be counted in fulfilling the requirements of subsection (a).

- (5) HEIGHT. In the RM zone, no building or structure shall exceed 35 feet or two and one-half (2 1/2) stories in height, except churches and public and semi-public buildings, where permitted, may be built to a height not to exceed 70 feet or six stories, provided any such building sets back from every street and lot line one foot for each foot of height of the building in excess of 35 feet, in addition to other yard and setback requirements herein specified.

(D) Limited Multi-Family Residential Zone (RL)

- (1) LOT AREA AND WIDTH. In the RL zone the minimum requirements for lot area shall be 6,000 square feet for a single-family dwelling. The minimum lot area requirements for other residential uses shall be 5,000 square feet additional lot area computed as follows:
- (a) For the 1st through the 5th unit:
    - (i) For each dwelling unit with one (1) or less bedrooms - 750 square feet;
    - (ii) For each dwelling with two (2) bedrooms - 1,000 square feet;
    - (iii) For each dwelling with three (3) or more bedrooms - 1,200 square feet.
  - (b) For the 6th dwelling unit and each succeeding dwelling unit the following additional lot area shall be required:
    - (i) For each dwelling unit with one (1) or less bedrooms, one (1) story - 1,250 square feet;
    - (ii) For each dwelling unit with two (2) bedrooms, one (1) story - 1,675 square feet;
    - (iii) For each dwelling with three (3) or more bedrooms, one (1) story - 2,150 square feet;
  - (c) No main building or group of buildings shall occupy more than 40 percent of the lot area, and no detached accessory structure may occupy more than 25 percent of any side or rear yard, except that covered or enclosed parking structure limited to one story in height shall be excluded from these coverage provisions;
  - (d) Every lot in the RL zone shall have a minimum width of 50 feet at the front building line. The minimum lot area requirements for buildings

- other than dwellings shall be of an area not less than the sum of the area occupied by the building or buildings, and the area required for yards herein, or 5,000 square feet, whichever is greater.
- (e) Subdivision or partition proposals for property located within an adopted Urban Growth Boundary shall conform to the lot area requirements of all urban growth management agreements adopted between Polk County and the participating city prior to granting of final approval.
- (2) **FRONT YARDS.** In an RL zone, there shall be a minimum front yard of 20 feet. No parking shall be allowed in the required minimum front yard.
  - (3) **SIDE AND REAR YARD.**
    - (a) There shall be a side yard and a rear yard on every lot in the RL zone, which yards shall have a minimum depth of six (6) feet; provided there shall be added to the minimum side yard and rear yard requirements, one (1) foot for each multiple of 15 feet or portion thereof, that the length of the side of the building measures over 30 feet. Notwithstanding Section 110.610, the rear yard in an RL zone shall be measured from the property line.
    - (b) In lieu of subsection (a) above, side and rear yards may be provided which allow placement of portions of a main building with offsets and jogs at varying yard depths, provided the said yards shall conform to the following conditions:
      - (i) The minimum yard depth for any continuous wall between offsets and jogs shall be computed and provided as in (a) above for that portion of the wall between offsets and jogs; provided the total yard area equals that which would have otherwise been provided in (a) above, which area shall be determined by multiplying the length of the yard times the depth of the yard.
      - (ii) The minimum yard depth for any portion of a building shall be 6 feet.
    - (c) Notwithstanding the provisions of subsections (a) and (b) of this section, any side yard or rear yard adjacent to a street shall have a minimum yard depth of 20 feet. No parking shall be allowed within ten (10) feet of the street property line; provided, however, in no case shall parking be allowed in a required rear yard abutting the parallel or approximately parallel street or a through lot. For the purposes of this subsection, through lot shall be defined as a lot having frontage on two (2) parallel or approximately parallel street.
    - (d) The yard depth between two (2) or more main buildings on the same lot shall be equal to that side yard depth measured to an assumed property line drawn between the buildings. The yard depth between the assumed property line and the building shall not be less than as provided in (a) above.
  - (4) **LANDSCAPED YARDS.**
    - (a) In the RL zone, the following landscaped yard shall be provided for residential uses other than single and two (2) family dwellings:
      - (i) For each dwelling unit with one (1) or less bedrooms - 300 square feet;
      - (ii) For each dwelling with two (2) bedrooms - 400 square feet;

- (iii) For each dwelling with three (3) bedrooms - 500 square feet;
      - (iv) For each dwelling with more than three (3) bedrooms - 500 square feet, plus 100 square feet for each additional bedroom in each unit.
    - (b) In the RL zone all required yards adjacent to a street shall be landscaped, save that portion devoted to off-street parking. Such landscaping may be counted in fulfilling the requirements of subsection (a) above.
  - (5) HEIGHT. In the RL zone, no building or structure except a single-family dwelling on a separate deeded lot shall exceed one (1) story or 20 feet in height. Single-family dwellings shall not exceed 35 feet or two and one-half (2-1/2) stories. When approved by the Planning Director or Hearings Officer as a conditional use, churches and public and semi-public buildings, where permitted, may be built to a height not to exceed 70 feet or six (6) stories, provided any such building sets back from every street and lot line one (1) foot for each foot of height of the building in excess of 35 feet, in addition to other yard and setback requirements herein specified.
- (E) High Rise Apartment Residential Zone (RH)
- (1) LOT AREA AND WIDTH. Where the building or structure or portion thereof to be erected, altered or enlarged is not to exceed 35 feet or two and one-half (2-1/2) stories, then the requirements for lot area and width in the RM zone set forth in the RM zone (Section 112.380) shall apply. For buildings or structures exceeding 35 feet or two and one-half (2-1/2) stories the lot shall have a minimum lot area of 10,000 square feet.
- Subdivision or partition proposals for property located within an adopted Urban Growth Boundary shall conform to the lot area requirements of all urban growth management agreements adopted between Polk County and the participating city prior to granting of final approval.
- (2) FRONT YARDS. In the RH zone, there shall be a minimum front yard of 20 feet. No parking shall be allowed in the required minimum front yard.
  - (3) SIDE YARDS. When the building or structure or portion thereof to be erected, altered, or enlarged is not to exceed 35 feet or two and one-half (2-1/2) stories, then the requirements for side yards set forth in the RM zone (Section 112.380 (C)(3)) shall apply. For buildings and structures exceeding 35 feet or two and one-half (2-1/2) stories, each main building on each side shall have side yards, the minimum width of each shall be five (5) feet, which width shall be increased by 3 feet for each additional story above the first, but need not exceed 20 feet; provided, however, any side yard provided adjacent to a street shall have a minimum width of 20 feet, and there shall be no parking allowed with ten (10) feet of the street.
  - (4) REAR YARDS. Where the building or structure or portion thereof to be erected, altered, or enlarged is not to exceed 35 feet or two and one-half (2-1/2) stories, then the requirements for rear yards set forth in the RM zone (Section 112.380 (C)(3)) shall apply. For buildings and structures exceeding 35 feet or two and one-half (2-1/2) stories, there shall be a rear yard on every lot in an RH zone, which rear yard shall have a minimum depth of 20 feet for a one (1) story building, plus four (4) for each additional story above the first. Where the rear yard abuts a street no parking shall be allowed in the area within ten (10) of the said street.
  - (5) LANDSCAPED YARDS. Where the building or structure or portion thereof to be erected, altered, or enlarged is not to exceed 35 feet or two and one-half (2-1/2) stories, then the requirements for landscaped yards in the RM zone



(Section 112.380 (C)(3)) shall apply. For buildings and structures exceeding 35 feet or two and one-half stories (2-1/2) stories all required yards therefore adjacent to a street shall be landscaped, save that portion devoted to offstreet parking.

- (6) HEIGHT. There shall be no restrictions on height in an RH zone. [Amended by Ordinance 00-12]

#### **112.400. COMMERCIAL ZONE DEVELOPMENT STANDARDS**

(A) Commercial Office Zoning District (CO) & Unincorporated Community Office Zoning District (UC-CO)

- (1) LOT AREA AND WIDTH. Where the structure or building to be erected, altered or enlarged is to be used for purposes enumerated in the RM Zone, then the restrictions for lot area and width in the RM Zone shall govern (Section 112.380 (C)(1)). All other types of main building or accessory buildings shall occupy no more than 60 percent of the lot area.
- (2) FRONT YARDS. In the CO and UC-CO Zones there shall be a minimum front yard of 20 feet, and no parking shall be allowed.
- (3) SIDE YARDS. Where the structure or building or portion thereof to be erected, altered or enlarged is to be used for purposes enumerated in the RM Zone, then the restrictions for side yards in the RM Zone (Section 112.380 (C)(3)) shall govern. For buildings and structures erected, altered, or enlarged for other than RM Zone purposes, side yards shall be provided as follows:
  - (a) Main building:
    - (i) One (1) story - five (5) feet
    - (ii) Two (2) story - ten (10) feet
  - (b) Between main building on one (1) lot:
    - (i) One (1) story - ten (10) feet
    - (ii) Two (2) story - fifteen (15) feet

Provided, however, any side yard provided adjacent to a street shall have a minimum width of 20 feet, and no parking shall be within 10 feet of said street.

In the UC-CO Zone, side yards adjacent to an Exclusive Farm Use Zone, Farm Forest Zone, Farm Forest Overlay Zone, or Timber Conservation Zone shall be a minimum of 20 feet. A variance to this standard may be granted, subject to the provisions of Chapter 122 (Variances) of the Zoning Ordinance, subject to a showing that the proposed variance will not adversely affect adjacent farm or forest uses.

- (4) REAR YARD. Where the structure or building or portion thereof to be erected, altered or enlarged is to be used for purposes enumerated in the RM Zone, then the restrictions for rear yards in the RM Zone (Section 112.380 (C)(3)) shall govern. For buildings and structures erected, altered, or enlarged for other than RM Zone purposes, there shall be a rear yard provided on every lot of a minimum of 10 feet for one (1) story buildings and 14 feet for two (2) story buildings. In case the rear yard provided for is adjacent to a street, the minimum depth shall be 20 feet and no parking shall be allowed within 10 feet of said street. When a lot is used for other than residential purposes, and the rear yard abuts upon or is adjacent to premises used for residential purposes, then the rear yard shall be enclosed with an ornamental fence or wall not less than six (6) feet in height or an ornamental compact evergreen hedge not less

than three (3) feet and capable of attaining a height of six (6) feet, but this provision shall not apply to a lot bordered upon an alley.

In the UC-CO Zone, a rear yard adjacent to an Exclusive Farm Use Zone, Farm Forest Zone, Farm Forest Overlay Zone, or Timber Conservation Zone shall be a minimum of 20 feet. In the UC-CO Zone, side yards adjacent to an Exclusive Farm Use Zone, Farm Forest Zone, Farm Forest Overlay Zone, or Timber Conservation Zone shall be a minimum of 20 feet. A variance to this standard may be granted, subject to the provisions of Chapter 122 (Variances) of the Zoning Ordinance, subject to a showing that the proposed variance will not adversely affect adjacent farm or forest uses

**HEIGHT.** Where the building or structure or portion thereof to be erected, altered or enlarged is to be used for purposes enumerated in the RM Zone, then the restrictions for height in the RM Zone shall govern. For buildings and structures erected, altered or enlarged for other than said purposes shall not exceed two (2) stories or 35 feet in height.

(B) Commercial Retail Zoning District (CR), Unincorporated Community Commercial Retail Zoning District (UC-CR), Eola Unincorporated Community Commercial Zoning District, and Rickreall Unincorporated Community Commercial Zoning District (Rickreall UC-C).

- (1) **LOT AREA AND WIDTH.** Buildings or structures hereafter erected, altered, or enlarged and used wholly or partly for residential purposes in the CR, UC-CR, Eola UC-C, & Rickreall UC-C Zones shall comply with the lot area and width requirements of the RM Zone (Section 112.380 (C)(1)), otherwise no other lot area requirements exist.
- (2) **FRONT YARD.** A landscaped yard three (3) feet in depth shall be provided in the CR, UC-CR, Eola UC-C, and Rickreall UC-C Zones on every lot adjacent to a street, except that building or structures or any portion thereof used for residential purposes shall provide the front yard and landscaped yard as set forth in the RM Zone (Section 112.380 (C)(2)).
- (3) **SIDE AND REAR YARDS.** In the CR, UC-CR, Eola UC-C, and Rickreall UC-C Zones, no side or rear yard is required except as herein provided, but if one is provided it shall be not less than three (3) feet in depth exclusive only of any alley. A side or rear yard shall be provided in the CR, UC-CR, Eola UC-C, and Rickreall UC-C Zones when:
  - (a) The lot abuts or is adjacent to a premises used or is zoned for residential purposes. The yard shall be not less than three (3) feet in depth.
  - (b) The buildings or structures or portions thereof on a lot are used for residential purposes in which circumstances side and rear yard restrictions in RM Zones shall apply. In the case of subsection (a) of this section, the side and rear yard shall be contained by a wall or fence or ornamental compact evergreen hedge not less than three (3) feet high and capable of attaining a height of six (6) feet.
  - (c) A landscaped yard three (3) feet in depth shall be provided in all side and rear yards adjacent to a street.

In the UC-CR, Eola UC-C, and Rickreall UC-C Zones, side and rear yards adjacent to an Exclusive Farm Use Zone, Farm Forest Zone, Farm Forest Overlay Zone, or Timber Conservation Zone shall be a minimum of 20 feet. A variance to this standard may be granted, subject to the provisions of Chapter

122 (Variances) of the Zoning Ordinance, subject to a showing that the proposed variance will not adversely affect adjacent farm or forest uses.

- (4) **LANDSCAPED YARDS.** All yards shall be landscaped exclusive of through direct driveways, adjacent to every street, on every lot upon which a new non-residential structure is erected, or a graveled or unimproved lot is paved or a lot is newly developed for the outdoor sale or display of merchandise, goods or services.
- (5) **HEIGHT.** Where the building or structure or portion thereof to be erected, altered, or enlarged is to be used for residential purposes in the CR, UC-CR, Eola UC-C, or Rickreall UC-C Zones, the restrictions for height in the RM Zone (Section 112.380 (C)(5)) shall govern. Buildings and structures erected, altered or enlarged for other than residential purposes shall not exceed three (3) stories or 45 feet in height.
- (6) **CONDITIONS IMPOSED WHERE ZONE CHANGES TO CR, UC-CR, Eola UC-C, or Rickreall UC-C ZONE ABUTS RESIDENTIAL ZONE.** In any zone change or reclassification of property to the CR, UC-CR, Eola UC-C, or Rickreall UC-C Zones where the territory proposed to be changed abuts upon a residential zone, or abuts upon a street or alley which would be the boundary line between the proposed CR, UC-CR, Eola UC-C, and Rickreall UC-C Zones and the residential zone, conditions to preserve neighborhood qualities may be imposed by the Board of Commissioners relating to:
  - (a) Size and location of signs;
  - (b) Size, type and location of outdoor lighting;
  - (c) Landscaped areas;
  - (d) Screening;
  - (e) Building setbacks; and
  - (f) Ingress and egress for commercial uses.

If any of the above conditions are imposed, they shall be placed in the deed records of the County.

- (B) **Commercial General Zoning District (CG) & Unincorporated Community Commercial General Zoning District (UC-CG)**
  - (1) **LOT AREA AND WIDTH.** Buildings or structures hereafter erected, altered or enlarged and used wholly or partly for residential purposes in the CG and UC-CG Zones shall comply with the lot area requirements in the RM Zone (Section 112.380 (C)(1)), otherwise no other lot area requirements exist.
  - (2) **FRONT YARD.** A landscaped yard three (3) feet in depth shall be provided in the CG and UC-CG Zones on every lot adjacent to a street, except that buildings or structures or any portion thereof used for residential purposes shall provide the front yard and landscaped yard as set forth in the RM Zone (Section 112.380 (C)(2)).
  - (3) **SIDE AND REAR YARDS.** In the CG and UC-CG Zones, no side or rear yard is required, except as herein provided, but if one is provided it shall be not less than three (3) feet in depth exclusive of any alley. A side or rear yard shall be provided in the CG and UC-CG Zones when:
    - (a) The lot abuts or is adjacent to a premises used or is zoned for residential purposes. The yard shall be not less than three (3) feet in depth.
    - (b) The buildings or structures or portions thereof on a lot are used for residential purposes, in which circumstances, side and rear yard restrictions in the RM Zone (Section 112.380 (C)(3)) shall apply. In the

case of subsection (a) of this section, the side and rear yard shall be contained by a wall or fence or ornamental compact evergreen hedge not less than three (3) feet high and capable of attaining a height of six (6) feet.

- (c) A landscaped yard three (3) feet in depth shall be provided in all side and rear yards adjacent to a street.

In the UC-CG Zone, side and rear yards adjacent to an Exclusive Farm Use Zone, Farm Forest Zone, Farm Forest Overlay Zone, or Timber Conservation Zone shall be a minimum of 20 feet. A variance to this standard may be granted, subject to the provisions of Chapter 122 (Variances) of the Zoning Ordinance, subject to a showing that the proposed variance will not adversely affect adjacent farm or forest uses.

- (4) **LANDSCAPED YARDS.** All yards shall be landscaped exclusive of through direct driveways, adjacent to every street, on every lot upon which a new non-residential structure is erected, or a graveled or unimproved lot is paved or a lot is newly developed for the outdoor sale or display of merchandise, goods or services.
- (5) **HEIGHT.** Where the building or structure or portion thereof to be erected, altered, or enlarged is to be used for residential purposes in the CG and UC-CG Zones, the restrictions for height in the RM Zone (Section 112.380 (C)(5)) shall govern. Buildings and structures erected, altered or enlarged for other than residential purposes shall not exceed six (6) stories or 70 feet in height.
- (6) **CONDITIONS IMPOSED WHERE ZONE CHANGE TO CG OR UC-CG ZONE ABUTS RESIDENTIAL ZONE.** In any zone change or reclassification of property to the CG and UC-CG Zones where the territory proposed to be changed abuts upon a residential zone, or abuts upon a street or alley which would be the boundary line between the proposed CG and UC-CG Zones and the residential zone conditions to preserve neighborhood qualities may be imposed by the Board of Commissioners relating to:
  - (a) Size and location of signs;
  - (b) Size, type and location of outdoor lighting;
  - (c) Landscaped areas;
  - (d) Screening;
  - (e) Building setbacks; and
  - (f) Ingress and egress for commercial uses.

If any of the above conditions are imposed they shall be placed in the deed records of the County. [Amended by Ordinance #00-03, dated May 5, 2000]

(D) Rural Commercial Zoning District (R-COM)

- (1) **LOT AREA** The minimum lot area shall be adequate to provide for an approved on site septic system, a potable water source, parking and other applicable development standards of this Chapter and other general provisions and exceptions set forth by this ordinance.
- (2) **LOT WIDTH.** The minimum average lot width shall be 100 feet. The minimum lot width at the street shall be 50 feet.
- (3) **FRONT YARD.** A landscaped yard three (3) feet in depth shall be provided in the R-COM Zone on every lot adjacent to a street. Buildings or structures or

any portion thereof used for residential purposes are exempt from these provisions.

- (4) **REAR AND SIDE YARDS.** No side or rear yard is required except where a lot abuts a residential use or district, there shall be a yard not less than the rear yard required by the abutting residential district.
  - (a) Corner lots shall have no sight obstruction between three (3) feet and ten (10) feet in height measured from street grade within 30 feet in either direction from the street corner, as measured from the property line.
  - (b) The minimum yards shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The right-of-way shall be determined according to the applicable transportation plan.
  - (d) A landscaped yard three (3) feet in depth shall be provided in all side and rear yards adjacent to a street.

#### **112.410. INDUSTRIAL ZONE DEVELOPMENT STANDARDS**

- (A) Industrial Commercial Zoning District (IC), Unincorporated Community Industrial Commercial Zoning District (UC-IC), Eola Unincorporated Community Industrial Commercial Zoning District (Eola UC-IC), and Rickreall Unincorporated Community Industrial Commercial Zoning District (Rickreall UC-IC).
  - (1) **LOT AREA AND WIDTH.** Buildings or structures hereafter erected, altered or enlarged and used wholly or partly for residential purposes in the IC, UC-IC, Eola UC-IC, and Rickreall UC-IC Zones shall comply with the lot area requirements in the RM Zone (Section 112.380 (C)(1) otherwise no other lot area requirements exist.
  - (2) **FRONT YARD.** A landscaped yard three (3) feet in depth shall be provided in the IC, UC-IC, Eola UC-IC, and Rickreall UC-IC Zones on every lot adjacent to a street, except that buildings or structures or any portion thereof used for residential purposes shall provide the front yard and landscaped yard as set forth in the RM Zone (Section 112.380 (C)(2)).
  - (3) **SIDE AND REAR YARDS.** In the IC, UC-IC, Eola UC-IC, and Rickreall UC-IC zones, no side or rear yard is required, except as herein provided, but if one is provided it shall be not less than three (3) feet in depth exclusive of any alley. A side or rear yard shall be provided in the IC, UC-IC, Eola UC-IC, and Rickreall UC-IC Zones when:
    - (a) The lot abuts or is adjacent to a premises used or is zoned for residential purposes. The yard shall be not less than three (3) feet in depth.
    - (b) The buildings or structures or portions thereof on a lot are used for residential purposes, in which circumstances, side and rear yard restrictions in the RM Zone (Section 112.380 (C)(3)) shall apply. In the case of subsection (a) of this section, the side and rear yard shall be contained by a wall or fence or ornamental compact evergreen hedge not less than three (3) feet high and capable of attaining a height of six (6) feet.
    - (c) A landscaped yard three (3) feet in depth shall be provided in all side and rear yards adjacent to a street.

In the UC-IC, Eola UC-IC, and Rickreall UC-IC Zones, side and rear yards adjacent to an Exclusive Farm Use Zone, Farm Forest Zone, Farm Forest Overlay Zone, or Timber Conservation Zone shall be a minimum of 20 feet. A

variance to this standard may be granted, subject to the provisions of Chapter 122 (Variances) of the Zoning Ordinance, subject to a showing that the proposed variance will not adversely affect adjacent farm or forest uses.

- (4) **LANDSCAPED YARD.** All yards shall be landscaped exclusive of through direct driveways, adjacent to every street, on every lot upon which a new non-residential structure is erected, or a graveled or unimproved lot is paved or a lot is newly developed for the outdoor sale or display of merchandise, goods or services.
- (5) **HEIGHT.** Where the building or structure or portion thereof to be erected, altered, or enlarged is to be used for residential purposes in the IC, UC-IC, Eola UC-IC, and Rickreall UC-IC Zones, the restrictions for height in the RM Zone (Section 112.380 (C)(5)) shall govern. Buildings and structures erected, altered or enlarged for other than residential purposes shall not exceed six (6) stories or 70 feet in height.
- (6) **INDUSTRIAL PERFORMANCE STANDARDS.** The discharge into the air of solids, liquids or gases in such quantities as to be detrimental to the public health, safety and welfare causing injury to human, plant or animal life or to property is prohibited in this industrial zone. In the IC, UC-IC, Eola UC-IC, and Rickreall UC-IC Zones, no land or structure shall be used or occupied unless there is continuing compliance with the following standards:

- (a) **Heat, glare and light:**
  - (i) Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed building and shall not be discernible at or beyond the property line.
  - (ii) Exterior lighting shall be directed away from and shall not reflect on adjacent properties.

- (b) **Noise:**
  - (i) The standards for noise emissions from industrial and commercial noise sources are as follows:

Allowable Statistical Noise Levels at Any One Hour

	<u>7:00 a.m. to 10:00 p.m</u>	<u>10:00 p.m. to 7:00 a.m</u>
L <sub>50</sub>	55 DbA	50 DbA
L <sub>10</sub>	60 DbA	55 DbA
L <sub>01</sub>	75 DbA	60 DbA

Notes:

L<sub>50</sub> is the level that may be exceeded 50 percent of the time; cumulative 30 minutes/hour

L<sub>10</sub> is the level that may be exceeded 10 percent of the time; cumulative 10 minutes/hour

L<sub>01</sub> is the level that may be exceeded 1 percent of the time; cumulative 36 seconds/hour

DbA means A-weighted decibels (decibels measured at the frequency where the human ear is most sensitive.

- (ii) If the noise is not smooth and continuous, the following corrections in decibels shall be added to or subtracted from the above items:
  - (A) When in each one hour period, the noise source operates less than a total of (use only one factor):
    - 12 minutes add 5 decibels
    - 3 minutes add 10 decibels
    - 20 seconds add 15 decibels
  - (B) Noise of an impulsive character (such as hammering, etc.) less 5 decibels.
  - (C) Noise of periodic character (such as humming, screech, etc.) less 5 decibels.
- (iii) Noise made by devices which are maintained and utilized solely to serve as warning devices is excluded from these regulations.
- (iv) Noise created by highway vehicles, trains, watercraft and aircraft is excluded from these regulations.
- (v) Measurements:
  - (A) Sound levels shall be measured with a sound level meter and octave band analyzer approved by the Department of Environmental Quality.
  - (B) Measurements shall be made from at least three points along the property line or along a residential, commercial, or public zone boundary when such boundary is closer to the source than the property line.
  - (C) Measurements for alleged violations shall be made on at least three (3) non-consecutive days.
- (c) Sewage:
 

Adequate provisions shall be provided for the disposal of sewage and waste materials and such provisions shall meet the requirements of the Department of Environmental Quality.
- (d) Vibration:
 

No vibration, other than that caused by highway vehicles and trains, shall be permitted which shall endanger the health, welfare or safety of the public or so as to constitute a public nuisance.
- (B) Industrial Park Zoning District (IP) & Unincorporated Community Industrial Park Zoning District (UC-IP)
  - (1) FRONT YARD. There shall be a front yard on every lot in the IP and UC-IP Zones, which front yard shall have a minimum depth of 20 feet. Any front yard provided adjacent to a street shall not be used for off-street parking or loading areas, except ingress and egress lanes.
  - (2) REAR AND SIDE YARDS. There shall be a rear and side yard on every lot in the IP and UC-IP Zones, which rear and side yard shall have a minimum depth of 10 feet. The minimum depth shall be increased one (1) foot for each additional foot of building height above 10 feet, except a rear or side yard is not required adjacent to a railroad right-of-way, siding or spur track; provided,

however, any rear or side yard provided adjacent to a street shall have a minimum depth of 20 feet.

In the UC-IP Zone, side and rear yards adjacent to an Exclusive Farm Use Zone, Farm Forest Zone, Farm Forest Overlay Zone, or Timber Conservation Zone shall be a minimum of 20 feet. A variance to this standard may be granted, subject to the provisions of Chapter 122 (Variances) of the Zoning Ordinance, subject to a showing that the proposed variance will not adversely affect adjacent farm or forest uses.

- (3) OPEN STORAGE YARDS.
    - (a) All yard areas, exclusive of those required to be landscaped as provided in Section 112.400 (B)(4), may be used for materials and equipment storage yards or areas and may be used for the purposes permitted in the IP and UC-IP Zones, provided such yard area is enclosed with an ornamental, sight-obscuring fence or wall placed at a height of six (6) feet or a compact evergreen hedge planted at three (3) feet and capable of obtaining a minimum height of six (6) feet. Any fence, wall or hedge shall be located on the property at the required setback line in the same manner as if said fence or wall were a building.
    - (b) If any material or equipment projects above the six (6) feet screen, then a screen plan will be submitted to the Planning Director for approval.
    - (c) The surface of such area shall be paved or graveled and maintained at all times in a dust-free condition; except, that all automobile and truck parking and loading areas shall be paved, as provided in Section 112.220 through 112.280.
    - (d) Any lighting maintained in conjunction with material and equipment storage areas shall be so oriented as to not shine on or reflect into abutting properties or streets.
  - (4) LANDSCAPED YARDS. All required yard areas and all other yards not used for open storage as provided in Section 112.400 (B)(3), or paved parking and loading areas, shall be landscaped.
  - (5) HEIGHT. In the IP and UC-IP Zones, no building or structure shall exceed 45 feet in height.
  - (6) VEHICLE ACCESS. Access points to property from a street shall be located to minimize traffic congestion, and maximum effort shall be made to avoid directing traffic into residential areas. Before a street, other than an arterial, which is a boundary between a residential zone and the IP or UC-IP Zones, or a street which is within a residential zone, is used for any vehicular access to the IP or UC-IP Zone, such use of those streets must first have been approved by the Planning Director as a conditional use. Access roads and access points will be used to the maximum extent possible to serve the greatest number of uses. All access roads and driveways shall be surfaced with asphalt concrete or comparable permanent surfacing.
  - (7) INDUSTRIAL PERFORMANCE STANDARDS. The industrial performance standards for the IP and UC-IP Zones shall be the same as set forth in Section 112.400 (A)(6).
- (C) Light Industrial Zoning District (IL), Unincorporated Community Light Industrial Zoning District (UC-IL), Eola Unincorporated Community Industrial Zoning District (Eola UC-I), and Rickreall Unincorporated Community Industrial Zoning District (Rickreall UC-I).



- (1) **LOT AREA.** There are no minimum lot area requirements for buildings in the IL, UC-IL, Eola UC-I, or Rickreall UC-I Zones.
- (2) **FRONT YARD.** There shall be no front yard required in the IL, UC-IL, Eola UC-I, or Rickreall UC-I Zones.
- (3) **SIDE YARDS.** No side yard shall be required in the IL, UC-IL, Eola UC-I, or Rickreall UC-I Zones, but if one is provided, it shall be at least three (3) feet provided, however, where the side of a lot in the IL, UC-IL, Eola UC-I, or Rickreall UC-I Zone abuts upon or is adjacent to the side of a lot in any residential zone, then there shall be a side yard the same as is required in such abutting residential zone, and said yard shall be contained by a wall or fence not less than six (6) feet in height or compact evergreen hedge not less than three (3) feet and capable of obtaining a height of six (6) feet.

In the UC-IL, Eola UC-I, and Rickreall UC-I Zones, side yards adjacent to an Exclusive Farm Use Zone, Farm Forest Zone, Farm Forest Overlay Zone, or Timber Conservation Zone shall be a minimum of 20 feet. A variance to this standard may be granted, subject to the provisions of Chapter 122 (Variances) of the Zoning Ordinance, subject to a showing that the proposed variance will not adversely affect adjacent farm or forest uses.

- (4) **REAR YARD.** In the IL, UC-IL, Eola UC-I, or Rickreall UC-I Zones, no rear yard is required, except as herein provided, but if one is provided it shall be not less than three (3) feet in depth exclusive of any alley. A rear yard shall be provided in the IL, UC-IL, Eola UC-I, and Rickreall UC-I Zones when:
  - (a) The lot abuts or is adjacent to a premises used or is zoned for residential purposes. The yard shall be not less than three (3) feet in depth.
  - (b) The buildings or structures or portions thereof on a lot are used for residential purposes, in which circumstances, side and rear yard restrictions in the RM Zone (Section 112.380 (C)(3)) shall apply. In the case of subsection (a) of this section, the rear yard shall be contained by a wall or fence or ornamental compact evergreen hedge not less than three (3) feet high and capable of attaining a height of six (6) feet.
  - (c) A landscaped yard three (3) feet in depth shall be provided in all side and rear yards adjacent to a street.

In the UC-IL, Eola UC-I, and Rickreall UC-I Zones, a rear yard adjacent to an Exclusive Farm Use Zone, Farm Forest Zone, Farm Forest Overlay Zone, or Timber Conservation Zone shall be a minimum of 20 feet. A variance to this standard may be granted, subject to the provisions of Chapter 122 (Variances) of the Zoning Ordinance, subject to a showing that the proposed variance will not adversely affect adjacent farm or forest uses.

- (5) **LANDSCAPED YARD.** All yards shall be landscaped exclusive of through direct driveways, adjacent to every street, on every lot upon which a new non-residential structure is erected, or a graveled or unimproved lot is paved or a lot is newly developed for the outdoor sale or display of merchandise, goods or services.
- (6) **HEIGHT.** In the IL, UC-IL, Eola UC-I, and Rickreall UC-I Zones, no building or structure shall exceed 70 feet or six (6) stories in height.
- (7) **INDUSTRIAL PERFORMANCE STANDARDS.** The discharge into the air of solids, liquids or gases which are detrimental to the public health, safety and welfare by causing injury to human, plant or animal life or to property is prohibited in the IL, UC-IL, Eola UC-I, and Rickreall UC-I Zones. In the IL, UC-IL, Eola UC-I, and Rickreall UC-I Zones no land or structure shall be used

or occupied unless there is continuing compliance with the following standards:

(a) Heat, glare and light:

All operations and facilities producing heat, glare or light, including exterior lighting, shall be so directed or shielded by walls, fences, or evergreen plantings that such heat, glare or light is not reflected or directed onto adjacent properties or streets.

(b) Noise:

No noise or sound in the IL, UC-IL, Eola UC-I, and Rickreall UC-I Zones shall be of a nature which will constitute a nuisance and all uses in the IL, UC-IL, Eola UC-I, and Rickreall UC-I Zones within 150 feet of an IP or UC-IP Zone shall not exceed the limits prescribed for the IP or UC-IP Zone.

(c) Sewage:

Adequate provisions shall be provided for the disposal of sewage and waste materials and such provisions shall meet the requirements of the Department of Environmental Quality.

(d) Vibration:

No vibration, other than that caused by highway vehicles and trains, shall be permitted which is discernible without instruments at or beyond the property line for the use concerned.

(D) Heavy Industrial Zoning District (IH) & Unincorporated Community Heavy Industrial Zoning District (UC-IH)

- (1) LOT AREA. There are no minimum lot area requirements for buildings in the IH or UC-IH Zones.
- (2) FRONT YARD. There shall be no front yard required in the IH or UC-IH Zones.
- (3) SIDE YARDS. No side yard shall be required in the IH or UC-IH Zones, but if one is provided, it shall be at least three (3) feet; provided, however, where the side of a lot in the IH or UC-IH Zone abuts upon or is adjacent to the side of a lot in any residential zone, then there shall be a side yard the same as is required in such abutting residential zone, and said yard shall be contained by a wall or fence not less than six (6) feet in height or compact evergreen hedge not less than three (3) feet and capable of obtaining a height of six (6) feet.

In the UC-IH Zone, side yards adjacent to an Exclusive Farm Use Zone, Farm Forest Zone, Farm Forest Overlay Zone, or Timber Conservation Zone shall be a minimum of 20 feet. A variance to this standard may be granted, subject to the provisions of Chapter 122 (Variances) of the Zoning Ordinance, subject to a showing that the proposed variance will not adversely affect adjacent farm or forest uses.

- (4) REAR YARD. In the IH or UC-IH Zones, no rear yard is required, except as herein provided, but if one is provided it shall be not less than three (3) feet in depth exclusive of any alley. A rear yard shall be provided in the IH and UC-IH Zones when:
  - (a) The lot abuts or is adjacent to a premises used or is zoned for residential purposes. The yard shall be not less than three (3) feet in depth.

- (b) The buildings or structures or portions thereof on a lot are used for residential purposes, in which circumstances, side and rear yard restrictions in the RM Zone (Section 112.380 (C)(3)) shall apply. In the case of subsection (a) of this section, the rear yard shall be contained by a wall or fence or ornamental compact evergreen hedge not less than three (3) feet high and capable of attaining a height of six (6) feet.
- (c) A landscaped yard three (3) feet in depth shall be provided in all side and rear yards adjacent to a street.

In the UC-IH Zone, a rear yard adjacent to an Exclusive Farm Use Zone, Farm Forest Zone, Farm Forest Overlay Zone, or Timber Conservation Zone shall be a minimum of 20 feet. A variance to this standard may be granted, subject to the provisions of Chapter 122 (Variances) of the Zoning Ordinance, subject to a showing that the proposed variance will not adversely affect adjacent farm or forest uses.

- (5) **LANDSCAPED YARD.** All yards shall be landscaped exclusive of through direct driveways, adjacent to every street, on every lot upon which a new non-residential structure is erected, or a graveled or unimproved lot is paved or a lot is newly developed for the outdoor sale or display of merchandise, goods or services.
- (6) **HEIGHT.** In the IH and UC-IH Zones, no building or structure shall exceed 70 feet or six (6) stories in height.
- (7) **INDUSTRIAL PERFORMANCE STANDARDS.** The discharge into the air of solids, liquids or gases which are detrimental to the public health, safety and welfare causing injury to human, plant or animal life or to property is prohibited in this industrial zone. In the IH and UC-IH Zones, no land or structure shall be used or occupied unless their in continuing compliance with the following standards:
  - (a) **Heat, glare and light:**  
All operations and facilities producing heat, glare or light, including exterior lighting, shall be so directed or shielded by walls, fences, evergreen plantings, that such heat, glare or light is not reflected or directed onto adjacent properties or streets.
  - (b) **Noise:**  
No noise or sound in the IH and UC-IH Zones shall be of a nature which will constitute a nuisance and all uses in the IH and UC-IH Zones within 150 feet of an IP or UC-IP Zone shall not exceed the limits prescribed for the IP or UC-IP Zone.
  - (c) **Sewage:**  
Adequate provisions shall be provided for the disposal of sewage and waste materials and such provisions shall meet the requirements of the Department of Environmental Quality.
  - (d) **Vibration:**  
No vibration other than that caused by highway vehicles and trains shall be permitted which is discernible without instruments at or beyond the property line for the use concerned.

(E) Rural Industrial Zoning District (R-IND)

- (1) **LOT AREA.** The minimum lot area shall be adequate to provide for an approved on site septic system, a potable water source, parking and other

applicable development standards of this Chapter and other general provisions and exceptions set forth by this ordinance.

- (2) LOT WIDTH. The minimum average lot width shall be 100 feet. The minimum average lot width at the street shall be 50 feet.
- (3) LOT DEPTH. The minimum average lot depth shall be 100 feet.
- (4) FRONT YARD. The minimum front yard shall be twenty (20) feet for all structures. A ten (10) foot wide landscaped area parallel to the front yard setback, excluding access/egress shall be established within the required front yard setback. Vehicle maneuvering is permitted within the balance of the front yard setback, however, required off-street parking is expressly prohibited.
- (5) REAR AND SIDE YARDS. No side or rear yard shall be required, except where a lot abuts a residential use or district, there shall be a yard not less than the rear yard required by the abutting residential district.

Corner lots shall have no sight obstruction between three (3) feet and ten (10) feet in height measured from street grade within 30 feet in either direction from the street corner, as measured from the property line.

The minimum yards shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The right-of-way shall be determined according to the applicable transportation plan.

The side or rear yard may be eliminated where a railroad service to the site is obtained at the edge of the lot.

- (6) HEIGHT. No building or structure shall exceed seventy (70) feet in height unless authorized through a Variance.
- (7) LOT COVERAGE. No lot shall be covered with structures in excess of sixty (60) percent of the total lot area.
- (8) ACCESS. To facilitate access and egress, all lots in this District shall abut or be within 250 feet of a public street, road or highway; or be located on a private road constructed to applicable private road standards.
- (9) OPEN STORAGE YARDS.
  - (a) All yard areas, exclusive of those required to be landscaped may be used for materials and equipment storage yards or areas and may be used for the purposes permitted in the R-IND Zone, provided such yard area is enclosed with an ornamental, sight-obscuring fence or wall placed at a height of six (6) feet or a compact evergreen hedge planted at three (3) feet and capable of obtaining a minimum height of six (6) feet. Any fence, wall or hedge shall be located on the property at the required setback line in the same manner as if said fence or wall were a building.
  - (b) No material or equipment shall project above the six (6) feet screen, unless authorized by a variance.
  - (c) The surface of such area shall be paved or graveled and maintained at all times in a dust-free condition; except, that all automobile and truck parking and loading areas shall be paved, as provided in Section 112.220 through 112.280.
  - (d) Any lighting maintained in conjunction with material and equipment storage areas shall be so oriented as to not shine on or reflect into abutting properties or streets.

- (10) **INDUSTRIAL PERFORMANCE STANDARDS.** The discharge into the air of solids, liquids or gases which are detrimental to the public health, safety and welfare causing injury to human, plant or animal life or to property is prohibited in this industrial zone. In the R-IND Zone, no land or structure shall be used or occupied unless their in continuing compliance with the following standards:
- (a) **Heat, glare and light:**

All operations and facilities producing heat, glare or light, including exterior lighting, shall be so directed or shielded by walls, fences, evergreen plantings, that such heat, glare or light is not reflected or directed onto adjacent properties or streets.
  - (b) **Noise:**

No noise or sound in the R-IND Zone shall be of a nature which will constitute a nuisance and all uses in the R-IND Zone within 150 feet of a residential Zone shall not exceed the limits prescribed for the IP Zone.
  - (c) **Sewage:**

Adequate provisions shall be provided for the disposal of sewage and waste materials and such provisions shall meet the requirements of the Department of Environmental Quality.
  - (d) **Vibration:**

No vibration other than that caused by highway vehicles and trains shall be permitted which is discernible without instruments at or beyond the property line for the use concerned. [Amended by Ordinance #00-03, dated May 5, 2000]

#### **112.420. PUBLIC ZONE DEVELOPMENT STANDARDS**

- (A) **LOT AREA.** The minimum requirements in PC, PE and PP Zones for dwellings shall be the same lot area prescribed for dwellings in the RM Zone, and in PA, PH and PS Zones, the same lot area prescribed for dwellings in the PH Zone. No main building, including dwellings, shall occupy more than 30 percent of the lot area in the PC, PE and PP Zones.
- (B) **FRONT YARD.** There shall be a front yard on every lot in all Public Zones, which front yard shall have a minimum depth of 20 feet. No parking shall be permitted within the minimum front yard area.
- (C) **SIDE YARDS.** Where the side of a lot in any Public Zone abuts upon the side of a lot in the SR, AR-5, AR-10, or AF-10 Zones, there shall be a minimum side yard of five (5) feet. There shall be added to these minimum requirements, one (1) foot for each multiple of 15 feet or portion thereof, that the length of that side of the building measures over 30 feet; in addition, any side yard adjacent to a street shall be a minimum of 20 feet and no parking shall be permitted within 10 feet of the street property line. [Amended by Ordinance #04-01, dated January 21, 2004.]
- (D) **REAR YARD.** In any Public Zone, there shall be a rear yard which shall have a minimum depth of 20 feet, which depth shall be increased by four (4) feet for each additional story above the first.
- (E) **HEIGHT.** No building or structure in a PC Zone shall exceed two and one-half stories or 35 feet. No building or structure in all other Public Zones shall exceed six (6) stories or seventy feet, provided that in PE and PP Zones the buildings or structures shall set back from every street and lot line one (1) foot for each foot of

height of the building in excess of 35 feet in addition to all other yard and setback requirements herein specified.

### 112.430. RESOURCE ZONE DEVELOPMENT STANDARDS

(A) Exclusive Farm Use Zoning District (EFU)

(1) YARDS

- (a) There shall be front, side and rear yards of the following depths for lots in the Exclusive Farm Use Zoning District:

All buildings and structures

Front	Side	Rear
30 feet	20 feet	20 feet

- (b) Any side or rear yard adjacent to a street shall meet the yard requirement for a front yard.
- (c) When by this ordinance or any other ordinance, a greater setback or front yard of greater depth is required than is required by this section, the greater setback line or front yard depth shall apply. If a lesser setback or yard is required, the provisions of this ordinance shall apply.
- (d) All structures are subject to any special setback lines, where specified on designated arterials or collectors, in addition to the above setbacks.
- (2) HEIGHT. There shall be a height limitation of 100 feet in the Exclusive Farm Use Zoning District, except for those lands subject to the Airport Overlay zone or any structure which has received a conditional approval which limits the height of said structure.

(B) Farm Forest Zoning District (FF)

(1) YARDS

- (a) There shall be front, side and rear yards of the following depths for lots in the Farm Forest Zoning District:

All buildings and structures

Front	Side	Rear
30 feet	20 feet	20 feet

- (b) Any side or rear yard adjacent to a street shall meet the yard requirement for a front yard.
- (c) When by this ordinance or any other ordinance, a greater setback or front yard of greater depth is required than is required by this section, the greater setback line or front yard depth shall apply. If a lesser setback or yard is required, the provisions of this ordinance shall apply.
- (d) All structures are subject to any special setback lines, where specified on designated arterials or collectors, in addition to the above setbacks.
- (2) HEIGHT. There shall be a height limitation of 100 feet in the F/F zone, except for those lands subject to the Airport Overlay zone or any structure which has received a conditional use approval which limits the height of said structure.

(C) Timber Conservation Zoning District (TC)

(1) SETBACK REQUIREMENTS.

- (a) No structure or use shall be established in a manner likely to cause contamination of a stream, lake or other body of water.
- (b) Front Yard. Every building shall have a setback from the front property line or any lot line adjacent to a street or road, of at least 30 feet.
- (c) Side Yard. The minimum side yard requirements in the TC Zoning District shall be 80 feet.
- (d) Rear Yard. The minimum rear yard requirements in the TC Zoning District shall be 80 feet.

Note: When land divisions create parcels of less than 40 acres for conditional uses listed in Sections 177.030 (H) and (L) and 177.040 (A) through (P), provided that those uses have been approved pursuant to Section 177.050 of this Ordinance, required building setbacks for these parcels will be determined on a case-by-case basis through the conditional use process and may vary from those required under Section 177.050 based upon the specific use authorized by the Conditional Use Permit.

(D) Mineral Extraction Zone (ME)

- (1) FRONT YARD. The minimum front yard setback for all structures in an ME Zone shall be 20 feet, unless by this ordinance or some other ordinance a greater setback is required.
- (2) SIDE YARD. The minimum side yard requirement in an ME Zone shall be ten (10) feet.
- (3) REAR YARD. The minimum rear yard required for any structure in the ME Zone shall be 24 feet.

Table No. 31-A – Number of Accessible Parking Spaces (Handicap)

Minimum Required Number of Total Parking Spaces	Accessible Space
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-999	2% of total spaces
over 1,000	20 spaces plus 1 for every 100 spaces or fraction thereof, over 1000

One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches wide minimum and shall be designated van accessible. The vertical clearance at such van spaces shall be 98 inches. All such spaces may be grouped on one level of a parking structure.

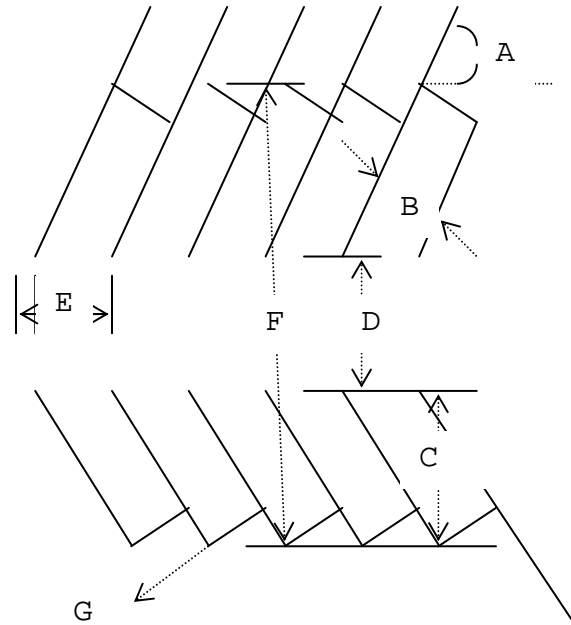
Table No. 31-B – Wheelchair Spaces Required in Assembly Areas

Capacity of Seating in Assembly Area	Number of Required Wheelchair Spaces
4 to 25	1
26 to 50	2
51 to 300	4
301 to 500	6
over 500	6, plus 1 for each 100 over 500



## Appendix 1.

A	B	C	D	E	F	G
45	8.5	17.5	13.0	12.0	48.0	2.0
	9.0	17.5	12.0	12.7	47.2	2.0
	9.5	17.5	11.0	13.4	46.0	2.0
	10.0	17.5	11.0	14.1	46.0	2.0
60	8.5	19.0	18.0	9.8	56.0	2.5
	9.0	19.0	16.0	10.4	54.0	2.5
	9.5	19.0	15.0	11.0	53.0	2.5
	10.0	19.0	14.0	11.6	52.0	2.5
75	8.5	19.5	25.5	8.8	64.0	2.5
	9.0	19.5	23.0	9.3	62.0	2.5
	9.5	19.5	22.0	9.8	61.0	2.5
	10.0	19.5	21.0	10.3	60.0	2.5
90	8.5	18.5	28.0	8.5	65.0	3.0
	9.0	18.5	26.0	9.0	63.0	3.0
	9.5	18.5	25.0	9.5	62.0	3.0
	10.0	18.5	24.0	10.0	61.0	3.0



A	Parking Angle
B	Stall Width
C	Stall Depth (no bumper overhang)
D	Aisle Width Between Stall Lines (5)
E	Stall Width Parallel to Aisle
F	Module Width (no bumper overhang)
G	Bumper Overhang

**NOTE:**

**A.**

- 1) For one (1) row of stalls use “C” plus “D” as minimum bay width.
- 2) Public alley width may be included as part of dimension “D”, but all parking stalls must be on private property, off the public right-of-way.
- 3) For estimating available parking area, use 350 sq. ft. per vehicle for stall, aisle and access areas.
- 4) The stall width for self-parking of long duration is 8.6’; for higher turnover self-parking is 9.0’; and for supermarkets and similar facilities (shoppers with packages) is 9.5 – 10.0’.
- 5) The minimum aisle width for two-way traffic and for emergency vehicle operations area is 24’. The minimum aisle width for emergency vehicle access (one way traffic) is 20’.
- 6) Where appropriate bumper overhang area is provided (extruded curbs), “G” can be subtracted from “C” to determine stall depth.
- 7) Dimensions of required recreational vehicle spaces are 10’ x 25’.

**B.** Areas used for required parking or maneuvering of vehicles shall have a durable, hard surface. In all residential areas, a minimum of 2 ½ inches asphalt over 4 inches of aggregate base will be provided or 4 inches of Portland cement concrete. In commercial and industrial areas, either 3 inches asphalt over 4 inches aggregate base or a single pavement of 5 inches of Portland cement concrete is required. All required parking spaces shall be striped.

**CHAPTER 113**  
**ENFORCEMENT**

- 113.010. Enforcement
- 113.020. Complaints Regarding Violations
- 113.030. Violations of Regulations Unlawful; Proof of Violation Prima Facie  
Evidence of Owner's Responsibility.
- 113.040. Penalties for Violation

**113.010. ENFORCEMENT.** It shall be the duty of the County Enforcement Officer to enforce this ordinance. [Amended by Ordinance #88-19, dated September 29, 1988.]

**113.020. COMPLAINTS REGARDING VIOLATIONS.** Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a signed written complaint with the County Enforcement Officer. It shall be the duty of said official to investigate any such complaint and any violation regardless of whether or not a complaint has been made thereof and to take such action as may be necessary.

**113.030. VIOLATIONS OF REGULATIONS UNLAWFUL; PROOF OF VIOLATION PRIMA FACIE EVIDENCE OF OWNER'S RESPONSIBILITY.** It shall be unlawful for any person to violate any provision of this ordinance, to permit or maintain any such violation, to refuse to obey any provision hereof, or to fail or refuse to comply with any such provision except as variation may be allowed under this ordinance. Proof of such unlawful act or failure to act shall be deemed prima facie evidence that such act is that of the owner. Prosecution or lack thereof of either the owner or the occupant shall not be deemed to relieve the other.

**113.040. PENALTIES FOR VIOLATION.** Any person shall be deemed guilty of a separate offense for every day during any portion of which any violation of any provision of this ordinance is committed, continued, or permitted by such person, and shall be punishable therefore as provided in this ordinance. Any person violating any provisions of this ordinance within any incorporated city shall be punished by a fine of not more than \$500 or by imprisonment in the city jail for a period not exceeding six months, or by both such fine and imprisonment. Violations outside of any incorporated city shall be punished as provided in ORS 215.299 and the Polk County Code of Ordinances which provides as follows:

- (A) A fine of not more than \$100 for each day of violation where the offense is a continuing offense but such fine may not exceed \$1,000.
- (B) A fine of not more than \$500 where the offense is not a continuing offense.
- (C) Justice courts, district courts and circuit courts have concurrent jurisdiction over prosecutions.
- (D) Violation of any applicable provision of ORS Chapter 215 is punishable, upon conviction, by a fine of not less than \$100 nor more than \$500.
- (E) Each and every day which an erection, construction, reconstruction, alteration, maintenance or use illegal under ORS Chapter 215 continues is a separate offense.

## **CHAPTER 114**

### **NONCONFORMING BUILDINGS AND USES**

- 114.010. Nonconforming Use of Land
- 114.020. Nonconforming Use of a Building
- 114.040. Nonconforming Lots of Record
- 114.050. Cessation of Nonconforming Use of Building and Land
- 114.060. Repair to Nonconforming Structures
- 114.071. Destruction of Nonconforming Structures
- 114.080. Enlargement or Extension to Nonconforming Buildings
- 114.081. Alteration to Nonconforming Building or Use
- 114.105. Appeal to the Board of Commissioners
- 114.106. Resubmission of Nonconforming Building or Use Application
- 114.107. Revocation of Permit
- 114.110. Conditional Uses are not Nonconforming Uses
- 114.120. Effect of Change of Zones
- 114.130. Repeal of Former Ordinance Does Not Change Nonconforming Status
- 114.141. Variance Uses May Continue

**114.010. NONCONFORMING USE OF LAND.** The lawful use of land existing on the effective date of this ordinance (November 13, 1970), although such use does not conform to the regulations specified for the zone in which such land is situated, may be continued, provided that no such use shall be enlarged or increased, or be extended to occupy a greater area than that occupied by such use at the time of the passage of this ordinance, and if any such use ceases, as hereinafter provided, subsequent use of such land shall be in conformity with the regulations specified in this ordinance for the zone in which such land is situated.

**114.020. NONCONFORMING USE OF A BUILDING.** The lawful use of a building existing on the effective date of this ordinance (November 13, 1970), may be continued although such building or the use made thereof does not conform to the regulations specified for the zone in which such building is located.

**114.040. NONCONFORMING LOTS OF RECORD.** Those lots which:

- (A) are of record.
- (B) were created prior to the adoption of the Polk County Subdivision and Partition Ordinance (May 15, 1974) by deed or sales contract or platted subdivision as provided by law; or,
- (C) were created after May 15, 1974 in conformance with all laws and regulations pertaining to such division of land.

Such lots may be used for a single-family dwelling in those zones in which the use is permitted, provided that yard dimensions and all other requirements not involving lot area or width shall conform to zone regulations.

**114.050. CESSATION OF NONCONFORMING USE OF BUILDING AND LAND.** When the actual operation of a nonconforming use of a building ceases for a continuous period of one (1) year, such building and the land on which it is located shall then be subject to all the regulations, except required set backs and off-street parking specified by this ordinance for the zone in which such land and building is situated. In case the nonconforming use of land where no building is involved ceases for a period of 30 days, then such land shall be subject to all the regulations specified for the zone in which the land was located. Nonconforming land includes land used for the grazing or keeping of livestock in zones where such use is not permitted.

**114.060. REPAIR TO NONCONFORMING STRUCTURES.** A nonconforming structure may be repaired and maintained, so long as any such repair or maintenance does not in any way increase its nonconformity and it remains otherwise lawful. [114.070 Repealed by Ordinance No. 91-36, dated October 30, 1991.]

**114.071. DESTRUCTION OF NONCONFORMING STRUCTURES.**

- (A) In case any lawful nonconforming building is damaged or destroyed by fire, other casualty or by any natural disaster, the building may be repaired or rebuilt if such repair or rebuilding is approved by the Planning Director. The Planning Director may impose conditions of approval in accordance with all other building, plumbing, sanitation and other codes. Repair or other rebuilding may be allowed if both of the following criteria are met:
  - (1) The building was legally established; and
  - (2) The building was damaged or destroyed by fire, other casualty, or by any natural disaster.

A land use determination by the Planning Director regarding repairing or rebuilding a nonconforming structure shall be considered an administrative action as provided by Section 111.240 of the Zoning Ordinance. Notice of the Planning Director's decision shall be provided as required by Section 111.270 of the Zoning Ordinance.

- (B) When it is permissible to rebuild or repair a nonconforming use building which is partially or wholly destroyed, application for necessary permits shall be made within one (1) year after the occurrence of the fire, other casualty or natural disaster, and such permits must be renewed as provided by law or ordinance.
- (C) Any substantial increase in the size of the repaired or rebuilt structure shall be considered an alteration and the following is enacted in lieu thereof:

**114.081. ALTERATION TO NONCONFORMING BUILDING OR USE.**

- (A) A lawful nonconforming building or use may be altered in order to reasonably continue the use, subject to approval by the Hearings Officer after holding a public hearing. Alteration includes a substantial change to a structure or a change to a similar or more restricted use. The Hearings Officer may impose conditions of approval in order to reduce the impact of the alteration on the neighborhood. A land use determination granting approval for an alteration may be approved only if:
  - (1) The change in the use or structure is of no greater adverse impact to the neighborhood;
  - (2) The structure or use was legally established.
- (B) Alterations necessary to comply with a lawful requirement, normal maintenance such as re-roofing, and changes of ownership or occupancy do not require Hearings Officer approval. [114.085, 114.090 and 114.100 repealed by Ordinance 91-36, dated October 30, 1991.]

**114.105. APPEAL TO THE BOARD OF COMMISSIONERS.** An appeal may be taken to the Board of Commissioners by any person whose interests are adversely affected or who is aggrieved by the determination of the Hearings Officer on an application for alteration of a nonconforming building or use. Such an appeal shall be filed in accordance with the provisions of Section 111.280 of the Zoning Ordinance.

The Board of Commissioners shall review the action of the Hearings Officer, conduct a public hearing, and render a decision as prescribed in Chapter 111 of the Polk County Zoning Ordinance.

**114.106. RESUBMISSION OF NONCONFORMING BUILDING OR USE**

**APPLICATION.** No portion of an application for the alteration of a nonconforming building or use which has been denied by the Hearings Officer or the Board of Commissioners shall be resubmitted within a period of one year after such denial. This section does not prevent resubmission of applications withdrawn prior to approval or denial, upon payment of the fee prescribed for a new application.

**114.107. REVOCATION OF PERMIT.** Any alteration to a nonconforming building or use granted under this Ordinance may be canceled by the Hearings Officer or Board of Commissioners if it develops or is ascertained that the application therefore contains any false statements. In considering such a cancellation, the matter may be referred by the Board of Commissioners to County Counsel for an opinion. When an alteration to a nonconforming building or use granted under this Ordinance is canceled, it shall be unlawful for any person to exercise any right granted by the Hearings Officer or the Board of Commissioners pursuant to such application.

**114.110. CONDITIONAL USES ARE NOT NONCONFORMING USES.** Any use which is permitted as a conditional use as provided in this ordinance shall not be deemed a nonconforming use, but shall without further action, be deemed a conforming use qualified with such conditions as the Hearings Officer has required.

**114.120. EFFECT OF CHANGE OF ZONES.** Whenever any premises are reclassified or changed from one zone to another, the provisions of this ordinance dealing with nonconforming uses and buildings shall apply to any use or building in the area reclassified or changed from one zone to another.

**114.130. REPEAL OF FORMER ORDINANCE DOES NOT CHANGE NONCONFORMING STATUS.** Any use conducted or established, or any building or structure erected or maintained at and before the effective date of this ordinance (November 13, 1970), in violation of any planning or zoning ordinance then in effect, which use, building, or structure, or the establishment, erection, or maintenance whereof is also unlawful under this ordinance, shall not be classified as a nonconforming use by virtue of the repeal of any such former ordinance; and continuation of any such use, building, or structure shall constitute a violation of this ordinance. [114.140 repealed by Ordinance 91-36, dated October 30, 1991.]

**114.141. VARIANCE USES MAY CONTINUE.** Any use or building lawfully established under the variance provision of this ordinance may continue to be used and maintained for the same purpose as the variance was granted. Such use may not be changed unless it is changed to a use permitted by this ordinance.

## **CHAPTER 115**

### **COMPREHENSIVE PLAN AMENDMENTS**

- 115.010. Purpose
- 115.020. Definitions
- 115.030. Procedures for Non-Legislative Plan Amendments
- 115.040. Procedures for Legislative Plan Amendments.
- 115.050. Criteria for Non-Legislative Plan Amendments
- 115.060. Criteria for Legislative Plan Amendments



**115.010. PURPOSE.** To provide clear and objective criteria and procedures to receive and process a request for a comprehensive plan amendment.

**115.020. DEFINITIONS.** A comprehensive plan amendment is any amendment to the Polk County Comprehensive Plan which deletes, supplements, or changes the text, land use map designations, or urban growth boundaries.

- (A) A non-legislative comprehensive plan amendment is a comprehensive plan amendment initiated by the affected property owners that includes either: (1) a change to the land use designation for one or more properties, (2) a text amendment that demonstrates why the building(s) for a specific commercial use defined by the Zoning Ordinance as “small-scale, low impact”, within an unincorporated community, should exceed 4,000 square feet in size; or (3) a text amendment that demonstrates why the building(s) for a specific industrial use defined by the Zoning Ordinance as “small-scale, low impact”, within an unincorporated community, should exceed 10,000 square feet in size;

An amendment to an adopted urban growth boundary which is non-legislative in nature may be initiated by a property owner(s) who request inclusion in or exclusion from the urban growth boundary, subject to any applicable comprehensive plan or intergovernmental agreement pertaining to the urban growth boundary and urbanizable land.

- (B) A legislative comprehensive plan amendment is all comprehensive plan amendments other than non-legislative amendments, initiated by the Board of Commissioners or the Planning Commission. A legislative amendment to an adopted urban growth boundary may be initiated by Polk County or by the affected city as specified by any applicable comprehensive plan or intergovernmental agreement pertaining to the urban growth boundary and urbanizable land. [Amended by Ordinance #00-03, dated May5, 2000]

**115.030. PROCEDURES FOR NON-LEGISLATIVE PLAN AMENDMENTS.** The application shall be processed as follows.

- (A) Property owners, or persons purchasing property under contract, if they state in writing that they are purchasing the property under contract, may file a plan amendment petition. The petition shall be in writing on forms provided by the Planning Director and shall be filed with the Planning Division not less than 45 days prior to the date of the hearing. The petition shall contain the following information:
- (1) The present comprehensive plan designation;
  - (2) The proposed comprehensive plan designation;
  - (3) The street address, or where none exists, the location of the property;
  - (4) The legal description of the property sought to be reclassified;
  - (5) The names, addresses and zip codes of the owner(s) of the property sought to be reclassified; and
  - (6) The signatures of the property owners for the area to be reclassified.
- (B) The Hearings Officer shall hold a public hearing as prescribed in Chapter 111 on the complete petition for a plan amendment. After concluding this hearing, the Hearings Officer shall prepare a report setting forth a summary of facts and conditions involved in the plan amendment and submit the same, together with a recommendation to the Board of Commissioners.

- (C) The Board of Commissioners shall hold a public hearing on the proposed plan amendment as provided in Chapter 111. Final decision by the Board of Commissioners shall not be effective until 21 days after mailing of the decision. Filing of an appeal to the Land Use Board of Appeals stays all proceedings by all parties in connection with the matter appealed until the appeal has been resolved. Any plan amendment or reclassification of property shall be by ordinance which shall be passed by the Board of Commissioners. Any denial of a proposed plan amendment shall be by order.

**115.040. PROCEDURES FOR LEGISLATIVE PLAN AMENDMENTS.**

- (A) Legislative amendments may be initiated by the Board of Commissioners or Planning Commission. An interested party may request that the Planning Commission or Board initiate a legislative amendment. Legislative amendments shall only be initiated by the Board or Planning Commission after findings are made that the proposed change is in the public interest and will be of general public benefit. In the case of a legislative amendment to an adopted urban growth boundary, the amendment may be initiated by Polk County or by the affected city as specified in any applicable comprehensive plan or intergovernmental agreement pertaining to the urban growth boundary and urbanizable land.
- (B) After a legislative amendment has been initiated, the Planning Commission shall hold a public hearing as prescribed in Chapter 111 on the complete petition for plan amendment. After concluding this hearing, the Planning Commission shall submit a recommendation to the Board of Commissioners.
- (C) The Board of Commissioners shall hold a public hearing on the proposed plan amendment as provided in Chapter 111. Final decision by the Board of Commissioners shall not be effective until 21 days after mailing of the decision. Filing of an appeal to the Land Use Board of Appeals stays all proceedings by all parties in connection with the matter appealed until the appeal has been resolved. Any plan amendment or reclassification of property shall be by ordinance which shall be passed by the Board of Commissioners. Any denial of a proposed plan amendment shall be by order.

**115.050. CRITERIA FOR NON-LEGISLATIVE PLAN AMENDMENTS.** A non-legislative plan amendment may be approved provided that the request is based on substantive information providing a factual basis to support the change. It is the applicant's responsibility to provide the information necessary to determine if the request meets the pertinent criteria.

- (A) Amendments to the Comprehensive Plan Map must meet one or more of the following criteria:
  - (1) The Comprehensive Plan designation is erroneous and the proposed amendment would correct the error; or
  - (2) The Comprehensive Plan Designation is no longer appropriate due to changing conditions in the surrounding area; and
  - (3) The purpose of the Comprehensive Plan will be carried out through approval of the proposed Plan Amendment based on the following:
    - (a) Evidence that the proposal conforms to the intent of relevant goals and policies in the Comprehensive Plan and the purpose and intent of the proposed land use designation.
    - (b) Compliance with Oregon Revised Statutes, statewide planning goals and related administrative rules which applies to the particular property(s) or

situations. If an exception to one or more of the goals is necessary, the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4 shall apply; and

- (c) Compliance with the provisions of any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land.
- (B) Text amendments to the Comprehensive Plan demonstrating why the building(s) for a specific commercial use defined by the Zoning Ordinance as “small-scale, low impact”, within an unincorporated community, should exceed 4,000 square feet in size must demonstrate compliance with the following criteria:
  - (1) An analysis shows that the proposed use is intended to serve a market area consisting solely of the surrounding rural area and/or the travel needs of people passing through the area; and
  - (2) The proposed use would rely upon a work force from the surrounding rural area.
- (C) Text amendments to the Comprehensive Plan demonstrating why the building(s) for a specific industrial use defined by the Zoning Ordinance as “small-scale, low impact”, within an unincorporated community, should exceed 10,000 square feet in size must demonstrate compliance with the following criteria:
  - (1) The proposed use is necessary to provide employment that does not exceed the total projected work force within the community and the surrounding rural area;
  - (2) The proposed use would not rely upon a work force served by uses within an urban growth boundary; and
  - (3) The determination of the work force of the community and surrounding rural area considers the total projected industrial and commercial employment of the community and is coordinated with employment projections for nearby urban growth boundaries. [Amended by Ordinance #00-03, dated May 5, 2000]

**115.060. CRITERIA FOR LEGISLATIVE PLAN AMENDMENTS.** A legislative plan amendment may be approved provided that the request is based on substantive information providing a factual basis to support the change. In amending the Comprehensive Plan, Polk County shall demonstrate:

- (A) Compliance with Oregon Revised Statutes, and the statewide planning goals and related administrative rules. If an exception to one or more of the goals is necessary, Polk County shall adopt findings which address the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4;
- (B) Conformance with the Comprehensive Plan goals, policies and intent, and any plan map amendment criteria in the plan;
- (C) That the proposed change is in the public interest and will be of general public benefit; and
- (D) Compliance with the provisions of any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land.

**CHAPTER 116**

**HOME OCCUPATIONS**

- 116.010. Purpose
- 116.020. Home Occupation - Services
- 116.030. Home Occupation - Conditional
- 116.040. Cottage Industry - Home Occupation

**116.010. PURPOSE.** The purpose of the home occupation chapter is to provide specific requirements for home occupations which are permitted by right or as conditional uses.

**116.020. HOME OCCUPATION - SERVICES.** Home occupations which provide various services are permitted in the SR, AR-5, AR-10, and AF-10 zones provided:

- (A) The occupation is carried on solely by the resident of a dwelling house as a secondary use.
- (B) No assistants are employed.
- (C) No commodities are sold other than services.
- (D) No sounds produced by the occupation are heard beyond the premises.
- (E) The business uses no display, advertisement, or sign board except such signs as permitted by this ordinance.
- (F) No structural alterations are made to accommodate such occupations and the residential character of the building remains unchanged, and not more than one-half of the floor area of one-story is devoted to such use. [Amended by Ordinance #04-01, dated January 21, 2004.]

**116.030. HOME OCCUPATION - CONDITIONAL.** Home occupations in which commodities are produced are allowed as conditional uses in the SR, AR-5, AR-10, and AF-10 zones provided:

- (A) The occupation or activity be carried on solely by the resident of a dwelling as a secondary use, in connection with which no assistants are employed.
- (B) No structural alterations are made to accommodate such occupations, the residential character of the buildings and property remains unchanged, and traffic attracted to the premises be kept at a minimum.
- (C) The business or activity shall be conducted wholly within the home or within a small (not greater than one-half the floor area of the house) accessory building, residential in appearance.
- (D) No noise, dust or any other offensive action or material be emitted from the premises.
- (E) No storage of materials, products, or supplies be conducted outside of the building.
- (F) There be sufficient room to load and unload materials, supplies, and products on the premises. [Amended by Ordinance #04-01, dated January 21, 2004.]

**116.040. COTTAGE INDUSTRY - HOME OCCUPATION.** Home occupations in which services are provided and/or commodities are produced in a building other than the main residential structure are allowed as conditional uses in the AR-5, AR-10, AF-10, CO, CR, and CG zones provided:

- (A) Any applicant for a cottage industry home occupation shall apply to the County Sanitarian for an authorization notice and shall comply with the requirements for septic and refuse disposal.
- (B) The operator of the cottage industry home occupation shall reside within the main residence on the subject property.
- (C) The only sign allowed shall be a two (2) square foot nameplate attached to the face (wall) of the building near the main entrance of the main building.

- (D) Parking shall be permitted at the rate of one space per employee in the specified area in accordance with the standards of Chapter 112 of the Polk County Zoning Ordinance.
- (E) All aspects of the cottage industry home occupation shall be conducted within a fully enclosed building consisting of the main structure or accessory structures meeting the Uniform Building Code.
- (F) No retail trade activity for goods shall be allowed, however, nothing prohibits the transport of products manufactured or services offered at the site.
- (G) Notice requirements for the conditional use permits shall be to all properties within 750 feet of the exterior perimeters of the subject property where the cottage industry home occupation will be located.
- (H) Nothing contained in the County's action to approve the cottage industry home occupation shall be used as justification for a zone change.
- (I) No structures shall be authorized by the County which do not otherwise meet the conditions of the residential zone in which the cottage industry home occupation is located.
- (J) The proposed cottage industry home occupation shall not interfere with the existing uses in the notice area or with other uses permitted in the zone in which the property is located.
- (K) The cottage industry home occupation shall not employ more than a total of five (5) full or part-time persons. [Amended by Ordinance #308, dated May 16, 1984.] [Amended by Ordinance #04-01, dated January 21, 2004.]

**CHAPTER 119**  
**CONDITIONAL USES**

119.010.	General Concept
119.020.	Application
119.025.	Administrative Review
119.030.	Power to Hear and Decide Conditional Uses
119.040.	Hearings
119.050.	Conditional Use and Concurrent Variances
119.060.	Conditions
119.070.	Findings of the Hearings Officer or Planning Director
119.075.	Notice of Hearings Officer or Planning Director Decision
119.080.	Effective Date of Conditional Use
119.090.	Conditional Use Must Be Exercised to Be Effective
119.100.	Cessation of Conditional Use
119.110.	Transfer of Conditional Use
119.120.	Appeal to Board of Commissioners
119.130.	Resubmission of Conditional Use Application
119.140.	Revocation of Conditional Use Permit
119.150.	Specific Conditional Uses

**119.010. GENERAL CONCEPT.** A conditional use is an activity which is basically similar to other uses permitted in the zone, but due to some of the characteristics of the conditional use, which are not entirely compatible with the zone, such use could not otherwise be permitted in the zone. Review of the proposed conditional use by the Planning Director and/or a public hearing and review by the Hearings Officer will ensure that the use will be in consonance with the purpose and intent of the ZONE. [Amended by Ordinance #88-21, dated November 30, 1988.]

**119.020. APPLICATION.** An application for a conditional use may be filed by the following only:

- (A) The owner of the property.
- (B) A purchaser thereof under a duly executed written contract when he states that he is the contract purchaser on the application and the seller consents in writing to such application.
- (C) A lessee in possession of the property and the owner consents in writing to such application.
- (D) Or the agent for any of the foregoing when duly authorized in writing by the property owner and the agent states on the application that he is the duly authorized agent.

The application for a proposed conditional use, or to enlarge, expand, or alter a conditional use shall be on a form provided by the Planning Director and shall contain such information as the Hearings Officer or Planning Director feels is necessary to fully assess the effect of the conditional use on the surrounding area.

[Amended by Ordinance #88-21, dated November 30, 1988.]

**119.025. ADMINISTRATIVE REVIEW.** Conditional use applications shall be processed as a Type B procedure pursuant to Section 110.240, unless otherwise specified by the Zoning Ordinance.

**119.030. POWER TO HEAR AND DECIDE CONDITIONAL USES.** The Hearings Officer or Planning Director (refer to Section 111.240) shall hear and decide only those applications for conditional uses, their expansion or alteration, which are listed in this ordinance. The Hearings Officer or Planning Director shall decide whether or not the conditional use may be placed in the zone and may impose the conditions listed below, subject to the restrictions and provisions of this ordinance. [Amended by Ordinance #88-21, dated November 30, 1988.]

**119.040. HEARINGS.** Hearings where required shall be held per Chapter 111. [Amended by Ordinance #88-21, dated November 30, 1988.]

**119.050. CONDITIONAL USE AND CONCURRENT VARIANCES.** Variances may be processed concurrently and in conjunction with a conditional use application and when so processed will not require an additional public hearing or additional filing fee.

**119.060. CONDITIONS.** The Hearings Officer or Planning Director may prescribe restrictions or limitations for the proposed conditional use, but may not reduce any requirement or standard which is specifically required by this ordinance to be included as a condition to the use. Any reduction or change of other requirements of the ordinance must be considered as varying the ordinance and must be requested as a concurrent variance request, as described in Section 119.050. The Hearings Officer or Planning Director shall impose conditions only after it has been determined that such conditions are necessary for the public health, safety or general welfare, or to protect persons working or residing in the area, or the protection of property or improvements in the area. The Hearings Officer or Planning Director may prescribe such



conditions as are necessary to fulfill the purpose and intent of this ordinance. [Amended by Ordinance #219, dated September 22, 1978, and by Ordinance #88-21, dated November 30, 1988.]

**119.070. FINDINGS OF THE HEARINGS OFFICER OR PLANNING DIRECTOR.**

Before granting a conditional use, the Hearings Officer or Planning Director shall determine:

- (A) That he or she has the power to grant the conditional use.
- (B) That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone.
- (C) That such conditional use, as described by the applicant, complies with any specific provisions for such a use as provided by the zone or by Section 119.150.
- (D) That the imposition of conditions is deemed necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood. [Amended by Ordinance #88-21, dated November 30, 1988.]

**119.075 NOTICE OF HEARINGS OFFICER OR PLANNING DIRECTOR DECISION.**

Notice of the decision by the Planning Director or Hearings Officer regarding s conditional use application shall be provided as required by Section 111.270, unless otherwise specified by the Zoning Ordinance.

**119.080. EFFECTIVE DATE OF CONDITIONAL USE.** Conditional Uses granted by the Hearings Officer or Planning Director under the provisions of this ordinance shall not be effective until 10 days after the mailing of the notice of decision or after the regular meeting of the Polk County Board of Commissioners following such mailing, whichever is later. However, if the matter has been called up by the Board under Section 111.290, or the matter has been appealed under Section 111.280, the land use action does not become effective until the Board has taken final action.

**119.090. CONDITIONAL USE MUST BE EXERCISED TO BE EFFECTIVE. A**

Conditional use granted under this ordinance shall be effective only when the exercise of the right granted thereunder shall be commenced within one (1) year after the effective date of that conditional use, unless a longer period be specified or thereafter allowed by the Hearings Officer or Planning Director. In case such right has not been exercised, or extension obtained, the conditional use shall be void. A written request for an extension of time filed with the Planning Director at least 30 days prior to the expiration of the application shall extend the running of the one year period until the Planning Director has acted on said request.

**119.100. CESSATION OF CONDITIONAL USE.** Discontinuance of the exercise of any right heretofore or hereafter authorized for any conditional use for a continuous period of six (6) months shall be deemed an abandonment of such conditional use.

**119.110. TRANSFER OF CONDITIONAL USE.** Any valid conditional use granted pursuant to this ordinance is transferrable unless otherwise provided at the time of the granting of such conditional use.

**119.120. APPEAL TO THE BOARD OF COMMISSIONERS.** An appeal may be taken to the Board of Commissioners by any person whose interests are adversely affected or who is aggrieved by the determination of the Hearings Officer or Planning Director on an application for a conditional use. Such an appeal shall be filed in accordance with the provisions of Section 111.280 of the Zoning Ordinance.

The Board of Commissioners shall review the action of the Hearings Officer or Planning Director, conduct a public hearing, and render a decision as prescribed in Chapter 111 of the Zoning Ordinance.

**119.130. RESUBMISSION OF CONDITIONAL USE APPLICATION.** No portion of a conditional use application which has been denied by the Hearings Officer, Planning Director, or by the Board of Commissioners shall be resubmitted within a period of one year after such denial. This section does not prevent resubmission of applications withdrawn prior to approval or denial, upon payment of the fee prescribed for a new application.

**119.140. REVOCATION OF CONDITIONAL USE PERMIT.** Any conditional use permit granted under this Ordinance may be canceled by the Hearings Officer, Planning Director, or Board of Commissioners if it develops or is ascertained that the application therefore contains any false statements. In case of such cancellation, the matter may be referred to the County Counsel for an opinion. In such case, it shall be unlawful for any person to exercise any right granted by the Hearings Officer, Planning Director, or the Board of Commissioners pursuant to such application.

**119.150. SPECIFIC CONDITIONAL USES.**

- (A) **Manufactured Home Parks.** After holding a public hearing pursuant to Chapter 111 of the Zoning Ordinance, the Hearings Officer may permit a manufactured home park to be located in the RL, RM, RH or CO zone as a conditional use, subject to the conditions and provisions herein set forth. Without qualifying as a conditional use, manufactured home parks may be located in the CR, CG, or IC zone, subject to the minimum requirements set forth in subsections (1) and (3). The intent of this section is to permit, after appropriate review, and subject to minimum standards and conditions, the construction of new manufactured home parks only as a form of multi-family or apartment-type facilities. It is not the intent of this section to regulate the placement of individual manufactured homes or vacation trailers on separate, individual lots, either separately or in conjunction with a dwelling or any other building in the RM zone.
  - (1) **Minimum Requirements.** All newly developed manufactured home parks and additions to existing manufactured home parks in CR, CG or IC zones are subject to the minimum standards and conditions set forth in this section. The Hearings Officer may prescribe such additional conditions for manufactured home parks in an RL, RM, RH or CO zone as the particular circumstances may require for the protection of the health, safety and welfare of the residents in the vicinity of the development consistent with the intent and provisions of this ordinance.
    - (a) **Density:** The maximum density of a manufactured home park shall not exceed 12 manufactured homes per gross acre.
    - (b) **Minimum Area:** No manufactured home space shall contain less than 2,000 square feet and the average area of all manufactured home spaces within a manufactured home park shall not contain less than 3,000 square feet and no yard, area, driveway, play area, service area or other area required by this ordinance shall be considered as providing any part of the required manufactured home space.
    - (c) **Yards:**
      - (i) Adjacent to any street, there shall be a yard of at least 20 feet in depth, measured from the street right-of-way line of such street, unless such yard be adjacent to a street with a special setback line,

as described in Chapter 112 of the Zoning Ordinance, in which case the greater requirement shall prevail.

- (ii) Adjacent to any property line, other than along a street, there shall be a building, dwelling or other main building for the first story of such building. Accessory buildings may occupy not more than 25 percent of such yard area and may not come closer than five (5) feet to any property line or exceed 15 feet in height.
- (d) Driveways: All driveways shall be paved with an asphaltic material or concrete and shall be properly drained and shall be a minimum width of 20 feet. In addition, if parking along the driveway is to be permitted, there shall be provided a parking lane of a least eight (8) feet in width for each side of the driveway on which parking is to be permitted. As a condition to permitting a manufactured home park, the Hearings Officer may require the erection of signs prohibiting parking when sufficient parking facilities are not provided.
- (e) Parking: There shall be provided at least one (1) automobile parking space for each manufactured home space, plus one (1) additional automobile parking space for every three (3) manufactured home spaces or any portion thereof for guests, visitors, service vehicles and additional automobiles of the tenants of the manufactured home park.
- (f) Walks: Provisions shall be made for hard-surfaced, well-drained walks, not less than 30 inches in width, from each manufactured home space to the park service building and to a paved street.
- (g) Lighting: There shall be provisions for adequate night lighting of common driveways and walks in the manufactured home park.
- (h) Play areas: If the manufactured home park accommodates children under 14 years of age, there shall be provided a separate play area restricted to that use. At least 100 square feet of play area shall be provided per manufactured home space; provided, however, that no such play area, regardless of the number of manufactured home spaces, shall be less than 2,500 square feet. The play area will be protected from all streets, driveways, and playing areas by a fence, or the equivalent, at least 30 inches in height.
- (i) Fences: The Hearings Officer may require that an ornamental fence, wall, or hedge be established and maintained between the manufactured home park and other land use.
- (j) Signs: Sign requirements shall be the same as for an apartment house in the RM zone.
- (k) Street Names: If the private driveways are to be named and street addresses assigned to the individual manufactured home space, they will be named and numbered in accordance with the ordinances of the County.
- (l) Water, sewer and surface drainage: Adequate provisions shall be made for an ample supply of safe and potable water, and adequate provisions shall be made for sewage disposal and surface drainage and plans for such must have prior approval of the Environmental Health Department and Director of Public Works/County Engineer, before an manufactured home park is approved as a conditional use by the Hearings Officer.

- (m) Minimum width: No manufactured home space shall be less than 30 feet in width at its driveway frontage.
  - (n) Boundaries of Space: The boundaries of each manufactured home space shall be clearly defined and marked by a fence, planting or other suitable means approved by the Hearings Officer or by clearly visible, permanent markers at each corner of the space.
  - (o) Minimum Distances: Exclusive of trailer hitches, which shall not project beyond the manufactured home space, the minimum distance between a manufactured home and:
    - (i) Any other manufactured home shall be 15 feet.
    - (ii) Any building, except when attached to the manufactured home, shall be ten (10) feet.
    - (iii) Any property line (excluding manufactured home space boundaries) shall be ten (10) feet.
    - (iv) Any public street shall be 20 feet.
    - (v) Any common driveway or common walk (excluding those in a manufactured home space) shall be five (5) feet.
  - (p) Manufactured home space coverage: Not more than 40% percent of a manufactured home space may be occupied by a manufactured home and any other structures used in conjunction with such manufactured home whether or not it is attached to the manufactured home.
  - (q) Addition to manufactured homes: Carports, cabanas, ramadas, awnings and all other structures, whether defined herein or not, which are situated upon a manufactured home space, shall conform to the requirements of the county building code and Environmental Health Department regulations. Such additions and structures shall be considered as a portion of the manufactured home for determining the extent of lot coverage, setback lines and all other requirements for manufactured homes in like manner as if such additions and structures were a part of such manufactured home.
  - (r) Patio: Each manufactured home space shall have a slab or patio of concrete, asphalt or flagstone or similar substance not less than 20 feet in length and six (6) feet in width adjacent to each manufactured home parking site.
  - (s) Parking of manufactured homes: manufactured home parks in an RL, RM, RH or CO zones may accommodate only manufactured homes and not vacation trailers, except for storage. A manufactured home shall not remain overnight in a manufactured home park unless it is parked in a manufactured home space. Not more than one (1) manufactured home will be parked at one time in a manufactured home space.
- (2) EXPANSION OR ALTERATION OF MANUFACTURED HOME PARKS. Existing manufactured home parks may be expanded or altered after approval is obtained from the Hearings Officer. The application, filed by the owner or other part in interest, will be filed and processed in the same manner as an application for a new manufactured home park. The Hearings Officer, in granting permission for expansion of any existing park, shall require that those

portions of the existing park which do not meet the minimum standards be brought to these minimum standards. The Hearings Officer may attach such conditions to the granting of permission to expand the manufactured home park as will ensure that the existing park will meet the established standards.

- (3) **BUILDING CODE AND BUILDING PERMITS.** All structures within a manufactured home park shall comply with the provisions of the County building code. Building permits shall be obtained prior to construction of any portion of the manufactured home park facilities.
  - (4) **TEMPORARY WAIVERS.** The Hearings Officer may, at the time of the approval of the manufactured home park as a conditional use, grant a temporary waiver of the conditions in Section 119.150 (A) for a maximum time of six (6) months. Such waiver may be renewed by the Hearings Officer on application by the owner for one (1) additional six (6) month period. Any requests for a permanent waiver shall be considered a request for a variance.
  - (5) **VARYING REQUIREMENTS OF THIS AMENDMENT.** The Hearings Officer may, at the time of granting a manufactured home park conditional use, vary one or more of the requirements of Section 119.150 (A) in the same manner as any other provision of this ordinance may be varied as provided in Chapter 122, however, when such variances are requested at the same time as the application for a conditional use is filed, such variance request may be processed concurrently with the conditional use application and will not require an additional filing fee, separate public hearing, or separate notice of public hearing. [Amended by ordinance #88-21, dated November 30, 1988.]
- (B) **Duplex on a Corner Lot.** The Planning Director may permit a duplex on a corner lot as a conditional use in any zone where it is permitted provided:
- (1) The lot shall have at least 7,000 square feet;
  - (2) Only one (1) dwelling unit of a duplex on a corner lot shall be permitted to face upon any one (1) street, and that the second unit shall face upon the intersecting street;
  - (3) The yards adjacent to any public right-of-way shall be 20 feet in depth; and
  - (4) The rear yard may be 14 feet in depth for a one (1)-story duplex and 20 feet in depth for a two (2)-story duplex, which yard may be provided adjacent to either interior lot line.
- (C) **Boat, Camper and Trailer Storage Area or Lot.** The Planning Director may permit a boat, camper, and trailer storage area or lot as a conditional use in any zone where it is permitted provided:
- (1) No sales area, retail business, or service may be operated in connection therewith, nor shall any substantial maintenance or repair of any vehicle or equipment stored thereon be conducted on the premises, whether by the owner or otherwise, unless such work be performed wholly within a building;
  - (2) The front yard and any other yard adjacent to a street shall be landscaped with an evergreen ground cover; further, that this landscaping shall be adequately and permanently maintained;
  - (3) Any ornamental sight-obscuring fence, or wall, having a height of at least six (6) feet, or a compact evergreen hedge not less than three (3) feet in height when planted and capable of reaching at least six (6) feet within three (3) years

be placed at the front yard setback line and at the setback line of any other yard adjacent to a street, and along all other property lines; provided, however, that the Planning Director may require additional screening and landscaping where topography or other special conditions indicate such to be necessary to adequately screen the area;

- (4) The lot be paved in conformity with Section 112.280, with an oiled mat or gavelled and maintained in a manner so that dust shall be reasonably controlled;
- (5) Lighting shall be so oriented to not shine or reflect upon abutting properties nor into the travelling lanes of any street in such a manner so as to constitute a nuisance;
- (6) Any building used in conjunction with the storage lot shall conform to all yard setbacks as for the main buildings in the SR zone, and said building shall be architecturally designed and constructed of materials compatible with the residential development of the subdivision or neighborhood; and
- (7) The area be operated by a non-profit neighborhood homeowners association.  
[Amended by Ordinance #88-21, dated November 30, 1988.]

- (D) Temporary Use of a Manufactured Home or a Trailer During Certain Hardship Conditions. Notwithstanding any other provisions of this ordinance, the Planning Director may permit the use of a manufactured dwelling on a temporary basis, as a conditional use in a the RL, RM, and RH zones during a family hardship condition. Such permit may be granted for a period of not more than two (2) years and may be renewed for successive periods of two (2) years on a proper showing that such hardship condition continues to exist. It is not the intent of this section to subvert the intent of these zones by permitting more than one (1) permanent residence on each property. The Planning Director may, in the granting of the request for the temporary use permit, impose conditions that will preclude the possibility of such temporary use becoming permanent. [Amended by Ordinance #219, dated September 22, 1978 and Ordinance #88-21, dated November 30, 1988. Subsection 120.040 amended by Ordinance #95-12.]

The term "Hardship" means a condition relating to the physical health of the infirm or persons otherwise incapable of maintaining a complete, separate and detached residence apart from their family. Such condition shall be certified by a physician familiar with the individual(s) involved. [Adopted by Ordinance #219, dated September 22, 1978. Amended by Ordinance #95-12, dated December 13, 1995.]

- (E) Custom Cabinet Shop and Sales Firm. The Planning Director may permit a custom cabinet shop and sales firm as a conditional use in any zone where it is permitted provided:
- (1) All activities, including finished products and materials storage, are to be conducted wholly within a building;
  - (2) Loading and unloading operations are conducted throughout the sides of the building which are not abutting, adjacent to, or across a street from any residential or CO zone;
  - (3) All parking, loading and yard areas are maintained in a neat and clean manner;
  - (4) Hours of operations shall be limited from 6:00 a.m. to 6:00 p.m.;
  - (5) All parking and loading areas are paved with an asphaltic or comparable permanent surface;

- (6) Two (2) percent of the gross lot area shall be landscaped. Detailed landscape plans shall be submitted with the application for approval by the Planning Director; and,
  - (7) Provided that the County Building Official issues a Certificate of Occupancy prior to use of the building and site, after determining that the conditions set forth herein are fully satisfied. In the event such conditions are not continuously met, the Certificate of Occupancy shall be subject to revocation upon 30 days notice. [Amended by Ordinance #88-21, dated November 30, 1988.]
- (F) Church Conference and Campground. A church conference and campground, may be permitted by the Planning Director as a conditional use in any zone where it is permitted. The Planning Director may attach appropriate conditions and grant the application to promote the appropriate integration of the development with the surrounding area. [Amended by Ordinance #88-21, dated November 30, 1988.]
- (G) **119.150(G)** Rural Transportation Improvements. For transportation uses or improvements listed in Section 136.050(R)(3) through (6) and (14) of Exclusive Farm Use Zone (Chapter 136) and in Sections 177.040(V)(6) through (9) and (17) of the Timber Conservation Zone (Chapter 177), the Planning Director or hearings body shall, in addition to demonstrating compliance with Section 136.060 or Section 177.050, whichever is applicable:
- (1) Identify reasonable build design alternatives, such as alternatives that are safe and can be constructed at a reasonable cost, not considering raw land cost, with available technology;
  - (2) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment, and considering the effects of access to parcels created on farm and forest lands; and
  - (3) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

A finding of compliance with subsections (1), (2) and (3) above, may be made for those transportation uses or improvements identified in an acknowledged amendment to the Transportation System Plan to include a refinement plan adopted pursuant to OAR 660, Division 12. The Planning Director or hearings body shall prescribe restrictions or limitations on the transportation use or improvement in order to minimize accessibility to rural lands from the proposed facility and to support continued rural use of surrounding land.” [Amended by Ordinance #01-10, dated November 14, 2001.]

## **CHAPTER 120.300**

### **SOLID WASTE DISPOSAL SITES**

- 120.310. Purpose and Scope
- 120.315. Definitions
- 120.320. Conditional Uses
- 120.325. Minimum Standards
- 120.330. Application for a Conditional Use Permit
- 120.335. Preliminary Permit
- 120.340. Procedures
- 120.345. Issuance of Permits
- 120.350. Amendments to Conditional Use Permit
- 120.355. Coordination with the Solid Waste Disposal Committee and Regulatory Agencies
- 120.360. Standards for Solid Waste Disposal Site Rehabilitation and Restoration
- 120.365. Suspension or Revocation of Solid Waste Disposal Sight Permit
- 120.370. Failure to Maintain Site or Conditions
- 120.375. Administration and Enforcement
- 120.380. Required Agreements and Liens



### **120.310. PURPOSE AND SCOPE.**

- (A) To protect the health, safety and welfare of the people of Polk County and to provide a coordinated program for accumulation, storage and disposal of wastes and solid wastes, it is deemed essential to:
  - (1) Provide necessary sites for disposal of wastes and solid wastes;
  - (2) Provide for a coordinated solid waste disposal program and encourage regional solid waste disposal systems;
  - (3) Provide for coordinating zoning regulations with the Polk County Solid Waste Collection and Disposal Ordinance;
  - (4) Provide standards and procedures for reasonable protection of adjacent or nearby land uses;
  - (5) Provide for rehabilitation and ultimate site use for disposal sites after discontinuance of use for disposal;
  - (6) Provide for preliminary planning permit to allow initial consideration of disposal sites in coordination with other affected federal, state, and local agencies;
  - (7) Provide for disposal sites and special regulations for accumulation, storage, or disposal of toxic or hazardous wastes.
- (B) This ordinance shall not apply to the growing or harvesting of crops or timber including, but not limited to, silvicultural practices or to agricultural operations conducted on premises owned or in possession of the person disposing of wastes or solid wastes on such premises.
- (C) The intent and purpose of this section is to permit the location and development of solid waste disposal sites in appropriate locations in any zone in Polk County subject to the minimum standards herein set forth and any conditions established by the Hearings Officer, without a showing of hardship and after notice and public hearing as provided for in Section 120.340.

Notwithstanding the allowable uses in any other district in Polk County, any person initiating an operation as described in Section 120.310 to 120.380.

**120.315. DEFINITIONS.** As used in Section 120.310 to 120.380, unless the context requires otherwise, the following definitions shall apply:

- (A) **Dispose or Disposal.** Includes accumulation, storage, collection, transportation, and disposal of solid wastes;
- (B) **Person.** Includes the State of Oregon, any individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatsoever.
- (C) **Solid Waste.** All putrescible and nonputrescible wastes, whether in a solid or in a liquid form, except liquid-carried industrial wastes or sewage or sewage hauled as an incidental part of a septic tank or cesspool cleaning service, but including garbage, rubbish, ashes, sewage sludge, street refuse, industrial wastes, swill, demolition, and construction wastes, abandoned vehicles or parts thereof, tires, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes, dead animals and other discarded solid materials;

- (D) Solid Waste Disposal Site or Sites. Any land used for disposal of solid wastes, including but not limited to, dumps, landfills, sanitary landfills, incinerators, and composting plants, but not including a landfill site which is not used by the public either directly or through a disposal service and which is used by the owner or tenant thereof to dispose of sawdust, bark, soil, rock, building demolition material or nonputrescible industrial waste products resulting from the process of manufacturing;
- (E) Waste. Useless, unwanted or discarded materials.

**120.320. CONDITIONAL USES.** The following uses may be permitted as conditional uses within all zoning districts by the Hearings Officer, notwithstanding the use limitations of each zone, subject to the conditions and procedural requirements set forth in Sections 120.310 to 120.380.

- (A) Solid Waste Disposal Site.
- (B) Except within the Exclusive Farm Use, Farm Forest, and Timber Conservation zones, sites for the disposal of special materials or hazardous wastes when, and only after the Hearings Officer has approved the special materials and for inclusion in the site;
- (C) A residence for a caretaker;
- (D) Buildings, structure, apparatus or other appurtenances necessary for these uses to be carried on. [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.325. MINIMUM STANDARDS.** The following minimum standards shall apply to the establishment, maintenance, and operation of solid waste disposal sites within Polk County. The particular concerns of these provisions are providing for an adequate number of solid waste disposal sites to meet the needs of Polk County and the property location of solid waste disposal sites including access to and from the sites, the appearance of such sites as they relate to the surrounding area and for the ultimate reuse of such sites.

- (A) Screening. The site shall be reasonably screened from adjoining developed properties and public streets or highways by the placement of landscaped yards and areas adjacent to every property line, within which yard or area will be placed an ornamental fence, wall or hedge or landscape berm. This shall be in addition to such desirable vegetation as may exist within the landscaped area. Where the landowner or the holder of a franchise for the site has obtained an interest in adjacent property for the purpose of providing adequate screening or where an appropriate governmental agency provides such screening, the Hearings Officer may accept such screening in lieu of that otherwise required by this subsection. This screening, whether on the same or other property, shall continuously obscure the view of the site and the landowner or franchise holder shall be responsible for maintenance of such screening.
- (B) Access Roads. All access to the site shall be by a route or routes approved by the County Engineer and the Hearings Officer.
- (C) Control of Operation Time. Except for such activities as office machinery repair and the equivalent, in residential, farm or commercial districts, a limit shall be placed on the operating time from 4:30 a.m. to 9:30 p.m. This limitation on operating time may be waived by the County Engineer in times of public or private emergency for the duration of such emergency. Other activities may be conducted outside the allowable time if they fall within standards established for industrial uses as set forth in Section 112.400 (A)(6). [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.330. APPLICATION FOR A CONDITIONAL USE PERMIT.** Application by the landowner shall be made to the Hearings Officer on forms furnished by the Planning Director. Each application shall be accompanied by:

- (A) An accurate plot plan showing exterior boundaries of the property on which the disposal site is to be located and the location of any existing or proposed structures, roads, proposed operating areas or other improvements, and the topography of the proposed site;
- (B) A plan for rehabilitation and use of the site after the disposal has been terminated for a use permitted within the zone in which the land is located. Such a plan shall be prepared at a scale of not less than 1"=400' with topographic contours, an interval of which shall not be less than 25 feet. In its discretion, the Hearings Officer may require a map or plan showing greater detail to determine compliance with this ordinance and standards established by the Hearings Officer.
- (C) A copy of the application to the governing body of Polk County for a franchise pursuant to the Solid Waste Collection and Disposal Ordinance if the site is to be owned or to be operated by a person other than a governmental agency;
- (D) An agreement required by Section 120.380 of this ordinance;
- (E) Except for applicants who have previously paid for a preliminary permit on the same site, a conditional use permit fee will be paid. [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.335. PRELIMINARY PERMIT.**

- (A) In view of the extensive investigations which must be undertaken in coordination with federal, state and local agencies, persons desiring to obtain a solid waste disposal site conditional use permit may make application to the Hearings Officer and the Hearings Officer may grant preliminary approval of a proposed site without notice to interested persons or a public hearing.
- (B) The Hearings Officer shall consider the location, the general proposal for access and site operations, the need for the site, the needs of the area, and the proposed restoration and rehabilitation of the site. The Hearings Officer shall review the application as soon as possible after the petition has been filed. The granting of a preliminary permit is not binding either on the Hearings Officer or the applicant but is given to the applicant only as a guide. A conditional use permit application may be filed pursuant to Section 119.020 regardless of the recommendation of the Hearings Officer to this Section.
- (C) Each application for a preliminary permit shall be on forms furnished by the Planning Director and shall be accompanied by a fee. The preliminary permit application may be withdrawn at any time; however, the fee shall not be returned. The application shall be accompanied by any franchise application as required pursuant to Section 119.020 for a conditional use permit.
- (D) Test wells, test holes, or any other engineering tests may be conducted under a preliminary permit.
- (E) Except for existing solid waste disposal sites that qualify as nonconforming uses, no person holding a preliminary permit therefore shall establish, operate, or maintain a solid waste disposal site unless and until a conditional use permit has been issued by the Hearings Officer. [Amended by Ordinance #88-21, dated November 30, 1988.]

#### **120.340. PROCEDURES.**

- (A) Notice and public hearings upon an application for a conditional use permit under Section 120.320 shall be provided as required by Chapter 111.
- (B) Notice of the decision of the Hearings Officer shall be given as provided in Section 111.270.
- (C) Decisions of the Hearings Officer on conditional use applications under Section 120.320 shall be subject to the appeal provisions in Section 111.280 and the call of the Board of Commissioners as provided in Section 111.290.

#### **120.345. ISSUANCE OF PERMITS.**

- (A) The Hearings Officer shall make such investigations as are necessary to determine whether the proposed site conforms fully to the regulations set forth herein.
- (B) In addition to the requirements of Sections 120.310 to 120.380, the Hearings Officer may prescribe additional restrictions or limitations when granting a preliminary permit or a conditional use permit for a proposed site. The Hearings Officer may prescribe such additional conditions as it deems necessary to fulfill the purpose and intent of this ordinance after finding that such conditions are necessary for the public health, safety, or general welfare or to protect persons working or residing in the area, or to protect property or improvements in the area, or to protect the aesthetic qualities of the area, or to protect the environmental quality of the area.
- (C) The Hearings Officer may not reduce or change the requirements specified in Sections 120.310 to 120.380, except when proceedings have been held for variance of these requirements by the Hearings Officer pursuant to Chapter 122, provided that an application for variance may be filed with and considered concurrently with the conditional use application, except that the notice of hearing shall separately state the variance applied for. [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.350. AMENDMENTS TO CONDITIONAL USE PERMIT.** When the conditional use permit holder wishes to amend the plans for the site or for the restoration or reuse of such site after a final permit has been granted, he shall make an application for such change and shall furnish a fee together with all information and agreements that would have been required had such change been included in the initial plans, information and agreements submitted to the Hearings Officer. The Hearings Officer shall follow the same procedure for notice and hearing as if the amendment were a new application for such a conditional use. The notice and hearing shall be limited to the subject of a requested change in plans. [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.355. COORDINATION WITH THE SOLID WASTE DISPOSAL COMMITTEE AND OTHER REGULATORY AGENCIES.** The Hearings Officer will make every effort to assist in the coordination and review of the application with the Polk County Solid Waste Committee and all federal, state, local or other agencies. [Amended by Ordinance #88-21, dated November 30, 1988.]

#### **120.360. STANDARDS FOR SOLID WASTE DISPOSAL SITE REHABILITATION AND RESTORATION.**

- (A) The purpose of this section is to ensure the future use of site after its use as a solid waste disposal site has been completed. A restoration plan shall be consistent with the land use planning policies and ordinance of Polk County.

- (B) The landowner and the holder of any franchise to operate the site shall be jointly and severally liable for the eventual site restoration as described in the plans submitted with the permit application as provided in Section 120.380.
- (C) Upon completion of the use of the site for solid waste disposal according to the permit and plan, or upon economic abandonment of the site as a disposal site, the landowner and the holder of any franchise to operate the site shall have a reasonable time to rehabilitate and restore the site as described in the restoration plans.
- (D) Except for buildings or structures which are permitted uses in the zone in which the site is located, upon termination of the use of the site for solid waste disposal, all buildings, equipment, apparatus and appurtenances necessary to the operation shall be removed from the site unless an extension is granted by the Hearings Officer. A grant of additional time by the Hearings Officer shall not excuse any delay in the restoration or rehabilitation of those portions of the property under permit which are not affected by such extension.
- (E) All excavations and pits shall be backfilled, leveled, contoured, or both, for the uses shown on the restoration plan and shall be compatible with the final depth and slope of the site.
- (F) Topsoil shall be replaced to sufficient depth to allow landscaping material to be installed.
- (G) When appropriate, the Hearings Officer may specify a schedule of rehabilitation for portions of the property as their use for solid waste disposal operations is completed or terminated. The schedule shall be considered part of the rehabilitation or restoration plan and shall be included in the agreements required by Section 120.380. [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.365. SUSPENSION OR REVOCATION OF SOLID WASTE DISPOSAL SITE PERMIT.**

- (A) In addition to the provisions of Section 119.140, the Hearings Officer may, after a public hearing, at which all interested persons have a right and opportunity to be heard, suspend a solid waste disposal site permit for failure to comply with Sections 120.310 to 120.380 or other applicable provisions. Prior to such hearing, the Hearings Officer shall obtain a recommendation from the Polk County Solid Waste Committee. Before any action of suspension is finally ordered by the Hearings Officer, the Hearings Officer shall obtain the concurrence of the governing body.
- (B) The Hearings Officer may, following the same procedures specified in (A) of this section, revoke a solid waste disposal site permit for failure to comply with Sections 120.310 to 120.380 or other applicable provisions. The Hearings Officer shall make a finding prior to revocation that there is an immediate and serious danger to the public, an immediate and serious threat or actual pollution of air, water or surrounding land or other serious hazard or public nuisance. [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.370. FAILURE TO MAINTAIN SITE OR CONDITIONS.** The landowners, as the holder of a conditional use permit, and the holder of any franchise to operate the site, shall establish, operate and maintain the site within the terms and conditions set forth in Sections 120.310 to 120.380 and in the conditional use permit. Compliance with this section shall be a condition to a conditional use permit and shall be enforceable by the agreement required in Section 120.380.

**120.375. ADMINISTRATION AND ENFORCEMENT.** It shall be the duty of the County Building Official, County Health Officer, and County Engineer to enforce Sections 120.310 to 120.380. Prior to issuance of a preliminary permit or of a conditional use permit, prior to establishment of any site and during the operation, maintenance or restoration or rehabilitation of such site pursuant to Sections 120.310 to 120.380, it shall be the duty of said officials to determine compliance with those sections and with any condition imposed by the Hearings Officer. For this purpose, the County Engineer, County Health Officer or County Building Official, or their duly authorized representatives may enter upon public or private property to perform any such duty. In addition to the right of entry specified by this section, the landowner as hold of the conditional use permit and the holder of any franchise to operate the site shall agree to this right of entry as provided in Section 120.380.

**120.380. REQUIRED AGREEMENTS AND LIENS.**

- (A) The governing body finds and declares that a properly established, maintained, operated, and rehabilitated solid waste disposal site is a utility facility necessary for public service and, as such, is a valuable asset in improving environmental quality of the County. The Board further finds and declares that an improperly established, operated, maintained, or rehabilitated site may become a public or private nuisance, produce a condition of unsightliness, establish a health hazard or otherwise create a condition detrimental to the environmental quality of the area and of the County. To implement these findings, the governing body further finds and declares that it is necessary and appropriate to require agreements from the landowners who apply for a conditional use permit the agreements required by this section and further finds and declares that the appropriate remedy to reimburse costs of the County incurred in enforcement of Sections 120.310 to 120.380 is, upon failure of the landowner or franchise holder to pay such costs, the imposition of lien against the premises.
- (B) On forms issued by the Planning Director, the landowner who is applying for a conditional use permit for a site pursuant to Sections 120.310 to 120.380 and the holder of any franchise to operate such site, shall jointly and severally agree to accept, to be responsible for or to be liable for:
  - (1) The entry upon subject premises by named officials pursuant to Section 120.375.
  - (2) Proper establishment, maintenance, and operation of the site as required by Section 120.370.
  - (3) Rehabilitation and restoration of the site upon termination for use as a disposal site pursuant to Section 120.360.
- (C) In the event the landowner or the franchise holder does not comply with his agreement executed pursuant to subsection (B) of this section and within a reasonable time after written notice to comply, the governing body may institute proceedings under subsection (D) of the section to enforce compliance. "Reasonable time" within this subsection shall be determined by the Hearings Officer upon the basis of the health, safety, and welfare of the people of Polk County and of the area and in determining what is a reasonable time, the Hearings Officer may give consideration to, but shall not be limited by the following:
  - (1) The nature of the deficiency;
  - (2) Conditions created by the deficiency;
  - (3) Hazard to health or safety;
  - (4) The creation of a condition of unsightliness;

- (5) The creation of a public or private nuisance;
  - (6) Whether there is a satisfactory alternative practice, procedure or operation.
- (D) In the event that the landowner or franchise holder fails to comply with the order of the Hearings Officer within the time specified by the Hearings Officer, the Hearings Officer shall notify the governing body. The governing body may institute proceedings for enforcement by giving 30 days written notice to the landowner or franchise holder, or both, at their last known addresses. The Board may shorten the notice period to not less than 24 hours notice if the governing body finds an immediate or serious danger to the public through the creation of a health hazard or a public or private nuisance. After required notice, the governing body may hold a public hearing at which all interested persons shall have the right to be heard. After such public hearing and on the basis thereof, the governing body shall have the power to order appropriate county agencies to correct the deficiencies in the establishment, maintenance or operation of the site, or to make the required rehabilitation and restoration.
- (E) The costs incurred by the County in carrying out subsection (D) of this section shall be paid by the landowner or the franchise holder or both. If not paid, the governing body may order appropriate action to be taken to impose a lien upon the subject premises.
- (F) The Hearings Officer may order the filing in the County Deed Records of the conditional use permit including the agreements executed pursuant to this section as a recorded encumbrance on the real property to assure compliance with the conditions and agreements. [Amended by Ordinance #88-21, dated November 30, 1988.]

## **CHAPTER 120.400**

### **SAND AND GRAVEL RESOURCE SITES**

120.410.	Statement of Purpose and Intent
120.412.	Definition
120.415.	Permitted Uses
120.420.	Minimum Standards
120.425.	Procedures
120.430.	Application for Permit
120.435.	Issuance of Permit
120.440.	Suspension of Permit
120.445.	Standards for Rehabilitation and Restoration
120.450.	Failure to Maintain Site or Conditions
120.455.	Administration and Enforcement
120.460.	Required Agreements and Liens



**120.410 STATEMENT OF PURPOSE AND INTENT.** The intent and purpose of this section is to permit the development and utilization of mineral resources without the necessity of changing zoning districts, to provide reasonable guidelines for conditions to be applied to reasonably protect neighboring properties and minimize undesirable effects and to provide for the ultimate rehabilitation and restoration of the premises to land uses compatible with the surrounding neighborhood and community.

**120.412. DEFINITION.** As used in Sections 120.410 to 120.460, unless the context requires otherwise, QUARRY means premises from which any rock, sand, gravel, stone, topsoil, clay, mud, peat, or mineral is removed or excavated for sale, as an industrial or commercial operation, and exclusive of excavating and grading for streets and roads, and the process of grading a lot preparatory to the construction of a building for which a permit has been issued by a public agency.

**120.415. PERMITTED USES.** The Hearings Officer may permit the following uses within all zoning districts without a showing of hardship, after public hearing and subject to the conditions hereinafter set forth:

- (A) Sand, gravel, and rock pits and quarries;
- (B) Stock piling;
- (C) Rock crushing;
- (D) Processing and washing, sizing;
- (E) Residence for a caretaker;
- (F) Building structure, apparatus or appurtenances necessary for these uses to be carried on;
- (G) Concrete batching or hot mix batching plants;
- (H) Other incidental related activities using materials found primarily on the site, such as preformed steps, fences, vaults, etc. [Adopted by Ordinance #119, dated May 7, 1974; Amended by Ordinance #88-21, dated November 30, 1988.]

**120.420. MINIMUM STANDARDS.** The following minimum standards shall apply to the establishment, maintenance, and operation of sand and gravel resource sites within Polk County:

- (A) Screening. The site shall be reasonably screened from adjoining properties and public streets, by placement of landscaped yard areas adjacent to every property line within which will be placed an ornamental fence, wall, or hedge or landscaped berm, in addition to such natural desirable vegetation in the landscaped area. This landscaping shall obscure view of the site whenever possible, and shall be maintained by the permit holder.
- (B) Water Pollution. Contamination or impairment of the ground water table, streams, rivers, or tributary bodies thereto shall not be permitted as a result of the extraction and/or processing activities. All operations and related activities shall be subject to the applicable laws, rules, and regulations of the Environmental Quality Commission.

- (C) Air Pollution Control. Control of air, dust, odors, and other pollutants shall be subject to the existing laws, rules, and regulations of the Mid-Willamette Valley Air Pollution Authority.
- (D) Excavation. Excavation made to a water producing depth creating lakes and ponds shall be deep enough to prevent stagnation and development of an insect breeding area or backfilled with a material that will not impair the ground water quality.
- (E) Access Roads. All access to the site shall be by a route approved by the Hearings Officer in coordination with the Director of Public Works.
- (F) Control of Operation Time. A limit shall be placed on operating time, from 4:30 a.m. to 9:30 p.m., but such activities as office, machinery repair, and equipment upkeep shall be excluded; however, in time of public emergency or private emergency, as determined by the Director of Public Works, the operating time limits shall be waived. Activities conducted outside the allowable time limit may be carried on only if they fall within the following noise standards.
- (G) Noise Standards:
  - (1) Noise shall not exceed the following intensity in relation to sound frequency as adjusted below when applicable.

<u>OCTAVE BAND</u>	<u>MAXIMUM PERMITTED SOUND LEVEL DECIBELS</u>
<u>Frequency in cycles per second</u>	<u>Hours 10:00 p.m. to 7:00 a.m.</u>
0 to 74	69
75 to 149	54
150 to 299	47
300 to 599	41
600 to 1,199	37
1,200 to 2,399	34
2,400 to 4,499	31
4,800 and above	28

- (2) If the noise is not smooth and continuous, the following corrections shall be added to or subtracted from the above items:

TYPE OF OPERATIONS OR CHARACTER OF NOISE	CORRECTION IN DECIBELS
(a) When in each one hour period, the noise source operated less than a total of (use only one factor):	
12 minutes	Add 5
3 minutes	Add 10
20 minutes	Add 15
(b) Noise of an impulsive character (such as hammering, etc.)	Less 5
(c) Noise of periodic character (such as humming, screech, etc.)	Less 5
(3) Noise made by devices which are maintained and utilized solely to serve as warning devices is excluded from these regulations.	
(4) Noise created by highway vehicles, trains, watercraft and aircraft is excluded from these regulations.	
(5) Measurements:	
(a) Sound levels shall be measured with a sound level meter and octave band analyzer approved by the Director of Public Works, based on the specifications of the American Standards.	
(b) Sound measurements, using instruments described in this section, shall be taken by a qualified person standing at three separate points on the property line describing the property under permit.	
(c) Measurements for alleged violations shall be made on at least three non-consecutive days.	

**120.425. PROCEDURES**

- (A) Notice and public hearing upon an application for a conditional use permit under Section 120.430 shall be provided as required by Chapter 111.
- (B) Notice of the decision of the Hearings Officer shall be given as provided in Section 111.270.
- (C) Decisions of the Hearings Officer on conditional use applications under Section 120.430 shall be subject to the appeal provisions in Section 111.280 and the call of the Board of Commissioners as provided in Section 111.290. [Amended by Ordinance 88-21, dated November 30, 1988.]

**120.430. APPLICATION FOR PERMIT.** Application by the landowner or the operator, acting as agent, with the written consent of the landowner, shall be made to the Hearings Officer on forms furnished by the Planning Director. Each application shall set forth the specific uses intended for the site and shall be accompanied by:

- (A) An accurate plot plan showing the exterior boundaries of the property on which the quarry is or is proposed to be excavated, and the location of any existing or proposed structures, roads, or other improvements, topography, and the abutting property owners with their names and addresses.
- (B) A plan for the rehabilitation and use of the site after the resources have been removed which plan shall be consistent with land use planning policies of Polk County. Such a plan shall be prepared at a scale of not less than one inch to 400 feet, with topographic contours, intervals of not less than 25 feet.
- (C) The agreement required by Section 120.460 of this ordinance.
- (D) The current fee as prescribed by ordinance. [Amended by Ordinance 88-21, dated November 30, 1988.]

**120.435. ISSUANCE OF PERMITS.**

- (A) The Hearings Officer shall make such investigations as are necessary to determine whether the proposed site conforms fully to the regulations set forth herein.
- (B) In addition to the requirements of Section 120.410 to 120.460, the Hearings Officer may prescribe additional restrictions or limitations when granting a conditional use permit for a proposed site. The Hearings Officer may prescribe such additional conditions as it deems necessary to fulfill the purpose and intent of this ordinance after finding that such conditions are necessary for the public health, safety or general welfare or to protect persons working or residing in the area, or to protect property or improvements in the area, or to protect the aesthetic qualities of the area, or to protect the environmental quality of the area.
- (C) The Hearings Officer may not reduce or change the requirements specified in Sections 120.410 to 120.460, except when proceedings have been held for variance of these requirements by the Hearings Officer pursuant to Chapter 122, provided that an application for variance may be filed with and considered concurrently with the conditional use application, except that the notice of hearing shall separately state the variance applied for. [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.440. SUSPENSION OF PERMIT.** Any permit granted hereunder shall be subject to suspension by the Hearings Officer if it is ascertained that the application contains any false statement, or if it develops that the minimum requirements and conditions set forth by the Hearings Officer are not being complied with. Upon approval of the Hearings Officer, the permit holder may be served notice stating that one, or more, of the conditions or requirements set forth in the permit has not been met and requiring the permit holder to appear before the Hearings Officer either at a regular Hearings Officer meeting or at a special hearing set by the Hearings Officer. Such notice shall also set forth the time and place at which time the permit holder may present material and evidence, and show cause why the permit should not be suspended.

The Hearings Officer shall decide whether or not the conditions have been met as prescribed in the permit. If the Hearings Officer decides the conditions have not been met, the Hearing Officer may allow a reasonable time for the necessary correction. If the corrections are not made within the time allowed by the Hearings Officer, an automatic suspension of the permit shall become effective upon expiration of the time allowed.

Any suspension of permit under this Section shall be removed upon evidence submitted to and accepted by the Hearings Officer that any unmet conditions have been corrected. [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.445. STANDARDS FOR REHABILITATION AND RESTORATION.** The purpose of this section is to ensure the future use of quarry sites after removal of the mineral resources have been completed. The restoration plan shall be consistent with the land use planning policies of Polk County.

- (A) The landowner shall be responsible for the eventual restoration of the quarry site as described in the plan submitted with the permit application.
- (B) Upon exhaustion or economic abandonment of the mineral resources contained at the site under permit, the landowner shall have a reasonable time to rehabilitate and restore the site in accordance with the plan submitted with the permit application. In the event the landowner does not comply with the restoration plan, the Board of Commissioners has the power to order the appropriate County agencies to make the required rehabilitations and restorations, and the chargeable cost of this work, if not paid by the landowner, shall become a prior lien on the property as described in the permit application.
- (C) Except for buildings or structures which are permitted uses in the zone in which the site is located, upon exhaustion of the mineral resources contained at the site under permit, all buildings, equipment, apparatus and appurtenances accessory to the mining operations shall be removed from the site unless an extension is granted by the Hearings Officer. However, such grant of additional time shall not authorize a delay in the restoration of those portions of the property under permit and not affected by such extension.
- (D) All excavations not to water-production depth shall be backfilled, contoured or a use shown on the restoration plan compatible with final depth and slope of the excavation site. Those excavations made to water-producing depth shall be of sufficient depth to prevent occurrence of stagnation and insect breeding grounds.
- (E) Topsoil shall be replaced to the depth that occurred on the site at the time of original excavation or to a sufficient depth to allow landscaping material to be installed.
- (F) When appropriate, the Hearings Officer may specify a schedule of rehabilitation for portions of the property as their use for sand and gravel resource operations is completed or terminated. The schedule shall be considered part of the rehabilitation or restoration plan and shall be included in the agreements required by Section 120.460. [Amended by Ordinance #88-21, dated November 30, 1988.]

**120.450. FAILURE TO MAINTAIN SITE OR CONDITIONS.** The landowners, as the holder of a conditional use permit, shall establish, operate, and maintain the site within the terms and conditions set forth in Sections 120.410 to 120.460 and in the conditional use permit. Compliance with this section shall be a condition to a conditional use permit and shall be enforceable by the agreement required in Section 120.460.

**120.455. ADMINISTRATION AND ENFORCEMENT.** It shall be the duty of the County Building Official, County Health Officer and County Engineer to enforce Sections 120.410 to 120.460. Prior to issuance of a conditional use permit, prior to establishment of any site and during the operation, maintenance or restoration or rehabilitation of such site pursuant to Sections 120.410 to 120.460, it shall be the duty of said officials to determine compliance with those sections and with any condition imposed by the Hearings Officer. For this purpose, the County Engineer, County Health Officer, or County Building Official, or their duly authorized representatives may enter upon public or private property to perform any such duty. In addition to the right of entry specified by this Section, the landowner as holder of the conditional use permit shall agree to the right of entry as provided in Section 120.460.

## **120.460. REQUIRED AGREEMENTS AND LIENS.**

- (A) The Board of Commissioners finds and declares that properly established, maintained, operated, and rehabilitated sand and gravel resource sites are necessary and valuable assets in the County. The Board of Commissioners further finds and declares that improperly established, operated, maintained or rehabilitated sites may become public or private nuisances, produce a condition of unsightliness, establish a health hazard or otherwise create a condition detrimental to the environmental quality of the area and of the County. To implement these findings, the Board of Commissioners further finds and declares that it is necessary and appropriate to require from the landowners who apply for a conditional use permit the agreements required by this section and further finds and declares that the appropriate remedy to reimburse costs of the County incurred in enforcement of Sections 120.410 to 120.460 is, upon failure of the landowner to pay such costs, the imposition of a lien against the premises.
- (B) On forms, issued by the Planning Director, the landowner who is applying for a conditional use permit for a site pursuant to Sections 120.410 to 120.460 shall agree to accept, to be responsible for, or to be liable for:
- (1) The entry upon subject premises by named officials pursuant to Section 120.455.
  - (2) Proper establishment, maintenance, and operation of the site as required by Section 120.450.
  - (3) Rehabilitation and restoration of the site upon termination for use as a disposal site pursuant to Section 120.440.
- (C) In the event the landowner does not comply with the agreements executed pursuant to subsection (B) of this section and within a reasonable time after written notice to comply, the governing body may institute proceedings under subsection (D) of the section to enforce compliance. "Reasonable time" within this subsection shall be determined by the Hearings Officer upon the basis of the health, safety and welfare of the people of Polk County and of the area; in determining what is a reasonable time, the Hearings Officer may give consideration to, but shall not be limited by the following:
- (1) The nature of the deficiency;
  - (2) Conditions created by the deficiency;
  - (3) Hazard to health or safety;
  - (4) The creation of a condition of unsightliness;
  - (5) The creation of a public or private nuisance;
  - (6) Whether there is a satisfactory alternative practice, procedure or operation.
- (D) In the event that the landowner fails to comply with the order of the Hearings Officer within the time specified, the Hearings Officer shall notify the Board of Commissioners. The Board of Commissioners may institute proceedings for enforcement by giving 30 days written notice to the landowner at his last known address. The Board of Commissioners may shorten the notice period to not less than 24 hours notice if the Board of Commissioners finds an immediate or serious danger to the public by the creation of a health hazard or a public or private nuisance. After

required notice, the Board of Commissioners may hold a public hearing at which all interested persons shall have the power to order appropriate county agencies to correct the deficiencies in the establishment, maintenance or operation of the site, or to make the required rehabilitation and restoration.

- (E) The costs incurred by the County in carrying out subsection (D) of this section shall be paid by the landowner. If not paid, the Board of Commissioners may order appropriate action to be taken to impose a lien upon the subject premises.
- (F) The Hearings Officer may order the filing in the County Deed Records of the conditional use permit, including the agreements executed pursuant to this section, as a recorded encumbrance upon the real property to assure compliance with the conditions and agreement. [Amended by Ordinance #88-21, dated November 30, 1988.]

## **CHAPTER 122**

### **VARIANCES**

122.010.	Power to Grant Variances
122.015.	Administrative Variances
122.020.	Conditions for Granting a Full Variance
122.030.	Limiting Variances
122.050.	Public Hearing and Time of Filing
122.060.	Decision of the Hearings Officer
122.080.	Effective Date of Variance
122.090.	Variance Right Must be Exercised to be Effective
122.100.	Cessation of Variance
122.110.	Transfer of Variance
122.120.	Appeal to the Board of Commissioners
122.130.	Resubmission of Variance Application
122.140.	Revocation of Permit



**122.010. POWER TO GRANT VARIANCES.** Subject to the restrictions and provisions contained in this ordinance, the Hearings Officer and the Planning Director shall have the power to vary or modify the strict application of any of the regulations or provisions of this ordinance in any case where such strict application would result in practical difficulties or unnecessary hardship with reference to requirements governing: lot area (except in resource zones), lot width, percentage of lot coverage and height of structure, location, yards, signs, parking and loading space and vision clearance.

The power provided herein to the Hearings Officer and the Planning Director to grant variances from the strict application of the provisions of this ordinance shall be used sparingly, within the limits granted the Hearings Officer and the Planning Director, within the spirit and intent of this ordinance, and applied reasonably to maintain and not abolish the distinctive classifications created by this ordinance. [Amended by Ordinance #88-21, dated November 30, 1988.]

**122.015. ADMINISTRATIVE VARIANCES.**

- (A) Purpose. The purpose of this section is to allow for Planning Director review of certain minor variances which are limited in scope and which are unlikely to have impacts beyond the property on which they are located.
- (B) Applicability. Administrative Variances may be granted for relief from any dimensional development standard in the Zoning Ordinance, but such relief shall not exceed twenty (20) percent of the specified requirement.
- (C) Procedure and Standards. An application and site plan shall be filed pursuant to Chapter 111 of the Zoning Ordinance. In reviewing the request, the Planning Director shall find that:
  - (1) Granting the variance will not have a detrimental affect on uses and development on adjacent properties;
  - (2) The variance is made necessary, due to natural or physical constraints of the building site; and,
  - (3) The variance is consistent with the Comprehensive Plan designation and the purpose and intent of the applicable Zoning District.
- (D) Process. A determination by the Planning Director regarding such a variance request shall be considered an administrative action as prescribed by Section 111.250 of the Zoning Ordinance. Notice of the Planning Director's decision shall be provided as required by Section 111.270 of the Zoning Ordinance. [Section 122.015 (Administrative Variances) added by Ordinance 94-1, dated January 5, 1994.]

**122.020. CONDITIONS FOR GRANTING A FULL VARIANCE.** The Hearings Officer may permit and authorize a variance from any dimensional development standard in the Zoning Ordinance, where such relief shall exceed twenty (20) percent of the specified requirement. An application and site plan shall be filed pursuant to Chapter 111 of the Zoning Ordinance. Such a variance may be granted when it appears from the application, and the facts presented at the public hearing, and by investigation that the proposed variance satisfies the following criteria:

- (A) That there are unnecessary, unreasonable hardship or practical difficulties which can be relieved only modifying the literal requirements of the ordinance;
- (B) That there are exceptional or extraordinary circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, or uses in the same zone;

however, nonconforming land, uses, or structures in the vicinity shall not in themselves constitute such circumstances or conditions;

- (C) That granting the application will not be materially detrimental to the public welfare or be injurious to property or improvements in the neighborhood of the premises;
- (D) That such variance is necessary for the preservation and enjoyment of the substantial property rights of the petitioner;
- (E) That the granting of the application will not, under the circumstances of the particular case, adversely affect the health or safety of persons working or residing in the neighborhood of the property of the applicant; and
- (F) That granting of the application will be in general harmony with the intent and purpose of this ordinance and will not adversely affect any officially adopted comprehensive plan. [Amended by Ordinance #88-21, dated November 30, 1988.]

**122.030. LIMITING VARIANCES.** In granting a full variance, the Hearings Officer may impose such limitations, conditions and safeguards as it may deem appropriate so that the spirit of this ordinance will be observed, public safety and welfare secured, and substantial justice be done. The Hearings Officer may limit the time or duration of a variance. The Planning Director may also impose such limitations in granting an administrative variance. If the variance is granted, the applicant will exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval by the Hearings Officer or Planning Director. A violation of any such condition or limitation shall constitute a violation of this ordinance.

[Amended by Ordinance #88-21, dated November 30, 1988.]

**122.050. PUBLIC HEARING AND TIME OF FILING.** The application shall be filed at least 45 days prior to the date of public hearing. Notice of public hearings shall be given and the hearing held as prescribed in Chapter 111.

**122.060. DECISION OF THE HEARINGS OFFICER.** The Hearings Officer shall render his decision on an application for a full variance after the conclusion of a hearing. Notice of the decision shall be provided in accordance with the standards of Chapter 111. [Amended by Ordinance #219, dated September 22, 1978, Ordinance #310, dated July 11, 1984, and Ordinance #88-21, dated November 30, 1988.] [Section 122.070 deleted by Ordinance #88-21, dated November 30, 1988.]

**122.080. EFFECTIVE DATE OF VARIANCE.** Variances granted by the Hearings Officer and the Planning Director under the provisions of this ordinance shall not be effective until 10 days after the mailing of the notice of decision, unless the action has been called up by the Board of Commissioners as provided by Section 111.290 or an appeal has been taken as provided by Section 111.280, the variance shall not be effective until the Board of Commissioners has acted on action or appeal as provided by Section 111.300. [Amended by Ordinance #88-21, dated November 30, 1988.]

**122.090. VARIANCE RIGHT MUST BE EXERCISED TO BE EFFECTIVE.** Variance granted under this ordinance shall be effective only when the exercise of the right granted thereunder shall be commenced within one (1) year after the effective date of that variance, unless a longer period be specified or thereafter allowed by the Hearings Officer or Planning Director. In case such right has not been exercised, or extension obtained, the variance shall be void. A written request for an extension of time filed with the director at least 30 days prior to the expiration of the application shall extend the running of the one year period until the Hearings Officer or Planning Director has acted on said request. [Amended by Ordinance #88-21, dated November 30, 1988 and Ordinance 90-19, dated January 2, 1991.]

**122.100. CESSATION OF VARIANCE.** Discontinuance of the exercise of any right heretofore or hereafter authorized by any variance for a continuous period of six (6) months shall be deemed an abandonment of such variance, and the property affected hereby shall be subject to all the provisions and regulations of this ordinance applicable to the district or zone in which such property is located at the time of such abandonment.

**122.110. TRANSFER OF VARIANCE.** Any valid variance granted pursuant to this ordinance is transferable unless otherwise provided at the time of the granting of such variance.

**122.120. APPEAL TO THE BOARD OF COMMISSIONERS.** An appeal may be taken to the Board of Commissioners by any person whose interests are adversely affected or who is aggrieved by the determination of the Hearings Officer or Planning Director on an application for a variance. Such an appeal shall be filed in accordance with the provisions of Section 111.280 of the Zoning Ordinance.

The Board of Commissioners shall review the action of the Hearings Officer or Planning Director, conduct a public hearing, and render a decision as prescribed in Chapter 111 of the Polk County Zoning Ordinance. [Amended by Ordinance #331, dated July 30, 1971; Ordinance #93, dated November 9, 1971; Ordinance #88-21, dated November 30, 1988, Ordinance #89-1, dated February 22, 1989.]

**122.130. RESUBMISSION OF VARIANCE APPLICATION.** No portion of an application which has been denied by the Hearings Officer, Planning Director, or by the Board of Commissioners shall be resubmitted within a period of one year after such denial. This section does not prevent resubmission of applications withdrawn prior to approval or denial, upon payment of the fee prescribed for a new application. [Amended by Ordinance #88-21, dated November 30, 1988, and Ordinance 91-15 dated July 24, 1991.]

**122.140. REVOCATION OF PERMIT.** Any variance granted under this Ordinance may be canceled by the Hearings Officer, Planning Director, or Board of Commissioners if it develops or is ascertained that the application therefore contains any false statements. In case of such cancellation, the matter may be referred to the County Counsel for an opinion. In such case, it shall be unlawful for any person to exercise any right granted by the Hearings Officer, Planning Director, or the Board of Commissioners pursuant to such application. [Amended by Ordinance #88-21, dated November 30, 1988.]

## **CHAPTER 125**

### **LIMITED USES**

125.005.	Purpose
125.010.	Temporary Use of Manufactured Home During Construction
125.020.	Subdivision or Planned Development Pre-Cutting and Assembly Facility
125.030.	Subdivision or Planned Development Sales Office or Development Office
125.060.	Fuel Oil Distribution Firms
125.070.	Manufactured Home Towing Service Office
125.080.	Retail Building Materials Sales Firm

**125.005. PURPOSE.** The purpose of the limited use section is to provide specific requirements for permitted uses that are considered limited due to their nature and activities.

**125.010. TEMPORARY USE OF MANUFACTURED HOME DURING CONSTRUCTION.** The building official may grant a temporary permit for the use and occupancy of a manufactured home by the applicant for the length of time that the homeowner is constructing a house on the same premises on which the manufactured home is to be located. Such permit shall be granted for a period of one (1) year, and may be renewed for a maximum period of one (1) additional year, by the County Building Official. As a condition of granting such a permit, the Building Official shall require that an agreement be signed by the applicant stating that the applicant is fully aware of the terms of such temporary use.

Any additional extension of time beyond that allowed by this section shall be at the sole discretion of the Hearings Officer after proceedings are held in the same manner as provided for variances. Such requests shall be considered as requests for a full variance from the terms of the Zoning Ordinance. [Amended by Ordinance #88-21, dated November 30, 1988.]

**125.020. SUBDIVISION OR PLANNED DEVELOPMENT PRE-CUTTING AND ASSEMBLY FACILITY.** Subdivision or planned development pre-cutting and assembly facility; including permanent structures which are to be converted to a permitted use, temporary building and structures and related outdoor storage area, may be permitted by the Building Official, provided:

- (A) The Building Official issues a permit for such specific purpose;
- (B) That at least 80 percent of the production of said facility is used within the development or subdivision;
- (C) The facility has a finished appearing exterior and the site is maintained in a neat and trim condition and all portions of said facility are screened from all residential and commercial areas with such landscaping as may be necessary;
- (D) That all signs not exceed 32 square feet total combined area when attached to a building or 24 square feet when freestanding;
- (E) That the term of such permit for each approved planned development phase or recorded addition to a subdivision shall not exceed three (3) years for the permit. The permit may be renewed once for an additional two (2) year period. Additional periods may be granted by the Hearings Officer under the variance procedure when the applicant can show good cause for such delay and such site is not detrimental to the surrounding area.
- (F) When necessary, due to a complaint or by reason of closeness to residential uses, the Building Official may limit the hours of operation of said facility.
- (G) Failure to continuously comply with these conditions and any conditions on the permit shall automatically void the permit.
- (H) When the development or subdivision is complete, the property shall be restored to its residential condition and use. [Amended by Ordinance #88-21, dated November 30, 1988.]

**125.030. SUBDIVISION OR PLANNED DEVELOPMENT SALES OFFICE OR DEVELOPMENT OFFICE.** Subdivision or planned development sales office and/or development management office in a new dwelling, a part of a dwelling, or separate building, manufactured home or as a part of a pre-cutting and assembly facility, may be permitted by the Building Official provided:

- (A) The Building Official issues a permit for such specific purpose.
- (B) That the principal use of such office is for the sale and/or development of lots, parcels and structures in the development or subdivision.
- (C) The office has a finished exterior and the site is landscaped and maintained in a neat and trim condition.
- (D) That all signs not exceed 32 square feet total combined area when attached to a building or 24 square feet when freestanding.
- (E) That the term of such permit for each approved planned development phase or recorded addition to a subdivision shall not exceed three (3) years for the permit. The permit may be renewed one for an additional two (2) year period. The office may remain on one site if it is reasonably central and all of the sites in the immediate vicinity have not been sold. Additional periods may be granted by the Hearings Officer under the variance procedure when the applicant can show good cause for such delay and such site is not detrimental to the area.
- (F) When necessary, due to a complaint or other significant reason, the Building Official may limit the hours of operation.
- (G) Failure to continuously comply with these conditions and any conditions on the permit shall automatically void the permit.
- (H) When the development or subdivision is complete, the property shall be restored to its residential conditional and use.

**125.060. FUEL OIL DISTRIBUTION FIRMS.**

A fuel oil distribution firm may be permitted by the Planning Director provided:

- (A) All fuel oil and motor fuels are stored in an underground location.
- (B) Storage of fuel oil and motor fuels shall conform to the all applicable environmental and construction standards of the County and State. The applicant shall submit copies of all applicable local and State permit(s) to the Planning Director prior to storing such materials on site.
- (C) All vehicles of the firm which are parked overnight on the premises are kept wholly within a completely enclosed building.
- (D) All driveways, parking and boarding areas are paved with asphalt or concrete surfacing and which areas are adequately graded and drained.
- (E) The storage of all merchandise, materials, equipment and accessories is consistently and continuously maintained wholly within a completely enclosed building.
- (F) The sales and services of any furnaces may be conducted only as an incidental and secondary use, provided further that there is no sheet metal shop operated in connection therewith.
- (G) That there be a yard three (3) feet in depth adjacent to any residential area or CO zone, which yard shall be contained with a compact evergreen hedge, planted with material at least three (3) feet in height and which shall be capable of attaining a height of at least six (6) feet , which hedge shall be maintained in a neat condition.

### **125.070. MANUFACTURED HOME TOWING SERVICE OFFICE.**

A manufactured home towing service office may be permitted by the Planning Director provided:

- (A) Not more than four (4) manufactured homes and/or the towing tractors remain for more than 48 hours at any one time on the site.
- (B) All portions of the property which are to be used for the parking of automobiles and trucks and manufactured homes are paved.
- (C) A permit and approval has been obtained from the Polk County Director of Public Works regarding the number, size of driveways and the direction of ingress and egress to each driveway.
- (D) No manufactured home or trailer is stored for any purpose on this site.
- (E) The office may be a manufactured unit provided that said manufactured unit meets the requirements of the County Building Official. That there be no operation of this activity during darkness or movement of units on holidays and weekends. That there will be no repair or service of trucks on this property.
- (F) There will be no repair or service of trailers or manufactured homes on this site.

### **125.080. RETAIL BUILDING MATERIALS SALES FIRM.**

A retail building materials sales firm may be permitted by the Planning Director provided:

- (A) All sales are at retail to the general public.
- (B) All activities, including storage, are conducted wholly within an enclosed building.
- (C) Loading and unloading operations are conducted through those sides of the building which are not abutting, adjacent to or across a street from any residential or CO zone.
- (D) All parking and loading areas are paved with an asphaltic or comparable permanent surface.
- (E) All parking, loading and yard areas are continuously maintained in a neat and clean manner.
- (F) Storage of merchandise or warehousing of merchandise is limited to that amount and kind which will be sold through the retail sales at the site of such storage.
- (G) The County Building Division issue a "Certificate of Occupancy" prior to use of the building and site, after determining that the conditions set forth herein are fully satisfied. In the event such conditions are not continuously met, the Certificate of Occupancy shall be subject to revocation upon 30 days notice.

## **CHAPTER 127**

### **SUBURBAN RESIDENTIAL (SR) ZONING DISTRICT**

- 127.010. Purpose
- 127.020. Use
- 127.030. Transitional Use
- 127.035. Uses Permitted Subject to Review and Approval
- 127.040. Conditional Uses



**127.010. PURPOSE.** The purpose and intent of the Suburban Residential Zone is to provide a transition between urban and rural living within an officially designated sewered area, or an area which may be served with sewers during the next 10 years, or within an unincorporated community where water is available and methods for sewage disposal are available. [Amended by Ordinance #00-03, dated May 5, 2000]

**127.020. USE.** Within any SR, Suburban Residential Zone, no building, structure or premises shall be used, arranged or designed to be used, erected, structurally altered or enlarged, except for one or more of the following uses:

- (A) Single-family dwelling;
- (B) Manufactured home if located outside of an adopted urban growth boundary of a city;
- (C) Public and semi-public uses, buildings and structures;
  - (1) playgrounds, parks;
  - (2) hospitals, providing a 50-foot building setback is maintained from abutting, privately owned property;
  - (3) public buildings and structures such as libraries, fire stations.
- (D) Other main uses:
  - (1) Gardens, orchards, and crop cultivation, which include the processing and sale of produce that is raised only on the premises;
  - (2) Raising of livestock is permitted with a minimum of one (1) acre for the first animal unit, or fraction thereof, and one-half (1/2) acre for each animal unit thereafter. Cattle, horses, burros, donkeys, and other animals of comparable size each constitutes one (1) animal unit. Five (5) animals the size of sheep or goats constitute one (1) animal unit. All animals and fowl shall not be allowed to run at large off the property of the owner. Swine shall not be allowed on tracts of less than ten (10) acres. All animal unit ratios shall not apply on tracts of 20 acres or more. The keeping of livestock, fowl and fur-bearing animals and animal waste therefrom shall be done in such a reasonable manner as not to constitute a nuisance, especially by reason of odor, water pollution, or the attraction of rodents or flies and other insects,
  - (3) Temporary use of manufactured home during construction (see Limited Uses, Section 125.010),
  - (4) Temporary use of a pre-cutting and assembly facility within a new subdivision or planned development (see Limited Uses, Section 125.020),
  - (5) Subdivision or planned development sales office or development office (see Limited Uses, Section 125.030).
- (E) Right-of-way for public utilities for convenience and necessity;
- (F) Public utilities, structures directly related to the operation of (E) above, not to include storage, maintenance or related activities, when they comply with all yard and setback requirements;
- (G) Accessory uses and structures:
  - (1) Customary residential accessory buildings for private use, such as pergola, greenhouse, hot house, hobby shop or hobby house, summer house, patios - enclosed or covered patios, woodshed, quarters for domestic animals maintained as pets;
  - (2) Fallout shelter;

- (3) Fences;
- (4) Garages and parking areas for the storage and protection of the automobiles of the residents of the dwelling, including a private garage for not more than three (3) motor vehicles for each single-family dwelling on the same lot with or within the dwelling to which it is accessory and in which no garage, business or industry is conducted;
- (5) Storage for a commercial vehicle, maximum of one (1) per dwelling;
- (6) Sleeping quarters and guest quarters not in the main building are permitted if such quarters are, and remain dependent upon the main building for either or both kitchen and bathroom facilities and the guest facilities are not used for residential purposes;
- (7) Swimming pools for private use (requires a building permit);
- (8) Private stables and barns;
- (H) Home occupations, as defined in Section 116.020.
- (I) The taking of boarders or leasing of rooms by a resident family, providing the total number of boarders and roomers does not exceed two (2) in a single-family dwelling, nor more than four (4) in any legally established two-family dwelling.
- (J) Residential homes, as defined in Section 110.477. [Amended by Ordinance #89-17, dated December 6, 1989.] [Amended by Ordinance #00-03m, dated May 5, 2000]
- (K) Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**127.030. TRANSITIONAL USES.** Transitional uses shall be permitted in an SR Zone where the side of a lot abuts upon any commercial (C) Zone or Industrial (I) Zone, provided that such transitional use does not extend across a street or alley and in no case more than 165 feet from the boundary of the less restricted zone which it adjoins, as follows:

- (A) Dwellings:
  - (1) Two-family dwellings (duplexes) if located within an urban growth boundary or within an unincorporated community;
- (B) Public and semi-public uses, buildings, and structures;
  - (1) Churches, if set back from all side and rear property lines at least 20 feet;
  - (2) Community or neighborhood club buildings, including swimming pools and other allied facilities, when erected by a non-profit community club for the improvement of the zone or social recreation of the members;
- (C) Other main uses:
  - (1) Public automobile parking area when located and developed as prescribed in Chapter 112;
  - (2) Outdoor plant nursery with no retail sales;
  - (3) Privately operated kindergartens or day nurseries, provided the residential character of the building is unchanged. [Amended by Ordinance 00-12]

**127.035. USES PERMITTED SUBJECT TO REVIEW AND APPROVAL.**

- (A) A manufactured dwelling unit within an adopted urban growth boundary subject to the following conditions:
  - (1) A manufactured dwelling placement permit shall be obtained from the Polk County Community Development prior to the moving in and locating of a

manufactured dwelling on any lot. Building permits are required for any on-site construction.

- (2) The manufactured dwelling and accessory structures shall comply with the development standards of this zoning district.
- (3) The accessory structures attached to the manufactured dwelling shall be considered as a portion of the manufactured dwelling and shall observe the same yard requirements as a manufactured dwelling.
- (4) The manufactured dwelling shall be situated upon a foundation system having an approved manufactured dwelling placement permit. Continuous skirting shall be applied around the base of the unit to completely screen with a sight-obscuring material all of the underside of the unit.
- (5) The manufactured dwelling shall comply with the applicable manufactured dwelling placement requirements of that city based upon adopted intergovernmental agreements.

(B) Hardship Temporary Manufactured Dwelling.

One manufactured dwelling unit in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or a relative of the resident, provided that:

- (1) The medical hardship is certified by a licensed physician;
- (2) The manufactured home is connected to the existing sewage disposal system; except when the County Sanitarian finds the existing system to be inadequate and that it cannot be repaired or is not physically available; If the manufactured home will use a public sanitary system, such condition will not be required.
- (3) The applicant agrees to renew the permit every two years and will remove the manufactured home when the hardship condition ceases.
- (4) Notice of Determination. Upon issuance of a temporary hardship determination by the Planning Director, determinations shall be mailed to the applicant and to interested parties based upon the provisions of Section 111.270 of the Polk County Zoning Ordinance. An appeal of the Planning Director's decision shall be processed pursuant to Section 111.280 of the Polk County Zoning Ordinance. [Subsection 127.035 added by Ord. 95-12.] [Amended by Ordinance #00-03, dated May 5, 2000]

**127.040. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in Chapter 119 of this ordinance, the following uses will be permitted in an SR Zone:

- (A) Public and semi-public uses, buildings and structures;
  - (1) Churches, if set back from all side and rear property lines at least 20';
  - (2) Community or neighborhood club buildings, including swimming pools and other allied facilities, when erected by a non-profit community club for the improvement of the zone or social recreation of the members;
  - (3) Communications tower not exceeding 40-feet in height, as provided in Section 112.135 and the following:
    - a) The location, size, design and functional characteristics of the tower are reasonably compatible with the existing conditions and vegetation at the proposed site, the tower must be designed and constructed with material to reduce visibility of the tower by:

- i) A site-specific study of the tower site identifying a proposed stealth (i.e. camouflage) construction type that may include but is not limited to a tree, or flagpole (no external antennas). The proposed color and surfacing of the tower and associated fixtures. [Amended by Ordinance 04-09]
- (4) Communications tower over 40-feet in height but not exceeding 100-feet in height, as provided in Section 112.135 and the following:
  - a) Coverage limitations showing the proposed height of the tower is needed in order to meet the service type and area coverage needs. Propagation maps stamped by a professional engineer that demonstrate service type and area coverage shall be provided for the 40-foot height, and each 20-foot interval to the proposed tower height; or
  - b) Type of system (e.g. broadcast, FM radio, television); or
  - c) Other requirements of local, state, and federal agencies; and
  - d) The location, size, design and functional characteristics of the tower are reasonably compatible with the existing conditions and vegetation at the proposed site. The tower must be designed and constructed with material to reduce visibility of the tower by:
    - i) A site-specific study of the tower site identifying a proposed stealth (i.e. camouflage) construction type that may include but is not limited to a tree, or flagpole (no external antennas).
    - ii) The proposed color and surfacing of the tower and associated fixtures. [Amended by Ordinance 04-09]
- (5) Riding clubs and stables, rodeo grounds and similar uses;
- (6) Schools (elementary, junior high, and high school).
- (B) Miscellaneous uses;
  - (1) Privately operated kindergartens or day nurseries provided the residential character of the building is unchanged;
  - (2) Beauty shops, where no assistants are employed;
  - (3) Use of an accessory building for conducting a home occupation;
- (C) Dwellings;
  - (1) Two-family dwelling (duplexes) on a corner lot (See Specific Conditional Uses Section 119.150 (B)) if located within an urban growth boundary or within an unincorporated community.
  - (2) [Subsection (C) (2) deleted by Ord. 95-12, Sec. 5]
- (D) Boat, camper and trailer storage area or lot (see Specific Conditional Uses, Section 119.150 (C)).
- (E) [Subsection (E) deleted by Ord. 95-12, Sec. 5]
- (F) Planned Development;
- (G) Solid Waste Disposal Site (see Section 120.310 to 120.380);
- (H) Sand and Gravel Resource Site (see Section 120.410 to 120.460);
- (I) Conditional Home-Occupation (see Section 116.030).
- (J) [Subsection (J) repealed by Ord. 89-17, Sec. 23] [Amended by Ordinance 00-12]

## **CHAPTER 128.500**

### **ACREAGE RESIDENTIAL-FIVE ACRE (AR-5) ZONING DISTRICT**

- 128.510. Purpose
- 128.520. Use
- 128.525. Uses Permitted Subject to Review and Approval
- 128.530. Conditional Uses

**128.510. PURPOSE.** It is the purpose and function of the Acreage Residential - 5 acre (AR-5) zone to:

- (A) Provide for the best use of the land based on the location, inherent limitations and ability to serve the functional needs of the area.
- (B) Provide larger acreage homesites which will be a buffer area between farm zones and higher density urban and urbanizing areas, thus reducing the conflicts between residential use and usual and normal farming practices.
- (C) Provide for the orderly growth of the urban areas so that as urbanization occurs, the supporting community will be able to afford the increased capital investments required for services to and within the new urban area and the costs of maintenance of utility facilities, rebuilding of arterial streets, protective services and desired social services.
- (D) To provide for the efficient, redivision of acreage subdivisions which may occur in the area.
- (E) To promote the pre-planning of future important streets in the area.
- (F) To meet the needs of a segment of the population for non-urban, non-farm acreage homesites.
- (G) To provide for the above, yet not adversely affect fish and wildlife resources and habitat areas, natural areas, and scenic areas. [Amended by ordinance #256, dated September 19, 1979.]

**128.520. USE.** Within any AR-5, Acreage Residential 5-acre zone, no building, structure or premises shall be used or arranged, designed, erected, or maintained to be used except for the following purposes:

- (A) Single-family dwelling including single-family mobile home;
- (B) Farm Use (as defined in Section 110.223);
- (C) Public parks, playgrounds;
- (D) Public buildings such as libraries and fire stations;
- (E) Churches;
- (F) Accessory uses and structures:
  - (1) Customary residential accessory building for private use, such as pergola, greenhouse, hothouse, hobby house, summer house, patios, enclosed or covered patios, woodshed, quarters for domestic animals maintained as pets;
  - (2) Fallout shelters;
  - (3) Fences;
  - (4) Garages and parking areas for the storage and protection of the automobiles of the residents of the dwelling, including a private garage for not more than three motor vehicles for each single-family dwelling on the same lot with or within the dwelling to which it is an accessory and in which no business or industry is conducted;
  - (5) Storage for a commercial vehicle, maximum of one per dwelling;
  - (6) Sleeping quarters in a garage for domestic employees of the main building to which the garage is attached;
  - (7) Guest houses and guest quarters not in the main building are permitted if such

quarters are, and remain, dependent upon the main building for either or both kitchen and bathroom facilities and the guest facilities are not used for residential purposes;

- (8) Swimming pools for private use (requires building permit);
- (G) Home occupation as defined in Section 116.020;
- (H) The taking of boarders or leasing of rooms by a resident family providing the total number of boarders and roomers does not exceed two in a single-family dwelling nor more than four (4) in any legally established two-family dwelling.
- (I) The use of a manufactured home during construction (see Limited Uses, Section 125.010).
- (J) Schools (elementary, junior high and high);
- (K) Privately operated kindergartens or day nurseries, providing the residential character of the building is maintained.
- (L) Residential homes, as defined in Section 110.477. [Subsection (L) added by Ordinance # 89-17, dated December 6, 1989.]
- (M) Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

#### **128.525. USES PERMITTED SUBJECT TO REVIEW AND APPROVAL.**

- (A) **HARDSHIP TEMPORARY MANUFACTURED DWELLING.** One manufactured dwelling unit in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or a relative of the resident, provided that:
  - (1) The medical hardship is certified by a licensed physician;
  - (2) The manufactured home is connected to the existing sewage disposal system; except when the County Sanitarian finds the existing system to be inadequate and that it cannot be repaired or is not physically available; If the manufactured home will use a public sanitary system, such condition will not be required.
  - (3) The applicant agrees to renew the permit every two years and will remove the manufactured home when the hardship condition ceases.
  - (4) **Notice of Determination.** Upon issuance of a temporary hardship determination by the Planning Director, determinations shall be mailed to the applicant and to interested parties based upon the provisions of Section 111.270 of the Polk County Zoning Ordinance. An appeal of the Planning Director's decision shall be processed pursuant to Section 111.280 of the Polk County Zoning Ordinance. [Subsection 128.525 added by Ordinance. 95-12 SEC. 6]

**128.530. CONDITIONAL USE.** When authorized under the procedure provided for conditional uses in Chapter 119 of this ordinance, the following uses will be permitted in an AR-5 Zone:

- (A) The following allied farm commercial processing and similar activities may be permitted as a separate business or enterprise, not operated in conjunction with a farm.
  - (1) hop, nut and fruit driers;
  - (2) feed mixing and storage facilities;
  - (3) hullers;
  - (4) rendering plants;

- (5) mint distilleries;
  - (6) seed processing, packing, shipping and storage facilities;
  - (7) slaughter houses;
  - (8) agricultural produce storage, i.e., onion warehouses, grain elevators and similar facilities;
  - (9) feed lots;
  - (10) vegetable oil processing and refining;
  - (11) any other similar processing and allied farm commercial activities (includes farm equipment repair shop).
- (B) Planned recreational developments;
  - (C) Sand and gravel excavation and processing facilities as provided for by Chapter 120.400;
  - (D) Solid waste disposal sites as provided for in Chapter 120.300;
  - (E) Kennels;
  - (F) Community or neighborhood club buildings, including swimming pools, and other allied facilities, when erected by a non-profit community club for the improvements of the community or social recreation of the members;
  - (G) Private airfield;
  - (H) Motor race track;
  - (I) A two (2) family dwelling (duplex) on a corner lot (see Specific Conditional Uses, Section 119.150 (B));
  - (J) Boat, camper and trailer storage area or lot (see Specific Conditional Uses, Section 119.150 (C));
  - (K) [Subsection (K) deleted by Ord. 95-12.]
  - (L) Church conference and campground (see Specific Conditional Uses, Section 119.150 (F));
  - (M) Planned development;
  - (N) Communications tower, as provided in Section 112.135; [Amended by Ordinance 01-3 and 04-09]
  - (O) Riding clubs and stables, rodeo grounds and similar uses;
  - (P) Beauty shops, where no assistants are employed;
  - (Q) Use of an accessory building for conducting a home occupation;
  - (R) Conditional home-occupation (see Section 116.030.
  - (S) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale, as provided in Section 112.135. [Amended by Ordinance 91-15, dated July 24, 1991.]
  - (T) Cottage Industry Home Occupations (see Section 116.040).



**CHAPTER 128.700**

**ACREAGE RESIDENTIAL-TEN ACRE (AR-10) ZONING DISTRICT**

- 128.710. Purpose
- 128.720. Use
- 128.725. Uses Permitted Subject to Review and Approval
- 128.730. Conditional Uses
- 128.740. Non-Remonstrance Deed Restriction

[Adopted by Ordinance #04-02, dated January 21, 2004.]

**128.710. PURPOSE.** It is the purpose and function of the Acreage Residential – 10 acre (AR-10) zone to:

- (A) Allow the designation of new Rural Lands consistent with OAR 660-004-0040, without requiring an exception to Oregon Statewide Planning Goal 14.
- (B) Provide for the best use of the land based on the location, inherent limitations and ability to serve the functional needs of the area.
- (C) Provide larger acreage homesites which will be a buffer area between farm zones and higher density urban and urbanizing areas, thus reducing the conflicts between residential use and usual and normal farming practices.
- (D) Provide for the orderly growth of the rural areas so that as development occurs, the supporting community will be able to afford the increased capital investments required for services to and within the new rural area and the costs of maintenance of utility facilities, roads, protective services, and desired social services.
- (E) To provide for the efficient, redivision of acreage subdivisions which may occur in the area.
- (F) To promote the planning of future important roads in the area.
- (G) To meet the needs of a segment of the population for non-urban, non-farm acreage homesites.
- (H) To provide for the above, yet not adversely affect fish and wildlife resources and habitat areas, natural areas, and scenic areas.

**128.720. USE.** Within any AR-10, Acreage Residential 10-acre zone, no building, structure or premises shall be used or arranged, designed, erected, or maintained to be used except for the following purposes:

- (A) Single-family dwelling including single-family manufactured dwelling;
- (B) Farm Use (as defined in Section 110.223, excluding confined animal feeding operations (CAFO));
- (C) Propagation or harvesting of a forest product as permitted by the Forest Practices Act;
- (D) Public parks, playgrounds;
- (E) Public buildings such as libraries and fire stations;
- (F) Churches;
- (G) Accessory uses and structures:
  - (1) Customary residential accessory building for private use, such as pergola, greenhouse, hothouse, hobby house, summer house, patios, enclosed or covered patios, woodshed, quarters for domestic animals maintained as pets;
  - (2) Fallout shelters;
  - (3) Fences;
  - (4) Garages and parking areas for the storage and protection of the automobiles of the residents of the dwelling, including a private garage for not more than three motor vehicles for each single-family dwelling on the same lot with or within the dwelling to which it is an accessory and in which no business or industry is conducted;

- (5) Storage for a commercial vehicle, maximum of one per dwelling;
- (6) Sleeping quarters in a garage for domestic employees of the main building to which the garage is attached;
- (7) Guest houses and guest quarters not in the main building are permitted if such quarters are, and remain, dependent upon the main building for either or both kitchen and bathroom facilities and the guest facilities are not used for residential purposes; and
- (8) Swimming pools for private use (requires building permit);
- (H) Home occupation as defined in Section 116.020;
- (I) The taking of boarders or leasing of rooms by a resident family providing the total number of boarders and roomers does not exceed two in a single-family dwelling nor more than four (4) in any legally established two-family dwelling.
- (J) The use of a manufactured home during construction (see Limited Uses, Section 125.010);
- (K) Schools (elementary, junior high and high);
- (L) Privately operated kindergartens or day nurseries, providing the residential character of the building is maintained.
- (M) Residential homes, as defined in Section 110.477; and
- (N) Transportation Improvements.

**128.725. USES PERMITTED SUBJECT TO REVIEW AND APPROVAL.**

- (A) **HARDSHIP TEMPORARY MANUFACTURED DWELLING.** One manufactured dwelling unit, recreational vehicle, or the temporary residential use of an existing building in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or a relative of the resident, provided that:
  - (1) The medical hardship is certified by a licensed physician;
  - (2) The hardship dwelling or recreational vehicle is connected to the existing sewage disposal system; except when the County Sanitarian finds the existing system to be inadequate and that it cannot be repaired or is not physically available; If the hardship dwelling will use a public sanitary system, such condition will not be required.
  - (3) The applicant agrees to renew the permit every two years.
  - (4) Within 3 months of the end of the hardship the manufactured dwelling, recreational vehicle, or building converted to a temporary residential use, shall be removed, demolished, or converted to an approved nonresidential use.
  - (5) **Notice of Determination.** Upon issuance of a temporary hardship determination by the Planning Director, determinations shall be mailed to the applicant and to interested parties based upon the provisions of Section 111.270 of the Polk County Zoning Ordinance. An appeal of the Planning Director's decision shall be processed pursuant to Section 111.280 of the Polk County Zoning Ordinance.

**128.730. CONDITIONAL USE.** All uses permitted as conditional uses shall be subject to the general provisions of Chapter 119 of this Ordinance, “Conditional Uses”.

- (A) Private parks;
- (B) Community or neighborhood club buildings, including swimming pools, and other allied facilities, when erected by a non-profit community club for the improvements of the community or social recreation of the members;
- (C) Private airfield;
- (D) Church conference and campground (see Specific Conditional Uses, Section 119.150 (F));
- (E) Communications tower as provided in Section 112.135;
- (F) Use of an accessory building for conducting a home occupation;
- (G) Conditional home-occupation (see Section 116.030);
- (H) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale, as provided in Section 112.135; and
- (I) Cottage Industry Home Occupations (see Section 116.040).

**128.740. NON-REMONSTRANCE DEED RESTRICTION.** For any conditional use approved under section 127.730, the landowner for the conditional use shall be required to sign and record a deed restriction binding the landowner and the landowner’s successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from accepted farming or forest practices listed under ORS 30.936 to 30.937.

## **CHAPTER 128.800**

### **AGRICULTURE AND FORESTRY-TEN ACRE (AF-10) ZONING DISTRICT**

- 128.810. Purpose
- 128.820. Use
- 128.825. Uses Permitted Subject to Review and Approval
- 128.830. Conditional Uses
- 128.840. Non-Remonstrance Deed Restriction

[Adopted by Ordinance #04-03, dated January 21, 2004.]

**128.810. PURPOSE.** It is the purpose and function of the Agriculture and Forestry – 10-acre minimum (AF-10) zone to:

- (A) Allow the designation of new Rural Lands consistent with Oregon Administrative Rule (OAR) 660-004-0040, without requiring an exception to Oregon Statewide Planning Goal 14;
- (B) Provide larger acreage homesites while at the same time providing the maximum opportunity for agriculture and forestry related operations that could result in rural employment for the residents of Polk County;
- (C) Provide for the establishment of uses consistent with the location, inherent limitations and the functional needs of the area;
- (D) Provide for the orderly growth of the rural areas so that as development occurs, the supporting community will be able to afford the increased capital investments required for services to and within the new rural area and the costs of maintenance of utility facilities, roads, protective services, and desired social services;
- (E) To promote the planning of future roads in the area; and
- (F) To provide for the above, yet not adversely affect fish and wildlife resources and habitat areas, natural areas, and scenic areas.

**128.820. USE.** Within any Agriculture and Forestry 10-acre minimum (AF-10) zone, no building, structure or premises shall be used or arranged, designed, erected, or maintained to be used except for the following purposes:

- (A) Single-family dwelling including single-family manufactured dwelling;
- (B) Farm Use (as defined in Section 110.223);
- (C) Propagation or harvesting of a forest product as permitted by the Forest Practices Act;
- (D) Public parks, playgrounds;
- (E) Public buildings such as libraries, fire stations and fire service facilities providing rural fire protection services;
- (F) Churches;
- (G) Accessory uses and structures:
  - (1) Customary residential accessory building for private use, such as pergola, greenhouse, hothouse, hobby house, summer house, patios, enclosed or covered patios, woodshed, quarters for domestic animals maintained as pets;
  - (2) Fallout shelters;
  - (3) Fences;
  - (4) Garages and parking areas for the storage and protection of the automobiles of the residents of the dwelling, including a private garage for not more than three motor vehicles for each single-family dwelling on the same lot with or within the dwelling to which it is an accessory and in which no business or industry is conducted;
  - (5) Storage for a commercial vehicle, maximum of one per dwelling;
  - (6) Sleeping quarters in a garage for domestic employees of the main building to which the garage is attached;

- (7) Guest houses and guest quarters not in the main building are permitted if such quarters are, and remain, dependent upon the main building for either or both kitchen and bathroom facilities and the guest facilities are not used for residential purposes; and/or
- (8) Swimming pools for private use (requires building permit);
- (H) Home occupation as defined in Section 116.020;
- (I) The use of a manufactured home during construction (see Limited Uses, Section 125.010);
- (J) Schools (elementary, junior high and high);
- (K) Privately operated kindergartens or day nurseries, providing the residential character of the building is maintained.
- (L) Residential homes, as defined in Section 110.477; and
- (M) Transportation improvements.
- (N) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.
- (O) Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.
- (P) Uses and activities to conserve soil, air and water quality and to provide for and manage wildlife and fisheries resources.
- (Q) Temporary portable facility for the primary processing of forest products (the facility shall be removed at the conclusion of the forest operation requiring its use).
- (R) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head as defined in ORS Chapters 517 and 520.
- (S) Exploration for mineral and aggregate resources as defined in ORS Chapter 517.
- (T) Towers and fire stations for forest fire protection.
- (U) Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- (V) Temporary forest labor camps, without any permanent structures, limited to the duration of the forest operation requiring the use.
- (W) Uninhabitable structures accessory to fish and wildlife enhancement.
- (X) Private fee hunting or fee fishing operations without any accommodations.
- (Y) Breeding, kenneling, and training of greyhounds for racing;
- (Z) Utility facility service lines, and facilities or structures that end at a point where the utility service is received by the customer and that are located on one or more of the following:
  - (1) A public right of way; or
  - (2) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
  - (3) The property to be served by the utility.

- (AA) Irrigation canals, delivery lines and those structures and accessory operation facilities associated with a district as defined in ORS 540.505.

**128.825. USES PERMITTED SUBJECT TO REVIEW AND APPROVAL.**

- (A) **HARDSHIP TEMPORARY MANUFACTURED DWELLING.** One manufactured dwelling unit, recreational vehicle, or the temporary residential use of an existing building in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or a relative of the resident, provided that:
- (1) The medical hardship is certified by a licensed physician;
  - (2) The hardship dwelling or recreational vehicle is connected to the existing sewage disposal system; except when the County Sanitarian finds the existing system to be inadequate and that it cannot be repaired or is not physically available; If the hardship dwelling will use a public sanitary system, such condition will not be required.
  - (3) The applicant agrees to renew the permit every two years.
  - (4) Within 3 months of the end of the hardship the manufactured dwelling, recreational vehicle, or building converted to a temporary residential use, shall be removed, demolished, or converted to an approved nonresidential use.
  - (5) Notice of Determination. Upon issuance of a temporary hardship determination by the Planning Director, determinations shall be mailed to the applicant and to interested parties based upon the provisions of Section 111.270 of the Polk County Zoning Ordinance. An appeal of the Planning Director's decision shall be processed pursuant to Section 111.280 of the Polk County Zoning Ordinance.

**128.830. CONDITIONAL USE.** All uses permitted as conditional uses shall be subject to the general provisions of Chapter 119 of this Ordinance, "Conditional Uses".

- (A) The following allied farm and forest commercial processing uses and similar activities that require close proximity to natural resources may be permitted as a separate business or enterprise.
- (1) Confined animal feeding operations (CAFO);
  - (2) Permanent facility for the processing, manufacturing or storage of farm or forest products;
  - (3) Permanent logging equipment repair and storage;
  - (4) Log scaling and weigh stations;
  - (5) Farm or forest implement and equipment sales;
  - (6) Farm or forest related equipment, machinery or truck repair, including associated service parts facilities;
  - (7) Farm and forest supply; and
  - (8) Sand and gravel excavation and processing facilities as provided for by Chapter 120.400;
  - (9) Cement, clay, glass and stone products manufacturing facilities.
  - (10) Any other similar processing and allied farm or forest commercial activities that require close proximity to natural resources.



- (B) Private parks;
- (C) Solid waste disposal sites as provided for in Chapter 120.300;
- (D) Kennels;
- (E) Community or neighborhood club buildings, including swimming pools, and other allied facilities, when erected by a non-profit community club for the improvements of the community or social recreation of the members;
- (F) Private airfield and helipads, 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 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 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 rules of the Aeronautics Division;
- (G) Model airplane takeoff and landing sites;
- (H) Rural outdoor motor race track;
- (I) Golf courses;
- (J) Boat, camper and trailer storage area or lot (see Specific Conditional Uses, Section 119.150 (C));
- (K) Church conference and campground (see Specific Conditional Uses, Section 119.150 (F));
- (L) Communications tower as provided in Section 112.135;
- (M) Riding clubs and stables, rural outdoor rodeo grounds and similar uses;
- (N) Beauty shops, where no assistants are employed;
- (O) Use of an accessory building for conducting a home occupation;
- (P) Conditional home-occupation (see Section 116.030);
- (Q) Utility facilities necessary for public service, including wetland waste treatment systems;
- (R) Commercial power generating facilities;
- (S) Cottage Industry Home Occupations (see Section 116.040);
- (T) Winery, may be permitted subject to findings that:
  - (1) The winery use will not result in substantial conflicts with farm or forest practices on adjacent lands; and
  - (2) 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 and forest practices on adjacent lands:
    - (a) Establishment of a setback, not to exceed 100 feet, from all property lines for the winery and all public gathering places; and
    - (b) Provision of direct local road access, internal circulation, and parking.
- (U) Composting facilities. Buildings and facilities used in conjunction with the

composting operation shall only be those required for 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;

- (V) Aquaculture, including the propagation, cultivation, maintenance and harvesting of aquatic species;
- (W) Insect breeding, including the propagation, cultivation, maintenance and harvesting of insect species, subject to compliance with the following criteria:
  - (1) Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture.
  - (2) Notice of the application shall be provided to the State Department of Agriculture at least 20 calendar days prior to any administrative action or initial public hearing on the application.
- (X) Operations for the Extraction and Bottling of Water;
- (Y) Firearms training facility;
- (Z) Armed Forces Reserve Center. For purposes of this paragraph, "armed forces reserve center" includes an armory or National Guard support facility;
- (AA) Private seasonal accommodations for fee hunting operations, subject to the following requirements:
  - (1) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - (2) Only minor incidental and accessory retail sales are permitted;
  - (3) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
  - (4) Other conditions, as deemed appropriate.
- (BB) Private accommodations for fishing occupied on a temporary basis, subject to the following requirements:
  - (1) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - (2) Only minor incidental and accessory retail sales are permitted;
  - (3) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;
  - (4) Accommodations must be located within 1/4 mile of fish bearing Type F waters; and
  - (5) A governing body may impose other appropriate conditions.
- (CC) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations;
- (DD) Permanent forest labor housing structures to house laborers on a temporary basis for the duration of the forest operation;
- (EE) Laboratory-seed and soil testing, research facilities;
- (FF) Farm or forest products stand, designed and used for the sale of farm crops, special forest products, and livestock grown on farms or forests in the local agricultural and forestry area, including the retail sale of incidental items accounting for no more

than 25 percent of the total sales of the farm or forest stand. Farm or forest products stands do not include structures designed for residential occupancy or to accommodate activities other than the sale of farm crops, special forest products, and livestock, such as structures for banquets, public gatherings or entertainment;

- (GG) Living History Museum, 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. 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 with authentic buildings of the depicted historic period or the museum administration building. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65; and
- (HH) Commercial activities in conjunction with farm or forest use including activities related to the processing, distribution, and retail marketing of farm or forest products a portion of which is grown on-site.

**128.840. NON-REMONSTRANCE DEED RESTRICTION.** For any conditional use approved under section 127.830, the landowner for the conditional use shall be required to sign and record a deed restriction binding the landowner and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from accepted farming or forest practices listed under ORS 30.936 to 30.937.

## **CHAPTER 130**

### **GR/LDR, GRAND RONDE: LOW DENSITY RESIDENTIAL ZONE**

- 130.010 Permitted Uses
- 130.020 Conditional Uses
- 130.030 General Development Standards
- 130.040 Future Right-of-Way Lines
- 130.050 Off-Street Parking and Loading
- 130.060 Accessory Structures
- 130.070 Fences
- 130.080 Lot Area and Width
- 130.090 Front Yards
- 130.100 Side and Rear Yards
- 130.110 Height
- 130.120 Access
- 130.130 Occupancy of Recreational Vehicles

**130.010. PERMITTED USES.** Within any GR/LDR, Grand Ronde: Low Density Residential Zone, no building, structure, or premises shall be used, arranged or designed to be used, erected, structurally altered, or enlarged except for one or more of the following uses:

- A. Dwelling, Single Family;
- B. Dwelling, Two Family (Duplex) [See, Section 119.150 (B)];
- C. Residential Home as defined by ORS 197.660;
- D. Subdivisions, subject to the requirements set forth in Subdivision Ordinance Chapter 91;
- E. Home Occupations subject to Section 116.020;
- F. Accessory Uses and Buildings.
  - (1) Customary residential accessory buildings for private use, such as a pergola, green house, hot house, hobby shop, patio, enclosed or covered patio, woodshed, quarters for domestic animals maintained as pets;
  - (2) Swimming pools;
  - (3) Garage private, for not more than 3 motor vehicles for each single-family dwelling on the same lot with or within the dwelling to which it is accessory;
  - (4) Storage of a commercial vehicle with a maximum of one commercial vehicle per dwelling; and,
- G. Raising of Livestock is permitted with a minimum of one (1) acre for the first animal unit and one-half (1/2) acre for each animal unit thereafter. Cattle, horses, burros, donkeys, and other animals of comparable size each constitute one (1) animal unit. Five (5) animals the size of sheep or goats constitute one (1) animal unit. Fifty (50) animals the size of fowl, rabbits, or other animals of comparable size each constitutes one (1) animal unit. All animals and fowl shall not be allowed to run at large off the property of the owner. Swine shall not be allowed on tracts of less than ten (10) acres. The keeping of livestock and fowl animals and animal waste therefrom shall be done in such a reasonable manner as not to constitute a nuisance, especially by reason of odor, waste pollution, or attraction of rodents, flies, or other insects.
- H. Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**130.020. CONDITIONAL USES.**

- A. Dwelling, Three or four Family (Triplex or Quadplex) [See, Section 119.150 (B)];
- B. Home Occupations, subject to the provisions of Sections 116.030 and 116.040;
- C. Bed and Breakfast facility;
- D. Kindergartens and Day nurseries; and,

E. Beauty or barber shop, where no assistants are employed.

**130.030. GENERAL DEVELOPMENT STANDARDS.** The general development standards in Sections 112.010 through 112.120 and 112.140 through 112.175 shall apply.

**130.040. FUTURE RIGHT-OF-WAY LINES.** Sections 112.180 through shall apply.

**130.050. OFF-STREET PARKING AND LOADING.** The off-street parking and loading requirements found in sections 112.210 through 112.270 shall apply.

**130.060. ACCESSORY STRUCTURES.** Accessory structures shall conform to the requirements found in Sections 112.280 through 112.340.

**130.070. FENCES.** Fences shall conform to the requirements found in sections 112.350 through 112.370.

**130.080. LOT AREA AND WIDTH.** In the GR/LDR zone, the minimum requirements for lot area shall be 9,000 square feet for a single-family dwelling. The minimum lot area requirements for a Dwelling, Two-three or four family, shall be 10,000 square feet. The front building line shall have a minimum width of 60 feet. The maximum depth to width ratio for newly created parcels shall be 3:1.

**130.090. FRONT YARDS.** Every building erected, constructed, or altered shall set back from the front lot line at least thirty (30) feet, except in the instance where the average depths of the other buildings on the same side of the street are between ten (10) and thirty (30) feet, then the average depth may be used. The minimum set back for all yards for signs shall be five (5) feet.

**130.100. SIDE AND REAR YARDS.** There shall be side and rear yards on every lot, which side and rear yards shall have a minimum depth of ten (10) feet except as provided for accessory uses in Subsections 112.280 through 112.340.

**130.110. HEIGHT.** The maximum building height for any structure shall be twenty-five (25) feet.

**130.120. ACCESS.** In addition to the requirements of Section 112.175, before a dwelling may be established on any parcel, the parcel shall have a legal, safe and passable means of access. A parcel shall abut by at least twenty (20) feet either directly upon a public road, or by a private easement which is thirty (30) feet in width for its entire length and which also abuts upon a public road for at least thirty (30) feet.

**130.130. OCCUPANCY OF RECREATIONAL VEHICLES.** One (1) recreational vehicle shall be permitted to be parked on any parcel in conjunction with a principal dwelling, and may be used for the temporary accommodation of guests for a period of up to 30 days total in any year. In no case shall the recreational vehicle be the principal dwelling or be rented.

## **CHAPTER 131**

### **SINGLE FAMILY RESIDENTIAL (RS) ZONING DISTRICT**

- 131.010. Use
- 131.020. Transitional Uses
- 131.030. Conditional Uses

**131.010. USE.** Within an RS Single Family Residential zone no building, structure, or premises shall be used, arranged or designed to be used, erected, structurally altered, or enlarged except for 1 or more of the following uses:

- (A) Single-family dwelling;
- (B) Playgrounds, parks;
- (C) Public buildings and structures, such as libraries, fire stations;
- (D) Gardens, orchards and crop cultivation, provided no stable or barn, cattle or other livestock, or poultry is maintained in connection therewith, and provided no sales area or retail business is operated in connection therewith, and provided further, that all other applicable ordinances are complied with;
- (E) Right-of-way for:
  - (1) Electric service lines;
  - (2) Gas mains;
  - (3) Communications lines;
  - (4) Water lines; and
  - (5) Sewer lines.
  - (6) Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]
- (F) Public utility structures and buildings such as pump stations and reservoirs, electric substations, when they comply with all yard and setback requirements;
- (G) Accessory uses and structures:
  - (1) Customary residential accessory buildings for private use, such as a pergola, greenhouse, hot house, hobby shop, or hobby house, summer house, patio, enclosed or covered patio, woodshed, quarters for domestic animals maintained as pets of the residents;
  - (2) Fallout shelters;
  - (3) Fences;
  - (4) A private garage for not more than 3 motor vehicles for each single-family dwelling on the same lot with or within the dwelling to which it is accessory and in which no garage, business or industry is conducted;
  - (5) Storage for a commercial vehicle with a maximum of 1 commercial vehicle per dwelling;
  - (6) Sleeping quarters in a garage for domestic employees of the resident of the main building to which the garage is accessory;
  - (7) Guest houses and guest quarters not in the main building provided such houses and quarters are and remain dependent upon the main building for either or both the kitchen and bathroom facilities and the guest facilities are not used for residential purposes;
  - (8) Swimming pools for private use (requires a building permit);
- (H) Home occupations, as defined in Section 110.270;
- (I) The taking of boarders or leasing of rooms by a resident family, providing the total number of boarders and roomers does not exceed 2 in any single-family dwelling, nor more than 4 in any legally established 2-family dwelling;



- (J) Subdivision or planned development pre-cutting and assembly facility (see Limited Use, Section 125.020);
- (K) Subdivision or planned development sales office or development office (see Limited Use, Section 125.030).

**131.020. TRANSITIONAL USES.** Transitional uses shall be permitted in an RS zone where the side of a lot abuts upon any business zone or industrial district, provided that such transitional use does not extend across a street or alley and in no case more than 165' from the boundary of the less restricted zone which it adjoins, as follows:

- (A) Two-family dwelling (duplexes) on a lot of 7,000 square feet or more;
- (B) Public and semi-public uses, buildings and structures;
  - (1) Churches;
  - (2) Community or neighborhood club buildings, including swimming pools and other allied facilities, when erected by a non-profit community club for the improvement of the zone or social recreation of the members;
- (C) Other main uses:
  - (1) Public automobile parking areas when located and developed as prescribed in Chapter 118;
  - (2) Outdoor plant nursery;
  - (3) Privately operated kindergartens or day nurseries, provided the residential character of the building is unchanged.

**131.030. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in an RS zone:

- (A) Public and semi-public uses, buildings and structures:
  - (1) Churches;
  - (2) Community or neighborhood club buildings, swimming pools and other allied facilities, when erected by a non-profit community club for the improvement of the zone or social recreation of the members;
  - (3) Communications tower not exceeding 40-feet in height, as provided in Section 112.135 and the following:
    - a) The location, size, design and functional characteristics of the tower are reasonably compatible with the existing conditions and vegetation at the proposed site, the tower must be designed and constructed with material to reduce visibility of the tower by:
      - i) A site-specific study of the tower site identifying a proposed stealth (i.e. camouflage) construction type that may include but is not limited to a tree, or flagpole (no external antennas). The proposed color and surfacing of the tower and associated fixtures. [Amended by Ordinance 04-09]
  - (4) Communications tower over 40-feet in height but not exceeding 100-feet in height, as provided in Section 112.135 and the following:
    - a) Coverage limitations showing the proposed height of the tower is needed in order to meet the service type and area coverage needs. Propagation maps stamped by a professional engineer that demonstrate service type and area coverage shall be provided for the 40-foot height, and each 20-foot interval to the proposed tower height; or
    - b) Type of system (e.g. broadcast, FM radio, television); or

- c) Other requirements of local, state, and federal agencies; and
  - d) The location, size, design and functional characteristics of the tower are reasonably compatible with the existing conditions and vegetation at the proposed site. The tower must be designed and constructed with material to reduce visibility of the tower by:
    - i) A site-specific study of the tower site identifying a proposed stealth (i.e. camouflage) construction type that may include but is not limited to a tree, or flagpole (no external antennas).
    - ii) The proposed color and surfacing of the tower and associated fixtures. [Amended by Ordinance 04-09]
- (5) Schools (elementary, junior high, and high school);
- (B) Dwellings:
- (1) Two-family dwellings (duplexes) on a corner lot of 7,000 square feet or more (see Specific Conditional Uses, Section 120.020);
- (C) Miscellaneous uses:
- (1) Privately-operated kindergartens or day nurseries, provided the residential character of the building is unchanged;
  - (2) Beauty shop, where no assistants are employed;
  - (3) Use of an accessory building for conducting a home occupation;
- (D) Planned development;
- (E) Boat, camper and trailer storage area or lot (see Specific Conditional Uses, Section 120.030);
- (F) Temporary use of mobile homes during certain hardship conditions (see Specific Conditional Uses, Section 120.040).
- (G) Solid Waste Disposal Sites (see Specific Conditional Uses, Section 120.310 - 120.380);
- (H) Sand and Gravel Resource Sites (see Specific Conditional Uses, Section 120.410 - 120.460);
- (I) Conditional Home-Occupation (Other than those home occupations listed in Section 110.270)(See Specific Conditional Uses, Section 120.075).

## **CHAPTER 132**

### **DUPLEX RESIDENTIAL (RD) ZONING DISTRICT**

- 132.010. Use
- 132.020. Transitional Uses
- 132.030. Conditional Uses

**132.010. USE.** Within any RD Duplex Residential zone, no building, structure or premises shall be used, arranged or designed to be used, erected, structurally altered or enlarged except for one or more of the following uses:

- (A) Any use permitted in RS zone;
- (B) Two (2) family dwelling unit in a single structure;
- (C) A private garage or parking area for not more than 3 motor vehicles for each dwelling unit on the same lot with or within the dwelling to which it is accessory and in which garage no business or industry is conducted.

**132.020. TRANSITIONAL USES.** The regulations concerning transitional uses in an RD zone shall be the same as in an RS zone.

**132.030. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in a RD zone:

- (A) Public and semi-public uses, buildings and structures:
  - (1) Churches;
  - (2) Community or neighborhood club buildings, swimming pools and other allied facilities, when erected by a non-profit community club for the improvement of the zone or social recreation of the members;
  - (3) Radio and TV transmitters and antennae;
  - (4) Schools (elementary, junior high and high school);
- (B) Dwellings:
  - (1) Three (3) family dwellings in 1 building on a corner lot of 8,000 square feet or more;
- (C) Miscellaneous uses:
  - (1) Privately-operated kindergartens or day nurseries, provided the residential character of the building is unchanged;
  - (2) Beauty shop, where no assistants are employed;
  - (3) Use of an accessory building for conducting a home occupation;
- (D) Planned development;
- (E) Boat, camper and trailer storage area or lot (see Specific Conditional Uses, Section 120.030);
- (F) Temporary use of mobile homes during certain hardship conditions (see Specific Conditional Uses, Section 120.040);
- (G) Solid Waste Disposal Sites (see Specific Conditional Uses, Section 120.310 - 120.380);
- (H) Sand and Gravel Resource Sites (see Specific Conditional Uses, Section 120.410 - 120.460)
- (I) Conditional Home-Occupation (Other than those home occupations listed in Section 110.270)(See Specific Conditional Uses, Section 120.075)

## **CHAPTER 133**

### **LIMITED MULTI-FAMILY RESIDENTIAL (RL) ZONING DISTRICT**

- 133.010. Use
- 133.020. Transitional Uses
- 133.030. Conditional Uses

**133.010. USE.** Within any RL Limited Multi-Family Residential zone, no building, structure, or premises shall be used, arranged or designed to be used, erected, structurally altered or enlarged, except for one or more of the following uses:

- (A) Any use permitted in an RD zone;
- (B) Unlimited number of dwelling units including:
  - (1) Apartment houses;
  - (2) Court apartments;
  - (3) Churches;
  - (4) Community or neighborhood clubs;
  - (5) Kindergarten or day nursery.

**133.020. TRANSITIONAL USES.** Transitional uses shall be permitted in an RL zone where the side of a lot abuts upon any business zone or industrial zone, provided that such transitional use does not extend across a street or alley and in no case more than 165' from the boundary of the less restricted zone which it adjoins, as follows:

- (A) Public parking areas when developed as prescribed in Chapter 118;
- (B) Outdoor plant nursery.

**133.030. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in an RL zone:

- (A) Planned development;
- (B) Dormitories;
- (C) Sorority and fraternity houses;
- (D) Student homes;
- (E) Boarding houses (also see accessory uses);
- (F) Rooming houses;
- (G) Homes for the aged;
- (H) Retirement homes;
- (I) Rest homes;
- (J) Mobile home parks;
- (K) Nursing homes;
- (L) Sanitariums;

- (M) Boat, camper and trailer storage area or lot (see Specific Conditional Uses, Section 120.030);
- (N) Schools, (elementary, junior high, and high schools);
- (O) Group care home;
- (P) Temporary use of mobile home during certain hardship conditions (see Specific Conditional Uses, Section 120.040);
- (Q) Solid Waste Disposal Sites (see Specific Conditional Uses, Section 120.310 to 120.380);
- (R) Sand and Gravel Resource Sites (see Specific Conditional Uses, Section 120.410 to 120.460);
- (S) Conditional Home-Occupation (Other than those home occupations listed in Section 110.270) (see Specific Conditional Uses, Section 120.075).

## **CHAPTER 134**

### **MULTI-FAMILY RESIDENTIAL (RM) ZONING DISTRICT**

- 134.010. Use
- 134.020. Transitional Uses
- 134.030. Conditional Uses



**134.010. USE.** Within any RM Multi-Family Residential zone no building, structure, or premises shall be used, arranged or designed to be used, erected, structurally altered, or enlarged, except for one or more of the following uses:

- (A) Any use permitted in an RL zone;
- (B) Unlimited number of dwelling units including:
  - (1) Dormitories;
  - (2) Sorority and fraternity houses;
  - (3) Student homes;
  - (4) Boarding houses (also see accessory uses);
  - (5) Rooming houses;
  - (6) Homes for the aged;
  - (7) Retirement homes;
  - (8) Rest homes;
  - (9) Nursing homes;
  - (10) Sanitariums;
  - (11) Apartment houses;
  - (12) Court apartments;
  - (13) Churches;
  - (14) Community or neighborhood clubs;
  - (15) Kindergartens or day nurseries;
  - (16) Group Care Home.
- (C) Optional businesses:
  - (1) any apartment or boarding house housing more than 25 families may have therein a newsstand, barber shop, beauty parlor, food shop, and dining rooms when conducted and entered only from within the building.

**134.020. TRANSITIONAL USES.** Transitional uses shall be permitted in an RM zone where the side of a lot abuts upon any business zone or industrial zone, provided that such transitional use does not extend across a street or alley and in no case more than 165' from the boundary of the less restricted zone which it adjoins as follows:

- (A) Public parking areas when developed as prescribed in Chapter 118;
- (B) Outdoor plant nursery.

**134.030. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in an RM zone:

- (A) Planned development;
- (B) Mobile home park;

- (C) Boat, camper and trailer storage area or lot (see Specific Conditional Uses, Section 120.030);
- (D) Schools (elementary, junior high, and high school);
- (E) Fraternal or lodge buildings;
- (F) Temporary use of mobile home during certain hardship conditions (see Specific Conditional Uses, Section 120.040);
- (G) Solid Waste Disposal Sites (see Specific Conditional Uses, Section 120.310 to 120.380);
- (H) Sand and Gravel Resource Sites (see Specific Conditional Uses, Section 120.410 to 120.460);
- (I) Conditional Home-Occupation (Other than those home occupations listed in Section 110.270) (see Specific Conditional Uses, Section 120.075).

## **CHAPTER 135**

### **HIGH RISE APARTMENT RESIDENTIAL (RH) ZONING DISTRICT**

- 135.010. Use
- 135.020. Transitional Uses
- 135.030. Conditional Uses

**135.010. USE.** Within any RH High Rise Apartment Residential zone no building, structure or premises shall be used, arranged, or designed to be used, erected, structurally altered, or enlarged, except for one or more of the following uses:

(A) Any use permitted in RM zones (see Section 134.010).

**135.020. TRANSITIONAL USES.** The regulations concerning transitional uses in an RH zone shall be the same as in an RM zone (see Section 134.020).

**135.030. CONDITIONAL USES.** The regulations concerning conditional uses in an RH zone shall be the same as in an RM zone except that hospitals shall be permitted as a conditional use (see Section 134.030).

**CHAPTER 136****EXCLUSIVE FARM USE (EFU) ZONING DISTRICT**

- 136.010. Purpose
- 136.015. Definitions
- 136.020. Authorized Uses and Development
- 136.030. Uses Permitted by Right
- 136.040. Uses Subject to Administrative Review
- 136.050. Conditional Uses [OAR 660-33-130]
- 136.060. General Review Standards [OAR 660-33-130 (5)]
- 136.070. Land Partition Standards [ORS 215.780 (C)]
- 136.100. Nonconforming Uses
- 136.120. Non-Remonstrance Deed Restriction
- 136.140. Prohibited Uses
- 136.150. Development Standards
- 136.160. Period of Validity for Administrative Review Uses
- 136.170. Period of Validity for Non-farm, Lot-of-Record, and Replacement Dwellings

**136.010. PURPOSE.** The purpose and intent of the Exclusive Farm Use (EFU) Zoning District is to conserve agricultural lands, consistent with the Goals and Policies of the Polk County Comprehensive Plan. This objective is achieved by establishing clear standards for the use and development of designated agricultural lands.

The Exclusive Farm Use Zoning District will be applied to lands defined as "agricultural lands" by Oregon Administrative Rule (OAR) 660-33-020(1). Within the Exclusive Farm Use Zoning District, the use and development of land is subject to review and authorization as provided by Polk County's land use regulations and as may further be indicated in State and federal laws.

**136.015. DEFINITIONS.** Terms related to farm land and land use found in this chapter are defined in the Oregon Revised Statutes (ORS), Chapter 215 and in the Oregon Administrative Rules (OAR), Division 33. A handout defining these terms is available from the Polk County Community Development Department.

**136.020. AUTHORIZED USES AND DEVELOPMENT.** The following uses, activities and development are authorized in the Exclusive Farm Use Zoning District, subject to review and approval under applicable regulatory standards:

Key

HV	High-Value Farm Land, defined by OAR 660-33-020 (8)
Other	Other lands, not defined as High-Value
P	Permitted outright
AR	Subject to administrative review and approval
CUP	Subject to review and approval as a conditional use
NP	Use not permitted
NA	Not applicable
PCZO	<i>Polk County Zoning Ordinance Chapter 136 subsection</i>

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

			,E,F)
Accessory Farm Dwelling	AR	AR	040(K)
Family Farm Help Dwelling	AR	AR	040(H)
Lot of Record Dwelling - Not High Value	NA	AR	040(G)
Lot of Record Dwelling - High-Value	AR	NA	040(C)
Dwelling in Conjunction With a Commercial Dairy	AR	AR	040(N)
Relocated Farm Operation Dwelling	AR	AR	040(O)
Small-Tract Dwelling - High-Value	AR	NA	040(B)
Nonfarm Dwelling	NP	CUP	050(E)
Nonfarm Dwelling on Nonfarm Parcel	NP	CUP	050(F)
Replacement Dwelling	AR	AR	040(I)
Replacement of Historic Dwelling	AR	AR	040(J)
Temporary Hardship Dwelling	AR	AR	040(L)
Seasonal Farm Worker Housing (ORS 197.675)	AR	AR	040(M)
Residential Home or Facility (ORS 197.660)	CUP	CUP	050(G)
Room and Board Arrangements	CUP	CUP	050(H)
<b>COMMERCIAL</b>	<b>HV</b>	<b>OTHER</b>	<b>PCZO</b>
Activity In Conjunction with Farm Use	CUP	CUP	050(I)
Home Occupations	CUP	CUP	050(J)
Breeding, Kenneling, and Training of Greyhounds for Racing	NP	P	030(K)
Dog Kennels	NP	CUP	050(K)
Training and Stabling Horses for Profit	P	P	030(A)
Winery, as described in ORS 215.452	AR	AR	040(P)
On-site Filming and Accessory Activities for 45 days or less	P	P	030(M)
On-site Filming and Accessory Activities for more than 45 days	CUP	CUP	050(L)
Farm Stands	AR	AR	040(Q)
Parking of not more than seven log trucks	AR	AR	040(S)
Destination Resort	NP	CUP	050(M)
<b>MINERAL AND AGGREGATE</b>	<b>HV</b>	<b>OTHER</b>	<b>PCZO</b>
Exploration and Production of Geothermal, (ORS 522.005) Oil and Gas (ORS 520.005)	P	P	030(E)
Mineral Exploration (ORS 517.750)	P	P	030(F)
Mining and Processing of Geothermal, (ORS 522.005) Oil and Gas (ORS 520.005)	CUP	CUP	050(N)
Mining and Processing of Mineral and Aggregate Materials	CUP	CUP	050(N)
Processing of Aggregate into Asphalt or Portland Cement (ORS 517.750)	CUP	CUP	050(N)

Processing of Other Mineral Resources	CUP	CUP	050(N)
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<b>TRANSPORTATION</b>	<b>HV</b>	<b>OTHER</b>	<b>PCZO</b>
Personal Use Airports and Helipads	CUP	CUP	050(O)
Climbing and Passing Lanes within Right-of Way existing on July 1, 1987	P	P	030(G)
Construction of Passing and Travel lanes, requiring acquisition of right-of-way, but not resulting in the creation of new land parcels	CUP	CUP	050(P)
Reconstruction or Modification of Public Roads, not including addition of travel lanes or removal of buildings, but not resulting in the creation of new land parcels	P	P	030(H)
Reconstruction or Modification of Public Roads, involving the removal of buildings, but not resulting in the creation of new land parcels	CUP	CUP	050(Q)
Temporary Public Road Detours	P	P	030(I)
Minor Improvements to Existing Road and Highway Related Facilities within right-of-way existing on July 1, 1987	P	P	030(J)
Improvements to Existing Road and Highway Related Facilities where additional property or right-of-way is required, but not resulting in the creation of new land parcels	CUP	CUP	050(R)
Other Roads, Highways and Transportation Facilities not listed	CUP and Exception	CUP and Exception	
Transportation Improvements on Rural Lands allowed by OAR 660-012-0065	CUP	CUP	050(S)
<b>UTILITIES &amp; SOLID WASTE DISPOSAL FACILITIES</b>	<b>HV</b>	<b>OTHER</b>	<b>PCZO</b>
Utility Facilities Necessary for Public Service, including wetland waste treatment systems but not including commercial power generating facilities or transmission towers over 200 feet in height	AR	AR	040(T)
Transmission Towers over 200 feet in height	CUP	CUP	050(T)
Solid Waste Disposal Site under ORS 459.049	NP	AR	040(U)
Solid Waste Disposal Site under ORS 459.245	NP	CUP	050(U)
Composting Facilities	NP	CUP	050(V)
Commercial Power Generating Facilities	CUP	CUP	050(W)
Fire service facilities providing rural fire protection services	P	P	030(N)
Irrigation canals, delivery lines and those structures and accessory operation facilities associated with a district as defined in ORS 540.505	P	P	030(O)
Utility facility service lines	P	P	030(P)



<b>PARKS/PUBLIC/QUASI-PUBLIC FACILITIES</b>	<b>HV</b>	<b>OTHER</b>	<b>PCZO</b>
Schools, public or private	NP	AR	040(W)
Churches and Associated Cemeteries	NP	AR	040(X)
Parks, private, including playgrounds, hunting/fishing preserves and campgrounds	NP	CUP	050(Y)
Parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120	CUP	CUP	050(X)
Model Aircraft Takeoff and Landing Sites	AR	AR	040(V)
Expansion of Existing County Fairgrounds	CUP	CUP	050(Z)
Golf Courses	NP	CUP	050(AA)
Community centers owned by a governmental agency or a nonprofit organization	CUP	CUP	050(AB)
Firearms training facility as provided in ORS 197.770	AR	AR	040(Y)
Living history museum	CUP	CUP	050(AC)

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

- (A) Farm use, as defined in ORS 215.203.
- (B) Propagation or Harvesting of a Forest Product.
- (C) Accessory Buildings and Structures related to the use and management of farm and forest lands.
- (D) Creation, Restoration and Enhancement of Wetlands.
- (E) Exploration for and Production of Geothermal, Oil and Gas, as defined under ORS 522.005 and ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.
- (F) Mineral Exploration, as defined in ORS 517.750.
- (G) Climbing and Passing Lanes within the right-of-way existing as of July 1, 1987.
- (H) Reconstruction or Modification of Public Roads and Highways, not including the addition of travel lanes, removal or displacement of buildings or creation of new parcels.
- (I) Temporary Public Road or Highway Detours that will be abandoned and restored to original condition or use at such time as no longer needed.
- (J) 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.
- (K) Breeding, Kenneling, and Training of Greyhounds for Racing.
- (L) Wildlife Habitat Conservation and Management Plan pursuant to ORS 215.800 to 215.808.

- (M) On-site Filming and Activities Accessory to On-site Filming, for 45 days or less as provided for in ORS 215.306.
- (N) Fire service facilities providing rural fire protection services.
- (O) Irrigation canals, delivery lines and those structures and accessory operation facilities associated with a district as defined in ORS 540.505.
- (P) Utility facility service lines, and facilities or structures that end at a point where the utility service is received by the customer and that are located on one or more of the following:
  - (1) A public right of way; or
  - (2) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
  - (3) The property to be served by the utility. [OAR 660-033-0130(32)]

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

#### **SINGLE-FAMILY RESIDENCES**

- (A) Dwelling for the Farm Operator on High-Value Farmland [OAR 660-033-0135(7) and (9)]. A Farm Dwelling may be authorized on a tract of land classified as high-value, where the tract meets the following criteria:
  - (1) The subject tract is currently in farm use and has produced at least \$80,000 gross annual income from the sale of farm products, each of the last 2 years or 3 out of the past 5 years. (Note: Only gross income from land owned, not leased or rented shall be counted. When determining gross annual income for livestock operations, the cost of purchased livestock must be deducted from the total gross income attributed to the farm or ranch operation as defined in OAR 660-033-0135(11)(b). Noncontiguous lots or parcels designated for exclusive farm use in Polk County or a contiguous county may be used to meet the gross income requirements. 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 unless both dwellings are subsequently authorized by provision of law.) [OAR 660-033-0135(7)(d)];
  - (2) The tract is currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing on lands designated for exclusive farm owned by the farm operator or on the farm operation); and
  - (3) The dwelling will be occupied by a person or persons who produced the commodities which provided the income under subsection 1 above.
  - (4) At the time of application for a dwelling that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross income requirements, the property owner shall provide a title report, for those lots or parcels located within a contiguous county, that was generated within 30 days of date the application is submitted.
  - (5) Prior to issuance of construction permits for a dwelling that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross income requirements, the property owner shall provide for the recording of a deed restriction with the Polk County Clerk consistent with that required by OAR 660-033-0135(9) for the properties subject to the application that precludes:

- (a) All future rights to the establishment of a dwelling, except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215;
  - (b) 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) *Small Tract Dwelling on High-Value Farmland [OAR 660-033-0130 (3)(d)]*. A dwelling may be authorized on a tract of land classified as high-value, where the tract meets the following requirements:
- (1) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner since prior to January 1, 1985 (Note: Present owner may also qualify, if the property was inherited by devise or intestate secession from a person that acquired and had owned continuously the lawfully created parcel since prior to January 1, 1985);
  - (2) The tract is currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing);
  - (3) If the lot or parcel on which the dwelling will be sited was part of a tract existing on November 4, 1993 and no dwelling exists on another lot or parcel that was part of that tract;
  - (4) The dwelling meets all other requirements of the Comprehensive Plan and land use regulations, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat; and
  - (5) Any adjacent lot(s) or parcel(s) owned by the applicant shall be combined with the subject parcel to form a single lot or parcel;
  - (6) The tract where the dwelling would be sited is:
    - (a) Not composed predominately of prime, unique Natural Resource Conservation Service (NRCS) Class I or II soils identified in OAR 660-033-0020(8)(a) or (b);
    - (b) Composed predominately of high-value (NRCS) Class III and IV soils identified in OAR 660-033-0020(8)(c) or (d); or
    - (c) Composed predominantly of a combination of high-value NRCS Class III and IV soils identified in OAR 660-33-020(8)(c) or (d) and prime, unique, NRCS Class I or II soils identified in OAR 660-033-0020(8)(a) or (b);
    - (d) Twenty-one (21) acres or less in size; and
    - (e) Bordered on at least 67% of its perimeter by tracts less than 21 acres in size and at least 2 such tracts had dwellings on them on Jan. 1, 1993; or,
    - (f) The tract is not a flag lot and is bordered on at least 25% of its perimeter by tracts less than 21 acres in size and at least four dwellings existed on Jan. 1, 1993, within one-quarter mile of the center of the subject tract. Where the tract abuts an urban growth boundary, up to 2 of the 4 dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or
    - (g) 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 ¼ mile of the center of the subject tract and on the same side of the public road that provides access

to the subject tract. Where the tract abuts an urban growth boundary, up to 2 of the 4 dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary. The center of the tract shall be the point where half of the acreage is north, south, east, and west of the point, unless requested by the applicant to use the “geographic center of the flag lot”. The 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. Regardless of the method of determining the center, the center of the subject tract shall be located on the subject tract. [OAR 660-033-0130(3)(d)(D)]

- Notes:
- (1) As used in this subsection, “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.
  - (2) Upon approval, the Planning Director shall notify the County Assessor that the governing body intends to allow the dwelling. [660-033-0130(3)(h)]
  - (3) An authorization to establish a dwelling pursuant to this subsection is valid for the duration specified in PCZO 136.160 for the applicant that qualified for the dwelling and for any other person that the qualified applicant transferred the property to after the date of the land use decision. [660-033-0130(3)(i)]

(C) *Lot-of-Record Dwelling on High-Value Farmland* [OAR 660-033-0130 (3)(c)]. A dwelling may be authorized on a tract of land classified as high-value, where the tract meets the following criteria:

- (1) The Polk County Hearings Officer shall determine whether the subject parcel is a lot-of-record, based on the following criteria:
  - (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 since prior to January 1, 1985 (Note: Present owner may also qualify, if the property was inherited by devise or intestate secession from a person that acquired and had owned continuously the lawfully created parcel prior to January 1, 1985);
  - (b) The tract on which the dwelling will be sited is currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing);
  - (c) If the lot or parcel on which the dwelling will be sited was part of a tract existing on November 4, 1993 no dwelling exists on another lot or parcel that was part of that tract;
  - (d) The dwelling meets all other land use regulations, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat; and
  - (e) Any adjacent lot(s) or parcel(s) owned by the applicant shall be combined with the subject lot to form a single lot or parcel.

- (2) The Hearings Officer shall determine that:
- (a) The 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. This criterion requires evidence that the subject lot or parcel cannot be physically used for 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 demonstrate that a lot or parcel cannot be practicably managed for farm use. 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. 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;
  - (b) The dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use;
  - (c) The dwelling will not significantly increase the cost of farm or forest practices on surrounding lands devoted to farm and forest use; and
  - (d) The applicant shall demonstrate that the proposed lot-of-record dwelling will not materially alter the stability of the overall land use pattern in the area.
- (3) Notice of the public hearing shall be provided to the State Department of Agriculture at least 20 calendar days prior to the public hearing before the hearings officer. Upon approval, the Planning Director shall notify the County Assessor that the governing body intends to allow the dwelling. [660-033-0130(3)(h)]
- (4) Authorization of a single-family dwelling under the provisions of this subsection may be transferred by a person who has qualified under this subsection to any other person after the effective date of the land use decision. An authorization to establish a dwelling pursuant to this subsection is valid for the duration specified in PCZO 136.160 for the applicant that qualified for the dwelling and for any other person that the qualified applicant transferred the property to after the date of the land use decision. [660-033-0130(3)(i)]

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

- (D) *Dwelling for the Farm Operator on Other Farmland - Acreage Standard [OAR 660-033-0135(1)]*. A farm dwelling may be authorized on a tract of land not classified as high value, subject to the following standards:
- (1) The parcel on which the dwelling is to be located is at least 160 acres in size;
  - (2) The subject tract is currently in farm use;
  - (3) 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

- (4) The subject tract is currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing).
- (E) *Dwelling for the Farm Operator on Other Farmland - Income Standard* [OAR 660-033-0135(5) and (9)]. A farm dwelling may be authorized on a tract of land, not classified as high value, subject to the following standards:
- (1) The subject tract is currently employed for farm use and has produced at least \$40,000 in gross annual income from the sale of farm products during each of the past two (2) years or three (3) of the past five (5) years (Note: Only gross income from land owned, not leased or rented shall be counted. When determining gross annual income for livestock operations, the cost of purchased livestock must be deducted from the total gross income attributed to the farm or ranch operation. Noncontiguous lots or parcels designated for exclusive farm use in Polk County or a contiguous county may be used to meet the gross income requirements. 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 unless both dwellings are subsequently authorized by provision of law.) [OAR 660-033-0135(7)(d)]; or
  - (2) The subject tract is currently employed for farm use and has produced 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 during each of the past two (2) years or three (3) of the past five (5) years (Note: When determining gross annual income for livestock operations, the cost of purchased livestock must be deducted from the total gross income);
  - (3) The subject tract, and all parcels subject to the application are currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing); and
  - (4) The dwelling will be occupied by a person or persons who produced the commodities during each of the past two (2) years or three (3) of the past five (5) years.
  - (5) At the time of application for a dwelling that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross income requirements, the property owner shall provide a title report, for those lots or parcels located within a contiguous county, that was generated within 30 days of date the application is submitted.
  - (6) Prior to issuance of construction permits for a dwelling that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross income requirements, the property owner shall provide for the recording of a deed restriction with the Polk County Clerk consistent with that required by OAR 660-033-0135(9) for the subject properties that precludes:
    - (a) All future rights to the establishment of a dwelling, except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215;
    - (b) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling;
- (F) *Dwelling for the Farm Operator on Other Farmland - Sales Capability Test* [OAR 660-033-0135(2)]. A farm dwelling may be authorized on a tract of land, not classified as high-value that is:

- (1) At least as large as the median size of those commercial farm and ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which 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 under subsection 1 above;
  - (3) Currently employed for farm use at a level capable of producing the gross annual sales requirement under subsection 2 above. (Note: If no farm use has been established at the time of application, land use approval shall be subject to full establishment of the farm use, as described under subsection 2 above, prior to issuance of a building permit for the dwelling);
  - (4) 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;
  - (5) At least 10 acres in size; and
  - (6) Currently vacant (no dwellings, excepting lawfully established seasonal farm worker housing).
- (G) *Lot-of-Record Dwelling Not High-Value Farmland* [(OAR 660-033-0130(3)(a)]. A dwelling may be authorized on a lot-of-record on land not classified as high-value farmland. To qualify as a lot-of-record, the parcel must meet the following criteria:
- (1) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner since prior to January 1, 1985 (Note: The owner may also qualify if the property was inherited by devise or intestate succession from a person that acquired and had owned continuously the lawfully created parcel since prior to January 1, 1985);
  - (2) The tract on which the dwelling will be sited does not include a dwelling (excepting lawfully established seasonal farm worker housing);
  - (3) The lot or parcel on which the dwelling will be sited was part of a tract existing on November 4, 1993 and no dwelling exists on another lot or parcel that was part of that tract;
  - (4) The dwelling meets all other land use regulations, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat; and
  - (5) Any adjacent lot(s) or parcel(s) owned by the applicant shall be combined with the subject lot or parcel to form a single lot or parcel.
  - (6) An authorization to establish a dwelling pursuant to this subsection is valid for the duration specified in PCZO 136.160 for the applicant that qualified for the dwelling and for any other person that the qualified applicant transferred the property to after the date of the land use decision. [660-033-0130(3)(i)]
  - (7) Upon approval, the Planning Director shall notify the County Assessor that the governing body intends to allow the dwelling. [660-033-0130(3)(h)]
- Notes: (1) As used in this subsection, “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent, or grandchild of the

owner or a business entity owned by any one or a combination of these family members.

(2) Soil classes, soil ratings or other soil designations used in or made pursuant to this section are those of the Soil Conservation Service in its most recent publication for that class, rating or designation before November 4, 1993. For purposes of approving a land use application under PCZO 136.040(G), the soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner:

- (a) 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
  - (c) Submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and
  - (d) Submits a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in subparagraph (A) of this paragraph and finds the analysis in the report to be soundly and scientifically based. [ORS 215.710(5)]
- (H) *Dwelling for Family Farm Help [OAR 660-033-0130(9)].* A dwelling for family farm help may be authorized, on the same lot or parcel as the dwelling of the farm operator, where the dwelling *will be occupied by a relative of the farm operator whose assistance in the management and farm use of the existing commercial farm operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and 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.* "Relative" means the farm operator or farm operators' spouses grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling, niece, nephew, or first cousin of either 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.*
- (I) *Replacement Dwelling [ORS 215.283 (1)(t) and OAR 660-033-0130(8)(a) and (b)].* A replacement dwelling may be authorized, where the lawfully established single-family dwelling being replaced has:
- (1) Intact exterior walls and roof structure;
  - (2) Interior plumbing, including kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  - (3) Interior wiring for interior lights;
  - (4) A heating system; and
  - (5) The dwelling to be replaced must be removed, demolished or converted to an approved nonresidential use, within 3 months of the completion of the replacement dwelling.
  - (6) The replacement dwelling may be placed on any part of the same lot or parcel as the existing dwelling and shall comply with all applicable siting standards. These standards shall not be applied in such a manner as to prohibit the siting of the replacement dwelling. If the dwelling to be replaced is located on a



portion of the lot or parcel not zoned for exclusive farm use and the replacement dwelling would be located on the portion of the lot or parcel zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record a deed restriction prohibiting siting of a dwelling on the portion of the lot or parcel not zoned for exclusive farm use. This deed restriction shall be irrevocable unless a statement of release is recorded in the County deed records. The release shall be signed by a representative of the County and shall state that the provisions of this section have been changed to allow the siting of another dwelling. The Planning Director shall maintain a record of the lots or parcels that do not qualify for the siting of a new dwelling under the provisions of this section, including a copy of the deed restrictions and release statements filed under this section.

Note: Executing and recording such a deed restriction may affect substantial future property rights. Please consult with Planning Division staff prior to submitting an application.

- (J) Replacement of Historic Dwelling [ORS 215.283 (1)(o)]. A dwelling listed on the Polk County Historic Inventory and on the National Register of Historic Places which has been partitioned from the farm tract as provided by ORS 215.263 (9)(b), may be replaced on a portion of the farm tract.
- (K) Accessory Farm Dwelling [OAR 660-033-0130 (24)]. Each accessory dwelling customarily provided in conjunction with farm use is authorized, subject to review and approval under the following criteria:
- (1) Each 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, such as planting, harvesting, marketing, or caring for livestock, is or will be required by the farm operator. (Note: 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 the farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing);
  - (2) The accessory dwelling will be located:
    - (a) On the same lot or parcel as the primary farm dwelling; or
    - (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 parcel in the tract; or
    - (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 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 dwelling may remain if it is re-authorized under these rules; or
    - (d) On a lot or parcel on which the primary farm dwelling is not located, 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 farm labor housing as existing farm labor housing on the farm or ranch operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. All accessory farm dwellings approved under this subparagraph shall be removed, demolished, or converted to an

- authorized non-residential use when farm worker housing is no longer required; 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(5) or (7), whichever is applicable, and
- (3) There is no other dwelling on lands zoned 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; and
  - (4) 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 for farm use and produced in each of the last two years or three of the last five years, the lower of the following:
      - (i) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products (Note: In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract); or
      - (ii) 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. (Note: In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income 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 has produced 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 (Note: In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract);
    - (c) On land defined as a commercial dairy pursuant to OAR 660-033-0135(11) and the following:
      - (i) 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; and
      - (ii) The Oregon Department of Agriculture has approved a permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to 468B.230; and
      - (iii) The Oregon Department of Agriculture has approved a permit for a Producer License for the sale of dairy products under ORS 621.072.
  - (5) A partition shall not be approved that separates the accessory farm dwelling from the primary farm dwelling, unless a subsequent land use application determines that the accessory farm dwelling and the primary farm dwelling both qualify pursuant to the applicable provisions contained in Sections

136.040(A), (D), (E), or (F). A parcel may be created consistent with the minimum parcel size for the zone.

- (6) 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.

Note: "Accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.

- (L) Temporary Hardship Dwelling [OAR 660-33-130 (10)]. One manufactured dwelling, recreational vehicle, or the temporary residential use of an existing building in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or a relative of the resident, provided that:
- (1) The hardship is certified by a licensed physician;
  - (2) The manufactured home or existing building converted to residential use is connected to the existing sewage disposal system; except when the County Sanitarian finds the existing system to be inadequate and that it cannot be repaired or is not physically available; If the manufactured home will use a public sanitary system, such condition will not be required.
  - (3) The applicant agrees to renew the permit every two years.
  - (4) Within 3 months of the end of the hardship, the manufactured dwelling, recreational vehicle, or building converted to a temporary residential use, shall be removed, demolished, or converted to an approved nonresidential use.
  - (5) The dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
  - (6) The dwelling will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.
  - (7) As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.
  - (8) A temporary residence approved under this section is not eligible for replacement under Section 136.040 (I).
- (M) Seasonal Farm Worker Housing [ORS 197.675], subject to review and approval under the following standards:
- (1) The housing shall meet the requirements of ORS 197.685;
  - (2) The housing is limited to occupancy by seasonal farm workers, as defined by ORS 197.675(1)(1994 Edition) and their immediate families, no more than nine months (273 days) within any calendar year.
- (N) Dwelling in conjunction with a commercial dairy [OAR 660-033-0135(10)]. A dwelling may be considered customarily provided in conjunction with a dairy farm as defined in OAR 660-033-0135(11) if:
- (1) The subject tract will be employed as a commercial dairy that owns a sufficient number of producing dairy animals capable of earning the gross annual income from the sale of fluid milk required by:
    - (a) PCZO Section 136.040(A) if located on high-value farmland; or
    - (b) PCZO Section 136.040(E) if located on non-high-value farmland, whichever is applicable; and

- (2) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and
  - (3) The subject tract is vacant (no dwellings, excepting lawfully established seasonal farm worker housing,);
  - (4) 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; and
  - (5) 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
  - (6) The Oregon Department of Agriculture has approved the following:
    - (a) A permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to 468B.230; and
    - (b) A Producer License for the sale of dairy products under ORS 621.072.
- (O) *Relocated farm operation dwelling [OAR 660-033-0135(12)]*. A dwelling may be considered customarily provided in conjunction with farm use if:
- (1) Within the last two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in the last five years or four of the last seven years as required by PCZO 136.040(A) or (E), whichever is applicable;
  - (2) The subject lot or parcel on which the dwelling will be located is:
    - (a) Currently employed for the farm use, as defined in PCZO 110.223, that produced in the last two years or three of the last five years the gross farm income required by PCZO 136.040(A) or (E), whichever is applicable; and
    - (b) At least the size of the applicable minimum parcel size; and
  - (3) The subject tract is vacant (no dwellings, excepting lawfully established seasonal farm worker housing); and
  - (4) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in paragraph (1) of this subsection;
  - (5) In determining the gross income required by subsections (1) and (2)(a), of this subsection:
    - (a) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and
    - (b) Only gross income from land owned, not leased or rented, shall be counted.

### COMMERCIAL USES

- (P) *Winery [OAR 660-033-0120]*. A winery, as described in Section 110.595, may be permitted subject to findings that:
- (1) The related vineyards, as described in Section 110.595, have been planted or that the contract has been executed, as applicable;
  - (2) The winery use will not result in substantial conflicts with farm or forest practices on adjacent lands; and

- (3) The winery use complies with Comprehensive Plan Goal and Policies and other applicable criteria in the Polk County Zoning Ordinance.
- (4) Pursuant to ORS 215.452, 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 and forest practices on adjacent lands:
  - (a) Establishment of a setback, not to exceed 100 feet, from all property lines for the winery and all public gathering places; and
  - (b) Provision of direct local road access, internal circulation, and parking.
- (Q) Farm Stand [OAR 660-033-0130(23)], designed and used for the 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 retail sale of incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand, if the annual sale of incidental items and fees from promotional activity do not make up more than 25% of the total annual sales of the farm stand. Farm stands do not include structures designed for residential occupancy or to accommodate activities other than the sale of farm crops and livestock, such as structures for banquets, public gatherings or entertainment.
- (R) Processing Facility for Farm Crops [(OAR 660-033-0130(28)], located on a farm operation that provides at least one-fourth of all the farm 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 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. 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. Note: A land division that separates the processing facility from the farm operation is not allowed.
- (S) Parking of Log Trucks [ORS 215.311], not more than seven log trucks may be parked on a tract when the applicant:
  - (1) Describes the surrounding land uses and farm and forest practices on the surrounding properties wholly or partially located within at least 750-feet of the outside perimeter of the subject property.
  - (2) Demonstrates that the proposed use would not force a significant change or increase the cost of accepted farm or forest practices on surrounding land devoted to farm or forest use.

#### **UTILITIES AND SOLID WASTE DISPOSAL FACILITIES**

- (T) Utility Facilities Necessary for Public Service [OAR 660-033-0130(16)], including wetland waste treatment systems, except commercial facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height.
  - (1) A utility facility is necessary for public service if the facility must be sited in an 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:
    - (a) Technical and engineering feasibility;
    - (b) 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;
- (c) Lack of available urban and nonresource lands;
  - (d) Availability of existing rights of way;
  - (e) Public health and safety; and
  - (f) Other requirements of state and federal agencies.
- (2) Costs associated with any of the factors listed in subsection (R)(1) of this section 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.
  - (3) The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agriculture 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 from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
  - (4) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility siting to migrate 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.
  - (5) In addition to the provisions of subsections (R)(1) to (4) of this rule, 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.
  - (6) The provisions of subsections R (1) to (4) of this rule do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulations by the Federal Energy Regulatory Commission.
- (U) *Solid Waste Disposal Site [ORS 215.283(2)(k)]*, 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. (Note: A disposal site under this authorization is not allowed on lands classified as high-value. Existing sites on all farmlands may be maintained, enhanced, or expanded on the same tract.)

#### **PARKS/PUBLIC/QUASI-PUBLIC FACILITIES**

- (V) *Model Airplane Takeoff and Landing Sites [OAR 660-033-0130(26)]*, including such buildings or facilities as may reasonably be necessary. Buildings or utilities 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 as a model airplane site. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use as a model airplane site.

As used in this paragraph:

- (1) "Model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible, or balloon that is used or is intended to be used for flight and is controlled by radio, lines, or design by a person on the ground.
- (W) Schools [ORS 215.283(1)(a)], public or private, including all buildings essential to the operation of a school. (Note: New schools are not authorized on lands classified as high-value. Existing facilities on all farmlands may be maintained, enhanced, or expanded on the same tract. An exception to the applicable Statewide Planning Goals is required when the school would be located within three miles of an urban growth boundary.)
- (X) Churches and Associated Cemeteries [ORS 215.283(1)(b)]. (Note: New churches and associated cemeteries are not authorized on lands classified as high-value. Existing facilities on all farmlands may be maintained, enhanced, or expanded on the same tract. An exception to the applicable Statewide Planning Goals is required when the church or cemetery would be located within three miles of an urban growth boundary.)
- (Y) Firearms training facility as provided in ORS 197.770.

**136.050. CONDITIONAL USES [OAR 660-33-130].** The following uses may be approved, subject to compliance with the procedures and criteria under Chapter 119, applicable state and federal regulations, and other specific criteria as may be indicated:

#### **RESOURCE-RELATED USES**

- (A) Facility for the Primary Processing of Forest Products [OAR 660-033-0130(6)]. A facility for the primary processing of forest products is authorized, subject to compliance with Section 136.060, 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 production order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or tract where the primary processing facility is located.
- (B) Aquaculture [ORS 215.283(2)(p) and OAR 660-033-0130(27)], including the propagation, cultivation, maintenance and harvesting of aquatic species, subject to compliance with Section 136.060.
  - (1) Notice of the application shall be provided to the State Department of Agriculture at least 20 calendar days prior to any administrative action or initial public hearing on the application.
- (C) Insect Breeding [OAR 660-033-0130(27)], including the propagation, cultivation, maintenance and harvesting of insect species, subject to compliance with Section 136.060 and the following criteria:
  - (1) Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture.
  - (2) Notice of the application shall be provided to the State Department of Agriculture at least 20 calendar days prior to any administrative action or initial public hearing on the application.
- (D) Operations for the Extraction and Bottling of Water [ORS 215.283(2)(v)], subject to compliance with Section 136.060.

#### **SINGLE FAMILY RESIDENCES**

- (E) *Nonfarm Dwelling - Not High-Value Farmland, (except as noted) [OAR 660-033-0130(4)(a)]*. A nonfarm dwelling may be authorized on a parcel, not classified as high-value farmland, except as noted, subject to the following criteria:
- (1) The dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use;
  - (2) The dwelling will not significantly increase the cost of farm or forest practices on surrounding lands devoted to farm and forest use;
  - (3) The dwelling will be placed on a lot or parcel created before January 1, 1993;
  - (4) The dwelling will be located on a parcel that is predominately composed of NRCS Class IV through VIII soils that, when irrigated, would not be classified as prime or unique, Class I or II soils (Note: This includes those Class IV soils defined as high-value farmland in OAR 660-33-020 (c));
  - (5) The applicant shall demonstrate that the proposed nonfarm dwelling will not materially alter the stability of the overall land use pattern of the area. To address this standard, the applicant shall prepare a cumulative impact study that:
    - (a) Includes at least 2,000 acres or a smaller area not less than 1,000 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 described 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 parcels and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall be identified but not be included in the study area;
    - (b) The cumulative impacts study shall identify the broad types of farm uses (irrigated or nonirrigated corps, 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 PCZO subsections 136.040(B and G) and 136.050(E) The study shall identify the 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 PCZO 136.050 (F) and Section 136.070 (C). 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;
    - (c) Describes whether the proposed dwelling in conjunction with the dwellings identified in (b) above 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. Determine whether approval of the proposed nonfarm dwelling together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. (Note: 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).

- (6) The county shall consider the cumulative impact of possible new nonfarm and lot-of-record dwellings together with existing nonfarm dwellings on other lots or parcels in the area when determining whether the proposed nonfarm dwelling will alter the stability of the land use pattern in the area.
- (7) The dwelling complies with other applicable conditions.

Note: The parcel qualifying for a dwelling under this section shall be disqualified for Farm Use Assessment pursuant to ORS 215.236.

- (F) *Nonfarm Dwelling on a Nonfarm Parcel - Not High-Value Farmland* [OAR 660-033-0130(4)(b)]. A nonfarm dwelling may be authorized on a nonfarm parcel created under Section 136.070 (C), subject to the following criteria:
- (1) The dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use;
  - (2) The dwelling will not significantly increase the cost of farm or forest practices on surrounding lands devoted to farm and forest use;
  - (3) The applicant shall demonstrate that the proposed nonfarm dwelling will not materially alter the stability of the overall land use pattern of the area. To address this standard, the applicant shall prepare a cumulative impact study that:
    - (a) Includes at least 2,000 acres or a smaller area not less than 1,000 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 parcels and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall be identified, but not included in the study area;
    - (b) The cumulative impacts study shall identify 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 PCZO subsections 136.040(B and G) and 136.050(E). The study shall identify the 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 PCZO 136.050 (F) and Section 136.070 (C). 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;
    - (c) Describes whether the proposed dwelling in conjunction with the dwellings identified in (b) above 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. Determine whether approval of the proposed nonfarm dwelling together

with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. (Note: 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).

- (4) The county shall consider the cumulative impact of possible new nonfarm and lot-of-record dwellings together with existing nonfarm dwellings on other lots or parcels in the area when determining whether the proposed nonfarm dwelling will alter the stability of the land use pattern in the area.
- (5) The dwelling complies with other applicable conditions.

Note: The parcel qualifying for a dwelling under this section shall be disqualified for Farm Use Assessment pursuant to ORS 215.236.

### **OTHER RESIDENTIAL USES**

- (G) Residential Home or Facility [ORS 215.283(2)(o)], as defined in ORS 197.660, in existing dwellings subject to compliance with Section 136.060.
- (H) Room and Board Arrangements [ORS 215.283(2)(u)], for a maximum of five unrelated persons in existing residences subject to compliance with Section 136.060.

### **COMMERCIAL ACTIVITIES**

- (I) Commercial Activity In Conjunction with Farm Use [ORS 215.283(2)(a)], including activities related to the processing, distribution and marketing of farm products, a portion of which are produced by the subject farming operation, but not including the processing of farm crops as described in Section 136.040 (P), subject to compliance with Section 136.060.
- (J) Home Occupations [OAR 660-033-0130(14)], subject to the general review standards under Section 136.060 and the following standards and conditions from ORS 215.448:
  - (1) The home occupation is operated by a resident of the property on which the business is located;
  - (2) No more than five full or part-time persons are employed by the business;
  - (3) The business is conducted within the dwelling or other building(s) normally associated with uses permitted within this zone; and
  - (4) The business will not interfere with existing uses on nearby land or with other permitted uses.
- (K) Dog kennels [ORS 215.283(2)(n)], as defined by Section 110.301, may be authorized on land not classified as high-value farmland, subject to compliance with Section 136.060. (Note: Existing facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract subject to other requirements of law.)
- (L) On-site Filming and Activities Accessory to On-site Filming, for more than 45 days as provided for in ORS 215.306, subject to compliance with Section 136.060.
- (M) Destination Resort [ORS 215.283(2)(t)], subject to compliance with the requirements of Oregon Statewide Planning Goal 8. (Note: destination resorts are not authorized on lands classified as high-value.)

### **MINERAL AND AGGREGATE OPERATIONS**

- (N) The following operations are permitted subject to compliance with ORS 215.298, which describes mining activities in exclusive farm use zones, and with Section 136.060:

- (1) 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 under the Polk County Zoning Ordinance; [ORS 215.283(2)(b)(A)]
- (2) Mining of aggregate and other mineral and subsurface resources which are included in the County inventory of mineral and aggregate resources when the quantity of material proposed to be mined from the site is estimated to be 2,000,000 tons of aggregate material or more, subject to PCZO Chapters 115 and 174; [ORS 215.283(2)(b)(B)]
- (3) Mining of aggregate and other mineral and subsurface resources which are included in the County inventory of mineral and aggregate resources when the quantity of material proposed to be mined from the site is estimated to be 2,000,000 tons of aggregate material or less, subject to PCZO Chapter 115 and the following:
  - (a) Not more than 35 percent of the proposed mining area consists of soil:
    - (i) Classified as Class I on Natural Resource and Conservation Service (NRCS) maps available on June 11, 2004; or
    - (ii) Classified as Class II or of a combination of Class II and Class I or Unique soil, on NRCS maps on June 11, 2004, unless average thickness of the aggregate layer within the mining area exceeds 25 feet in depth; or
  - (b) A local land use permit that allows mining on the site was issued prior to April 3, 2003, and the permit is in effect at the time of the significance determination; and
  - (c) The applicant shall propose and Polk County shall determine the post-mining use and provide this use in the Comprehensive Plan and land use regulations.
    - (i) For significant aggregate sites on NRCS Class I, II and Unique farmland, post-mining use shall be limited to farm uses permitted in PCZO Chapter 136.030 and 136.040 (H)-(J), (P)-(X), and fish and wildlife habitat uses, including wetland mitigation banking. Post-mining uses shall be coordinated with the Oregon Department of Geology and Mineral Industries (DOGAMI) regarding the regulation and reclamation of mineral and aggregate sites. [OAR 660-023-0180(4) and (6)]
- (4) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement more than two miles from a planted vineyard, at least 40 acres in size, planted as of the date the application for batching and blending is filed; and [ORS 215.283(2)(b)(C)]
- (5) Processing of other mineral resources and other subsurface resources. [ORS 215.283(2)(b)(D)]

## TRANSPORTATION

- (O) *Personal Use Airports and Helipads [OAR 660-033-0130(7)]*, including associated hangar, maintenance and service facilities, subject to compliance with Section 136.060. 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 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.

- (P) Construction of Additional Passing and Travel Lanes [ORS 215.283(2)(q)], requiring the acquisition of right-of-way, but not resulting in the creation of new parcels, subject to compliance with Section 136.060.
- (Q) Reconstruction or Modification of Public Roads [ORS 215.283(2)(r)], involving the removal or displacement of buildings, but not resulting in the creation of new parcels, subject to compliance with Section 136.060.
- (R) Improvements to Existing Public Road and Highway Related Facilities [ORS 215.283(2)(s)], 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 parcels, subject to compliance with Section 136.060.
- (S) Transportation Facilities [ORS 215.283(3)(b)]. The following transportation facilities may be established:
- (1) Accessory transportation improvements for an authorized land use to provide safe and efficient access to the use. Such accessory transportation improvements are subject to the same requirements applicable to the land use to which they are accessory;
  - (2) Channelization;
  - (3) Realignment of roads;
  - (4) Replacement of an intersection with an interchange;
  - (5) Continuous median turn lane;
  - (6) New access roads or collectors consistent with OAR 660-012-0065(3)(g) (i.e., where the function of the road is to reduce local access to or local traffic on a state highway). These roads shall be limited to two travel lanes. Private access and intersections shall be limited to rural needs or provide adequate emergency access.
  - (7) Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road;
  - (8) Park and ride lots;
  - (9) Railroad mainlines and branchlines;
  - (10) Pipelines;
  - (11) Navigation channels;
  - (12) Replacement of docks and other facilities without significantly increasing the capacity of those facilities;
  - (13) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes; and
  - (14) Transportation facilities, services and improvements other than those listed in this section that serve local travel needs. The travel capacity and level of service of facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the acknowledged comprehensive plan or to provide adequate emergency access. [Amended by Ordinance #01-10, dated November 14, 2001.]

## UTILITIES AND SOLID WASTE DISPOSAL FACILITIES

- (T) Communication and Broadcast Towers over 200 feet in Height [ORS 215.283(2)(m)], subject to compliance with Section 136.060, Section 112.135, and the following criteria:
- (1) The location, size, design and functional characteristics of the tower are reasonably compatible with and have a minimum impact on the livability and development of other properties in the area;

- (2) The tower shall be located so as to not interfere with air traffic; and
- (3) The tower will not have a significant adverse effect on identified sensitive fish or wildlife habitat, natural areas, or scenic areas designated on the comprehensive plan;
- (U) Solid Waste Disposal Site under ORS 459.245 [ORS 215.283(2)(k)], subject to compliance with Section 136.060. (Note: New solid waste disposal sites are not authorized on lands classified as high-value.)
- (V) Composting facilities [OAR 660-033-0130(29)], on land not classified as high-value farmland, as defined by OAR 340-096-0024(1), (2), or (3), subject to compliance with Section 136.060. Buildings and facilities used in conjunction with the composting operation shall only be those required for 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. (Note: New composting facilities are not authorized on lands classified as high-value. Existing facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract). Composting facilities are a conditional use when:
  - (1) The primary purpose of obtaining a profit in money from the farm use of the land is from composting, or
  - (2) The product or by-products are raised on lands other than farm land used for the primary purpose of obtaining a profit in money from farm use.
- (W) Commercial Power Generating Facilities [OAR 660-033-0130(17)], subject to compliance with Section 136.060. (Note: On high-value farmland, an exception to the statewide Agricultural Lands Planning Goal is required where development of the power generating facility removes more than 12 acres from commercial agricultural production. On farmland not classified as high-value, an exception to the statewide Agricultural Lands Planning Goal is required where development of the power generating facility removes more than 20 acres from commercial agricultural production).

#### **PARKS/PUBLIC/QUASI-PUBLIC FACILITIES**

- (X) Parks, Public or Nonprofit, including Playgrounds [OAR 660-033-0130(31)], with public parks to include only the uses specified under OAR 660-034-0035, or OAR 660-034-0040 which ever is applicable, subject to compliance with Section 136.060. A public park may be established consistent with the provisions of ORS 195.120.
- (Y) Private Parks, Playgrounds, Hunting and Fishing Preserves and Campgrounds [OAR 660-033-0130(19)], subject to compliance with Section 136.060. (Note: New facilities are not allowed on lands classified as high-value. Existing facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three (3) miles of an urban growth boundary unless an exception to Statewide Planning Goal 3, 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 for residential purposes and is established on a site that is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A camping site may be occupied by a tent, travel trailer or recreation vehicle. Separate sewer, water, or electric hook-ups shall not be provided to individual camp sites. Campgrounds authorized under this provision 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. A private campground may provide

yurts for overnight camping, however, no more than one-third or a maximum of ten (10) campsites, whichever is smaller, may include a yurt.

As used in this paragraph:

- (1) “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.
- (Z) Expansion of Existing County Fairgrounds [ORS 215.283(2)(w)], and activities directly related to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.
- (AA) Golf Courses and accessory uses [OAR 660-033-0130(20)]. A new golf course and accessory uses may be approved on a tract of land not classified as high-value, consistent with Section 136.060. An existing golf course on all farmlands may be maintained, enhanced, or expanded, up to 36 holes on the same tract, consistent with Section 136.060 and OAR 660-33-130 (18).

As used in this paragraph:

- (1) “Golf Course” means an area of land with highly maintained natural turf laid out for the game of golf with a series of 9 or 18 regulation golf course holes, or a combination 9 and 18 holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards, consistent with the following:
  - (a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes.
  - (b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes.
  - (c) 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 and conforms to the following:
    - (i) An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course 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.
    - (ii) Accessory uses to a golf course do not include sporting facilities unrelated to golf such as tennis courts, swimming pools, or weight rooms, wholesale or retail operations oriented to the non-golfing public, or housing.
    - (iii) A use is accessory to a golf course only when limited in size and orientation to serve the needs of persons and their guests who patronize the golf course to golf.
    - (iv) Commercial activities such as a pro shop are accessory to a golf course when located in the clubhouse.
    - (v) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Accessory food and beverage service facilities shall not be designated for or include structures for banquets, public gatherings or public entertainment.

- (AB) Community Centers [ORS 215.283(2)(e)], owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.
- (AC) Living History Museum [OAR 660-033-0130(21)], related to resource based activities 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 with 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.

As used in this paragraph:

- (1) "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.
- (2) "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65.

**136.060. GENERAL REVIEW STANDARDS [OAR 660-33-130 (5)].** To ensure compatibility with farming and forestry activities, the Planning Director or hearings body shall determine that a use authorized by Section 136.050 (A) through (D), (G) through (P), and (R) through (W) meet the following requirements:

- (A) The proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (B) The proposed use will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

**136.070. LAND PARTITION STANDARDS [ORS 215.780 (C)].** No land(s) located within the Exclusive Farm Use Zoning District shall be partitioned without the expressed approval of Polk County under the provisions of Chapter 136 and the Polk County Subdivision and Partition Ordinance. A plat shall be prepared by a registered surveyor to document the land partition. Upon final approval of the plat, the survey shall be recorded by the Polk County Clerk. Parcels resulting from a foreclosure action are exempted from the partitioning process under ORS 92.010(7)(a). A deed or instrument conveying land in lieu of foreclosure shall not constitute a foreclosure action.

In the Exclusive Farm Use Zoning District, the following standards shall apply:

- (A) Except as provided in Section 136.070 (B), (C), (D), (E) and (F), the minimum parcel size is 80 acres.
- (B) Nonfarm, Nonresidential Parcels [OAR 660-33-100 (10)]. A parcel which is less than 80 acres may be created for nonfarm, nonresidential uses authorized by this Ordinance, subject to compliance with the procedural and technical requirements of ORS Chapter 92, the Polk County Subdivision and Partitioning Ordinance and the following criteria:
  - (1) A preliminary site plan shall be submitted that depicts the proposed lot boundaries and the location of all existing and proposed buildings, structures and related facilities, to include the on-site septic system and repair areas, water facilities, utility easements, vehicular access, circulation, parking and loading areas;
  - (2) The proposed parcel shall be sized to meet, but shall not exceed, the requirements of the nonfarm use and development as depicted on the preliminary site plan;
  - (3) Each parcel shall be provided legal access to a public road by frontage or easement;

- (4) Prior to filing the partition plat, each parcel shall be evaluated for on-site septic use, or a waiver submitted from a party that has agreed to purchase the parcel, subject to approval of the land partition (Note: The owner may also waive the evaluation, subject to the filing of a restriction on the deed which precludes the placement of a dwelling on the parcel);
  - (5) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
- (C) Parcel for a Nonfarm Single-Family Residence - Not High-Value [OAR 660-33-100 (11)]. A parcel for nonfarm residential use may be created, subject to compliance with the requirements of the Polk County Subdivision and Partitioning Ordinance and the following criteria:
- (1) The proposed nonfarm parcel is intended for the siting of a nonfarm dwelling authorized by this Ordinance;
  - (2) The originating parcel is equal to or larger than the applicable minimum parcel size and the proposed parcel is not less than 20 acres in size;
  - (3) The parent parcel is not stocked to the requirements of ORS 527.610 to 527.770;
  - (4) The parent parcel is composed of at least 95 percent NRCS Class VI through VIII soils;
  - (5) The parcel is composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber; and
  - (6) The proposed nonfarm parcel is disqualified from special farm use tax assessment, as required under ORS 215.236.
  - (7) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
  - (8) A subdivision or series partition, to create non-farm, residential parcels is prohibited. "Series partition" is defined as a series of partitions of land which results in the creation of four or more parcels over a period of more than one calendar year.
- (D) Nonfarm Parcel for Public Parks or Open Space [ORS 215.263(10)]. A parcel for public parks or open space may be created when the land partition 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 subject to the following criteria:
- (1) A parcel created by the land partition that contains a dwelling is large enough to support continued residential use of the parcel.
  - (2) A parcel created pursuant to this subsection that does not contain a dwelling:
    - (a) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
    - (b) May not be considered in approving or denying an application for siting any other dwelling;
    - (c) May not be considered in approving a redesignation or rezoning of forestlands or farmlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
  - (3) A parcel created pursuant to this subsection may not be smaller than 25 acres unless the purpose of the land partition is:
    - (a) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or



- (b) 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.
- (4) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
- (E) Nonfarm Parcel for Historic Property [ORS 215.263(9)(b)]. A parcel for historic property may be created if the historic property would contain a dwelling listed on the Polk County Historic Inventory and on the National Register of Historic Places.
  - (1) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
- (F) Nonfarm Parcel for a Residential Home [ORS 215.263(9)(a)]. A parcel for a residential home as defined in ORS 197.660(2) may be created for a residential home approved under PCZO 136.050(J) if the dwelling has been approved under PCZO 136.050(E), or PCZO 136.050(F).
  - (1) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
- (G) Nonfarm Parcel for a Church [ORS 215.263(11)]. A parcel may be created to establish a church including cemeteries in conjunction with the church if they meet the following requirements:
  - (1) The church has been approved under PCZO 136.040(X);
  - (2) The newly created parcel is not larger than five acres; and
  - (3) The remaining parcel, not including the church, meets the minimum parcel size described in PCZO 136.070(A) either by itself or after it is consolidated with another parcel or lot.
  - (4) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel. (Note: One year extensions may be requested prior to expiration of the approval.)

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

**136.120. NON-REMONSTRANCE DEED RESTRICTION.** Pursuant to OAR 660-033-0130(30), for any dwelling or residential facility approved under sections 136.040 and 136.050, the landowner for the dwelling shall be required to sign and record a deed restriction binding the landowner and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 to 30.937.

**136.140. PROHIBITED USES.** It is unlawful to erect, alter or establish in the Exclusive Farm Use Zoning District any building, structure or use not authorized and approved under the standards and procedures in this Ordinance.

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

**136.160. PERIOD OF VALIDITY FOR ADMINISTRATIVE REVIEW USES [OAR 660-033-0140(1-4)].**

- (A) A land use application authorizing a use pursuant to the provisions of Polk County Zoning Ordinance Section 136.040 shall be valid two (2) years from the effective date of the land use decision, except as provided in Section 136.170. An extension shall extend the validity period for one (1) additional year, if:
  - (1) The applicant makes a written request for an extension of the development approval validity period;
  - (2) The written request is submitted to the Polk County Planning Division, on the form provided by the Planning Division, prior to the expiration of the approval period;
  - (3) The applicant states the reasons that prevented the applicant from beginning or continuing development with the approval period;
  - (4) The applicant states the reasons that prevented the applicant from beginning or continuing development during the approval period for reasons for which the applicant was not responsible.
- (B) The Planning Director may authorize additional one-year extensions where the applicable criteria for the decision have not changed. Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

**136.170. PERIOD OF VALIDITY FOR NON-FARM, LOT-OF-RECORD, AND REPLACEMENT DWELLING USES [OAR 660-033-0140(5)].**

- (A) A land use application authorizing a dwelling pursuant to the provisions of Polk County Zoning Ordinance Sections 136.040(B), (C), (G), (I) and 136.050(E) and (F) shall be valid for four (4) years from the effective date of the land use decision.
- (B) A one time two (2) year extension of the validity period shall be granted upon submission of a written request for an extension prior to the expiration of the approval period. Authorization of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

## **CHAPTER 138**

### **FARM/FOREST (FF) ZONING DISTRICT**

- 138.010. Purpose
- 138.015. Definitions
- 138.020. Predominant Use Test
- 138.025. Farm Forest Overlay Zone
- 138.030. Authorized Uses and Development
- 138.040. Uses Permitted by Right
- 138.050. Uses Subject to Administrative Review
- 138.060. Conditional Uses
- 138.070. General Review Standards
- 138.080. Siting of Dwellings and Structures on Forest Parcels
- 138.090. Fire Siting Standards for Dwellings and Structures on Forest Parcels
- 138.100. Land Division Requirements
- 138.110. Construction Financing
- 138.120. Nonconforming Uses
- 138.130. Height
- 138.140. Prohibited Uses
- 138.150. Development Standards

**138.010 PURPOSE.** The Farm/Forest (F/F) Zone is designed to provide for the full range of agricultural and forest uses for such lands, while providing for the maximum property tax benefits available (e.g. farm use assessment, timber tax treatment, open space deferral etc.) and conformity with the Farm/Forest objectives and policies of the Polk County Comprehensive Plan.

Upon periodic revision of the Polk County Comprehensive Plan, the lands within the F/F designation shall be reviewed by the County Commissioners as to their continued appropriateness in such a designation or, alternatively rezoning to a more appropriate category.

As with other natural resource zones, there are isolated lands within the F/F Zone which have no actual or potential use for agricultural or forest purposes. In those cases, other non-natural resource uses may be permitted only as provided in this chapter and in the Polk County Comprehensive Plan.

Such uses must not be adverse to accepted agricultural or forest practices. Further, consistent with the diverse character of this zone and recognizing that the actual and potential land use conditions vary from intensive to extensive cultivation and use, the Board of County Commissioners has adopted this zone to deal with myriad potential uses, while recognizing the primary orientation of this zone towards farm and forest uses.

**138.015. DEFINITIONS.** Pursuant to Section 138.020, for a tract where the predominant use as of January 1, 1993 is determined to be farm use, terms related to farm land tracts and land use found in this chapter are defined in the Oregon Revised Statutes (ORS), Chapter 215 and in the Oregon Administrative Rules (OAR), Division 33. A handout defining these terms is available from the Polk County Community Development Department.

Pursuant to Section 138.020, for a tract where the predominant use as of January 1, 1993 is determined to be forest use, the following definitions shall apply:

- (A) Auxiliary. As used in Section 138.040, "auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting.
- (B) Definitions contained in ORS 197.015 and the Statewide Planning Goals.
- (C) Cubic Foot Per Acre Per Year means the average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS). Where NRCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.
- (D) Cubic Foot Per Tract Per Year means the average annual increase in cubic foot volume of wood fibre per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service. Where NRCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.
- (E) Date of creation and existence. When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.
- (F) Forest Operation means any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620(6).

**138.020. PREDOMINANT USE TEST.** [(OAR 660-06-050 (2)] The siting of dwellings and other allowable land uses within the Farm/Forest Zoning District are based on a determination of the

predominant use of a tract as either farm or forest land. A "tract" is defined as one (1) or more contiguous lots or parcel(s) under the same ownership.

Predominant use is defined as more than 50 percent of the area of the tract. Polk County will review tax assessor records, aerial photos, soils capability data, and existing uses to determine on a case-by-case basis whether a tract was predominantly used for farm or forest purposes as of January 1, 1993. Authorized uses and development standards for each tract will be based on this determination.

**138.025. FARM/FOREST OVERLAY ZONE.** The uses allowed for a tract subject to the Farm Forest Overlay Zone shall be based on the predominant use test as described in Section 138.020. Based on the determination of the predominant use of a tract, the uses authorized in the Farm Forest Overlay Zone shall be those uses described in Section 138.030 through 138.050.

Land division standards for a tract subject to the Farm Forest Overlay Zone shall be based on the predominant use of the tract. Division standards for farm tracts are those described in Section 136.070 of the Polk County Zoning Ordinance. Land division standards for forest tracts are those described in Section 177.060 of the Polk County Zoning Ordinance.

**138.030. AUTHORIZED USES AND DEVELOPMENT.** Based on the determination of predominant use of a tract in accordance with Section 138.020, the following uses, activities and development are authorized in the Farm/Forest Zoning District, subject to review and approval under applicable regulatory standards:

(A) Farm Land Tract - Authorized Uses

Key

- HV High-Value Farm Land, defined by OAR 660-33-020 (8)
- Other Other lands, not defined as High-Value
- P Permitted outright
- AR Subject to administrative review and approval
- CUP Subject to review and approval as a conditional use
- NP Use not permitted
- NA Not applicable

RESOURCE USES	HV	OTHER
Farm Use as defined in ORS 215.203	P	P
Facility for the Processing of Farm Crops	AR	AR
Use and Management of Forest Lands	P	P
Farm and Forest Accessory Structures	P	P
Forest Product Primary Processing Facility	CUP	CUP
Wetland Creation/Restoration and Enhancement	P	P
Aquaculture	CUP	CUP
Insect Breeding	CUP	CUP
Operations for the Extraction and Bottling of Water	CUP	CUP

<b>RESIDENTIAL</b>	<b>HV</b>	<b>OTHER</b>
Farm Dwelling	AR	AR
Accessory Farm Dwelling	AR	AR
Family Farm Help Dwelling	AR	AR
Lot of Record Dwelling - Not High Value	NA	AR
Lot of Record Dwelling - High-Value	AR	NA
Small Tract Dwelling - High Value	AR	NA
Nonfarm Dwelling	NP	CUP
Nonfarm Dwelling on Nonfarm Parcel	NP	CUP
Replacement Dwelling	AR	AR
Replacement of Historic Dwelling	AR	AR
Temporary Hardship Manufactured Home	AR	AR
Seasonal Farm Worker Housing (ORS 197.675)	AR	AR
Residential Home or Facility (ORS 197.660)	CUP	CUP
Room and Board Arrangements	CUP	CUP
<b>COMMERCIAL</b>	<b>HV</b>	<b>OTHER</b>
Activity In Conjunction with Farm Use	CUP	CUP
Home Occupations	CUP	CUP
Breeding, Kenneling, and Training of Greyhounds for Racing	P	P
Dog Kennels	NP	CUP
Training and Stabling Horses for Profit	P	P
Winery, as described in ORS 215.452	AR	AR
Farm Stands	AR	AR
<b>MINERAL AND AGGREGATE OPERATIONS</b>	<b>HV</b>	<b>OTHER</b>
Exploration and Production of Geothermal (ORS 522.005), Oil and Gas (ORS 520.005)	P	P
Mineral Exploration (ORS 517.750)	P	P
Mining and Processing of Geothermal, (ORS 522.005) Oil and Gas (ORS 520.005)	CUP	CUP
Mining and Processing of Mineral and Aggregate Materials	CUP	CUP
Processing of Aggregate into Asphalt or Portland Cement (ORS 517.750)	CUP	CUP

Processing of Other Mineral Resources	CUP	CUP
<b>TRANSPORTATION</b>	<b>HV</b>	<b>OTHER</b>
Personal Use Airports and Helipads	CUP	CUP
Climbing and Passing Lanes within Right-of Way existing on July 1, 1987	P	P
Construction of Passing and Travel lanes, requiring acquisition of right-of-way	CUP	CUP
Reconstruction or Modification of Public Roads, not including addition of travel lanes, removal of buildings or creation of new parcels	P	P
Reconstruction or Modification of Public Roads, involving the removal of buildings, but not the creation of new parcels	CUP	CUP
Temporary Public Road Detours	P	P
Minor Improvements to Existing Road and Highway Related Facilities within right-of-way existing on July 1, 1987	P	P
Improvements to Existing Road and Highway Related Facilities where additional property or right-of-way is required	CUP	CUP
Roads, Highways and Other Transportation Facilities	CUP	CUP
<b>UTILITIES AND SOLID WASTE DISPOSAL FACILITIES</b>	<b>HV</b>	<b>OTHER</b>
Utility Facilities Necessary for Public Service, excepting commercial power generating facilities and transmission towers over 200 feet in height	AR	AR
Transmission Towers over 200 feet in height	CUP	CUP
Solid Waste Disposal Site under ORS 459.049	NP	AR
Solid Waste Disposal Site under ORS 459.245	CUP	CUP
Commercial Power Generating Facilities	CUP	CUP
<b>PARKS/PUBLIC/QUASI-PUBLIC FACILITIES</b>	<b>HV</b>	<b>OTHER</b>
Schools, public or private	NP	AR
Churches and Associated Cemeteries	NP	AR
Parks, private, including playgrounds, hunting/fishing preserves and campgrounds	NP	CUP
Parks, public or nonprofit, including playgrounds or community centers	CUP	CUP
Model Aircraft Takeoff and Landing Sites	AR	AR
Expansion of Existing County Fairgrounds	CUP	CUP
Golf Courses	NP	CUP

(B) Forest Land Tract - Authorized Uses

Key

P Permitted outright

AR Subject to administrative review and approval

CUP Subject to review and approval as a conditional use

<b>RESOURCE USES</b>	<b>AUTHORIZATION</b>
Forest Operations and Practices	P
Physical Alterations of the Land Auxiliary to Forest Practices	P
Agricultural Uses	P
Soil, Air and Water Conservation Activities	P
<b>RESOURCE-RELATED USES AND DEVELOPMENT</b>	<b>AUTHORIZATION</b>
Temporary Structures Auxiliary to Forest Practices	P
Distribution Lines in Existing Rights-of-Way	P
Portable Facilities for Primary Processing	P
Fire Towers and Stations	P
Irrigation Water Intake and Distribution Facilities	P
Temporary Labor Camps - No Permanent Structures	P
Permanent Facility for Primary Processing	CUP
Permanent Equipment Repair and Storage Facility	CUP
Log Scaling and Weigh Stations	CUP
Research and Experimentation Facilities	CUP
Temporary Labor Camp - Permanent Structures	CUP
<b>SINGLE-FAMILY RESIDENCES</b>	<b>AUTHORIZATION</b>
Forest land Dwelling	AR
Large Tract Forest land Dwelling	AR
"Template" Forest land Dwelling	AR
Temporary Dwelling for Medical Hardship	AR
Caretaker Residence for Parks and Hatcheries	AR
Replacement Dwelling	AR
<b>COMMERCIAL</b>	<b>AUTHORIZATION</b>
Home Occupation, per ORS 215.448	CUP



<b>MINERAL AND AGGREGATE OPERATIONS</b>	<b>AUTHORIZATION</b>
Exploration for Mineral and Aggregate	P
Exploration & Production of Geothermal, Gas and Oil	P
Mining and Processing of Subsurface Resources	CUP
<b>TRANSPORTATION</b>	<b>AUTHORIZATION</b>
Aids to Navigation and Aviation	CUP
Temporary Asphalt and Concrete Batch Plants	CUP
Expansion of Existing Airport	CUP
Public Road and Highway Projects	CUP
Widening of Roads Within Existing Right-of-way	P
<b>UTILITIES AND SOLID WASTE DISPOSAL FACILITIES</b>	<b>AUTHORIZATION</b>
Power Generating Facilities	CUP
Communication Towers and Facilities	CUP
Drinking Water Facility (Intake, Treatment, etc.)	CUP
Reservoirs and Water Impoundments	CUP
Solid Waste Disposal Site under ORS 459.049.	P
Solid Waste Disposal Site under ORS 459.245.	CUP
New Distribution Lines in Right-of-way 100 ft. or less in width	CUP
<b>PARKS/PUBLIC/QUASI-PUBLIC FACILITIES</b>	<b>AUTHORIZATION</b>
Parks and Campgrounds	CUP
Rural Fire Protection District Stations	CUP
Firearms Training Facility	CUP
Cemeteries	CUP
Hunting/Fishing Operations w/o Accommodations	P
Hunting/Fishing Operations with Accommodations	CUP
Structures Accessory to Fish and Wildlife Enhancement	P

**138.040. USES PERMITTED BY RIGHT.** Based on the determination of predominant use of a tract in accordance with Section 138.020, the following uses are permitted, subject to applicable standards set forth in the Polk County Zoning Ordinance and as may otherwise be indicated by federal, state and local permits or regulations:

- (A) Farm Land Tract - Uses Permitted by Right

Uses permitted by right on a tract which is predominantly in farm use are those uses allowed in the Exclusive Farm Use (EFU) Zoning District, described in Section 136.030 of the Polk County Zoning Ordinance.

(B) Forest Land Tract - Uses Permitted by Right

Uses permitted by right on a tract which is predominantly in forest use are those uses allowed in the Timber Conservation (TC) Zoning District, described in Section 177.030 of the Polk County Zoning Ordinance.

**138.050. USES SUBJECT TO ADMINISTRATIVE REVIEW.** Based on the determination of the predominant use of a tract in accordance with Section 138.020, the following uses are permitted, subject to review and approval under the prescriptive standards specified herein and as may otherwise be indicated by federal, state and local permits or regulations.

(A) Farm Land Tract - Uses Subject to Administrative Review

Uses permitted subject to administrative review on a tract which is predominantly in farm use are those uses allowed in the Exclusive Farm Use (EFU) Zoning District, described in Section 136.040 of the Polk County Zoning Ordinance.

(B) Forest Land Tract - Uses Subject to Administrative Review

Uses permitted subject to administrative review on a tract which is predominantly in forest use are those uses allowed in the Timber Conservation (TC) Zoning District, described in Section 177.035 of the Polk County Zoning Ordinance.

**138.060. CONDITIONAL USES.** Based on the determination of predominant use of tract in accordance with Section 138.020, the following conditional uses may be approved, subject to compliance with the procedures and criteria under Chapter 119, general review standards under Section 138.070, applicable state and federal regulations, and other specific criteria as may be indicated:

(A) Farm Land Tract - Conditional Uses

Uses permitted as conditional uses on a tract which is predominantly in farm use are those uses allowed in the Exclusive Farm Use (EFU) Zoning District, described in Section 136.050 of the Polk County Zoning Ordinance.

(B) Forest Land Tract - Conditional Uses

Uses permitted as conditional uses on a tract which is predominantly in forest use are those uses allowed in the Timber Conservation (TC) Zoning District, described in Section 177.040 of the Polk County Zoning Ordinance.

**138.070. GENERAL REVIEW STANDARDS [OAR 660-33-130 (5) and OAR 660-06-025 (5)].** Based on the determination of predominant use of a tract in accordance with Section 138.020, the following standards apply to the authorized uses referenced by this section.

(A) Farm Land Tract - General Review Standards

To ensure compatibility with farming and forestry activities, the Planning Director or Hearings Officer shall determine that a use authorized by Section 138.050 (A) meets the following requirements:

- (1) The proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (2) The proposed use will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

(B) Forest Land Tract - General Review Standards

To ensure compatibility with farming and forest activities, the Planning Director or hearings body shall determine that a use authorized by Section 138.050 (B) meets the following requirements:

- (1) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;
- (2) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel;
- (3) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in OAR 660-06-025 (4)(e), (l), (r), (s) and (v); and
- (4) All other requirements contained in the Comprehensive Plan or implementing ordinances, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat.

**138.080. SITING OF DWELLINGS AND STRUCTURES ON FOREST PARCELS [OAR 660-06-029].** Based on the determination of predominant use of a tract in accordance with Section 138.020, the siting standards for dwellings and structures as described in Section 177.080 of the Polk County zoning Ordinance shall apply to all new dwellings or permanent structures on a forest land tract.

**138.090. FIRE SITING STANDARDS FOR DWELLINGS AND STRUCTURES ON FOREST PARCELS [OAR 660-06-035].** Based on the determination of predominant use of a tract in accordance with Section 138.020, the fire siting standards for dwellings and structures as described in Section 177.090 of the Polk County zoning Ordinance shall apply to all new dwellings or permanent structures on a forest land tract.

**138.100. LAND DIVISION REQUIREMENTS [OAR 660-06-055, OAR 660-06-026, and OAR 660-33-100].** No land(s) located within the Farm/Forest Zoning District shall be divided without the expressed approval of Polk County under the provisions of Chapter 138 and the Polk County Subdivision and Partition Ordinance. A plat shall be prepared by a registered surveyor to document the land partition. Upon final approval of the plat, the survey shall be recorded by the Polk County Clerk. Parcels resulting from a foreclosure action are exempted from the partitioning process. A deed or instrument conveying land in lieu of foreclosure shall not constitute a foreclosure action.

Based on the determination of predominant use of a tract in accordance with Section 138.020, the following land division requirements shall apply:

- (A) Farm Tract - Land Division Requirements
  - (1) (a) The minimum parcel size shall be 40 acres;
  - (b) Nonfarm, Nonresidential Parcels [OAR 660-33-100 (10)]. A parcel for nonfarm, nonresidential uses authorized by this Ordinance may be created, subject to compliance with the procedural and technical requirements of ORS Chapter 92, the Polk County Subdivision and Partitioning Ordinance and the following criteria:
    - (i) A preliminary site plan shall be submitted that depicts the proposed lot boundaries and the location of all existing and proposed buildings, structures and related facilities, to include the on-site septic system

and repair areas, water facilities, utility easements, vehicular access, circulation, parking and loading areas;

- (ii) The proposed parcel shall be sized to meet, but shall not exceed, the requirements of the nonfarm use and development as depicted on the preliminary site plan;
  - (iii) Each parcel shall be provided legal access to a public road by frontage or easement (Note: The minimum frontage or easement width shall be 50 feet);
  - (iv) Prior to filing the partition plat, each parcel shall be evaluated for on-site septic use, or a waiver submitted from a party that has agreed to purchase the parcel, subject to approval of the land partition (Note: The owner may also waive the evaluation, subject to the filing of a restriction on the deed which precludes the placement of a dwelling on the parcel);
  - (v) A partition plat shall be filed within two (2) years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).
- (c) Parcel for a Nonfarm Single-Family Residence - Not High-Value [OAR 660-33-100 (11)]. A parcel for nonfarm residential use may be created, subject to compliance with the requirements of the Polk County Subdivision and Partitioning Ordinance and the following criteria:
- (i) The proposed nonfarm parcel is intended for the siting of a nonfarm dwelling authorized by this Ordinance;
  - (ii) The proposed parcel is not less than 20 acres in size;
  - (iv) The parent parcel is not stocked to the requirements of ORS 527.610 to 527.770;
  - (v) The parent parcel is composed of at least 95 percent NRCS Class VI through VIII soils;
  - (vi) The parcel is composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber; and
  - (vii) The proposed nonfarm parcel is disqualified from special farm use tax assessment, as required under ORS 215.236.
  - (viii) A subdivision or series partition, to create non-farm, residential parcels is prohibited. "Series partition" is defined as a series of partitions of land which results in the creation of four or more parcels over a period of more than one calendar year.
- (B) Forest Tract - Land Division Requirements [660-06-026]
- (1) The minimum lot size is 40 acres; or
  - (2) Land divisions creating parcels less than 40 acres in size may only be approved for uses listed in Sections 177.030 (H) and (L) and 177.040 (C) through (P), provided that those uses have been approved pursuant to Section 138.070 (B) of this Ordinance. Such divisions shall create a parcel that is the minimum size necessary for the use. Required building setbacks for these parcels will be determined on a case-by-case basis through the conditional use process and may vary from those required under Section 138.150 based upon the specific use authorized by the Conditional Use Permit.

**138.110. CONSTRUCTION FINANCING.** When a lender requires a portion of a property be used for collateral for construction financing for housing or agricultural improvements, the property owner shall submit an Affidavit of Partition for Collateral to the Planning Director. Copies of this affidavit are available from the Planning Division. The property owner shall certify that he/she understands that the financing agreement does not create separate parcels and that, except in the event of foreclosure, neither parcel may be sold or otherwise separated from the other.

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

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

**138.140. PROHIBITED USES.** It is unlawful to erect, alter or establish in the Farm/Forest Zoning District any building, structure or use not authorized and approved under the standards and procedures in this Ordinance.

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

## **CHAPTER 140**

### **COMMERCIAL OFFICE (CO) ZONING DISTRICT**

- 140.010. Use
- 140.020. Conditional Uses
- 140.030. Optional Businesses

**140.010. USE.** Within a Commercial Office Zone, no building, structure, or premise shall be used, arranged, or designed to be used, erected, structurally altered, or enlarged, except for one or more of the following uses:

- (A) Any use permitted in an RM Zone;
- (B) Pre-schools, nurseries and kindergartens;
- (C) Non-profit membership organizations;
  - (1) Business association offices;
  - (2) Labor unions and similar labor organization offices and facilities;
  - (3) Political organization offices and headquarters;
  - (4) Professional membership organizations, offices and facilities.
- (D) Hotels and motels;
- (E) Parking lot when developed as prescribed in Chapter 118;
- (F) Contracting business offices;
- (G) Service business office for:
  - (1) Bonding company;
  - (2) Detective agency;
  - (3) Drafting service;
  - (4) Mailing, mailing list, addressing service;
  - (5) News syndicates;
  - (6) Notary public;
  - (7) Stenographic service;
  - (8) Telephone answering service.
- (H) Financial, insurance and real estate offices for:
  - (1) Adjustment and collection agencies;
  - (2) Banks;
  - (3) Consumer reporting agencies, credit agencies other than banks;
  - (4) Insurance carriers and agents, brokers and service agencies;
  - (5) Insurance companies, main or branch;
  - (6) Real estate companies (selling, managing, title search, subdivision or development companies, etc.);
  - (7) Combination real estate, insurance, loan or law offices (those companies doing any combination of the above but none predominantly);
  - (8) Security and commodity brokers, dealers, exchanges and services, holding and other investment companies;
  - (9) Title abstract companies;
  - (10) Trust companies.
- (I) Laboratory-seed and soil testing, research;
- (J) Motor freight terminal offices;
- (K) Professional offices for:
  - (1) Accounting, auditing and bookkeeping services;
  - (2) Artists, authors, lecturers, etc.

- (3) Engineers and architects;
- (4) Non-profit educational scientific research agencies;
- (5) Lawyers;
- (6) Medical and dental laboratories;
- (7) Medical, dental and other allied professional offices and clinics. Optometrists primarily engaged in the prescribing rather than the selling of eye glasses are included;
- (8) Mortuary.
- (L) Solid waste disposal site (see Sections 120.310 through 120.380);
- (M) Sand and gravel resource site (see Sections 120.410 through 120.460).
- (N) Residential homes, as defined in section 110.477. [Amended by Ordinance #89-17, dated December 6, 1989.]
- (O) Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**140.020. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in Chapter 119 of this ordinance, the following uses will be permitted in a CO Zone:

- (A) Radio and TV stations and studios;
- (B) Communications tower, as provided in Section 112.135; [Amended by Ordinance 01-3 and 04-09]
- (C) Telephone and telegraph communication facilities; [Amended by Ordinance 01-3 and 04-09]
- (D) Mobile home parks;
- (E) Boat, camper and trailer storage area or lot (see Specific Conditional Uses, Section 120.030);
- (F) Barber shops;
- (G) Beauty shops;
- (H) Veterinary clinic; and
- (I) Cottage Industry Home Occupations (see Section 116.040). [Amended by Ordinance #89-17, dated December 6, 1989.]

**140.030. OPTIONAL BUSINESSES.** Optional businesses may be conducted in a CO Zone as an incidental or secondary use to a main use when conducted and entered only from within the building, provided there is no exterior display or advertisement except for a nameplate not over two (2) square feet in area, and not more than one-half (1/2) the floor area of a one (1) story is devoted to such use or uses, but if such building be but only one (1) story in height, then not more than one-fourth (1/4) of the floor area thereof shall be devoted to such use or uses, as follows:

- (A) Eating places (not drive-ins) restaurants, cafes, (may serve liquor) caterers, box-lunch providers, coffee shops, dining rooms and tea rooms;
- (B) News dealers, newsstands;
- (C) Barber shop;
- (D) Beauty shop;



## **CHAPTER 141**

### **COMMERCIAL RETAIL (CR) ZONING DISTRICT**

- 141.010. Use
- 141.020. Conditional Uses
- 141.030. Optional Business

**141.010. USE.** Within a CR, Commercial Retail Zone, no building, structure, or premise shall be used, arranged, or designed to be used, erected, structurally altered, or enlarged, except for one or more of the following uses:

- (A) Any use permitted in RM Zone and CO Zone;
- (B) Amusement and recreation:
  - (1) Auditorium;
  - (2) Bathing beaches;
  - (3) Billiard parlor;
  - (4) Boat launching facilities;
  - (5) Bowling alley;
  - (6) Game room, card room;
  - (7) Fortune teller;
  - (8) Ice skating rink;
  - (9) Miniature golf course;
  - (10) Motion picture theater;
  - (11) Pleasure boat moorage;
  - (12) Pony riding ring (no stable);
  - (13) Pool hall;
  - (14) Rebound center; and
  - (15) Roller skating rink.
- (C) Community Services:
  - (1) Radio and TV station and studio;
  - (2) Communications tower, as provided in Section 112.135; and [Amended by Ordinance 01-3 and 04-09]
  - (3) Telegraph and telephone communication facilities. [Amended by Ordinance 01-3 and 04-09]
- (D) Community Services:
  - (1) Barber school
  - (2) Beauty school
  - (3) Charitable organizations (Missions, Red Cross, Salvation Army, etc.)
  - (4) Commercial school
  - (5) Dancing school
  - (6) Driving school
  - (7) Music school;
  - (8) Trade and vocational school;
- (E) Printing and publishing:
  - (1) Blueprinting firm;
  - (2) Duplicating, mimeographing;
  - (3) Photo copying;
- (F) Residential accommodations:
  - (1) Manufactured home park when developed pursuant to provisions of Section 119.150 (A);

(G) Retail:

- (1) Antique shop;
- (2) Army surplus store;
- (3) Artists' supply store;
- (4) Bakery, manufacturing for sale on premises only;
- (5) Book store;
- (6) Camera and photographic store;
- (7) Candy, nut and confectionery store;
- (8) Dairy products store (no processing, sales on premises only);
- (9) Department store;
- (10) Dine, drink and dance establishment, etc;
- (11) Direct selling organization (headquarters of door-to-door selling organizations);
- (12) Drive-in eating and snack facilities;
- (13) Drug store and proprietary store;
- (14) Dry goods store (with or without apparel);
- (15) Eating place, restaurant, cafe (may serve liquor), caterer, box-lunch provider, coffee shop, dining room and tea room;
- (16) Egg and poultry dealer;
- (17) Fish and sea food market (no rendering or processing, sales on premises only);
- (18) Florist shop;
- (19) Fruit store and vegetable market;
- (20) Furniture store;
- (21) Furrier and fur shop;
- (22) Garden supply store;
- (23) General store;
- (24) Gift, novelty, curio and souvenir shop;
- (25) Greenhouse;
- (26) Greeting card store;
- (27) Grocery store, supermarket, food store, delicatessen store;
- (28) Health foods store;
- (29) Hearing aid store;
- (30) Hobby equipment store;
- (31) Home furnishings and equipment store, including floor coverings, major appliances, draperies, curtains and upholstery material, glassware, china metal ware (may perform incidental installation services);
- (32) Household appliance store;
- (33) Jewelry store;
- (34) Liquor store;
- (35) Meat market;
- (36) Monument and tombstone firm providing that no stone cutting or polishing is done on the premises;

- (37) Music store, including sale of pianos and other instruments, phonograph records, sheet music, etc.;
  - (38) News dealer, newsstand;
  - (39) Office machines and equipment store;
  - (40) Optical goods store;
  - (41) Orthopedic and artificial limb store;
  - (42) Pet store;
  - (43) Religious goods store;
  - (44) Shoe store;
  - (45) Sporting goods store;
  - (46) Stationery store;
  - (47) Tailor, dressmaker;
  - (48) Tavern and bar;
  - (49) Tobacco, cigar store and stand;
  - (50) Toy store;
  - (51) Trading stamp (merchandise coupons) redemption center;
  - (52) Variety store;
  - (53) Vending machine, automatic merchandising;
  - (54) Wearing apparel and accessories;
- (H) Retail and service:
- (1) Appliances, radio, television shop;
  - (2) Bicycle shop;
  - (3) Business machines, typewriters, sewing machine sales and service shop;
  - (4) Electrical and lighting shop;
  - (5) Floor covering store;
  - (6) Glass and glazing shop;
  - (7) Gunsmith;
  - (8) Hardware store;
  - (9) Locksmith;
  - (10) Luggage and leather goods shop;
  - (11) Paint, wallpaper and interior decorating store;
  - (12) Parking garage;
  - (13) Plumbing shop or fixture store, conducted wholly within a building;
  - (14) Rental of small tools and equipment completely within a building;
  - (15) Saw, lawn mower, knife and cutlery shop;
  - (16) Seat cover and auto top shop;
  - (17) Storage of automobiles, open lot when developed as prescribed in Chapter 118;
  - (18) Taxidermist;
  - (19) Terrazzo, tile, marble mosaic store;
  - (20) Venetian blind and window;
  - (21) Mini-warehouse;

- (22) Watch, clock, jewelry, camera and instrument shop;
- (23) Wrecking and demolition retail sales only. [Subsections (21), (22), and (23), adopted by Ordinance #133, dated April 15, 1975.]

(I) Service:

- (1) Advertising agency;
- (2) Armored car service;
- (3) Barber shop;
- (4) Bath or bathing house;
- (5) Beauty shop;
- (6) Business sign sales and service;
- (7) Clothing and costume rental service;
- (8) Dry cleaning and dyeing plant, except rugs, using non-flammable solvents;
- (9) Dry cleaning pick-up depot;
- (10) Dry cleaning pick-up depot;
- (11) Employment agency;
- (12) Health studio;
- (13) Laundry, self-service;
- (14) Laundry, pick-up depot;
- (15) Masseur studio;
- (16) Mortuary, funeral service;
- (17) Outdoor advertising service;
- (18) Pressing, alteration, and garment repair shop;
- (19) Railway express agency;
- (20) Shoe repair and shoe shine shop;
- (21) Sign painting shop;
- (22) Steam bath;
- (23) Veterinary clinic or hospital, conducted wholly within a building;
- (24) Fuel oil distribution firm (see Limited Uses, Section 125.060);
- (25) Mobile home towing service (see Limited Uses, Section 125.070);
- (26) Retail building materials sales firm (see Limited Uses, Section 125.080).

(J) Billboards.

(K) Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**141.020. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in a CR Zone:

(A) Amusement and recreation:

- (1) Athletic club, club house;
- (2) Ballroom;
- (3) Boxing arena;
- (4) Community center;
- (5) Dance hall;
- (6) Gymnasium;

- (7) Indoor sports arena;
- (8) Marina;
- (9) Pleasure boat repair and haulout facilities;
- (10) Stadium;
- (11) Summer recreational camp;
- (12) Swimming pool;
- (B) Transportation:
  - (1) Ambulance service;
- (C) Traveler's Accommodation:
  - (1) Travel trailer park;
- (D) U-Haul concrete mix store;
- (E) Utilities, secondary truck parking and material storage yard;
- (F) Cabinet shop and sales firm (see Specific Conditional Uses, Section 119.150(E));
- (G) Solid waste disposal sites (see Sections 120.310 through 120.380);
- (H) Sand and gravel resource sites (see Sections 120.410 through 120.460);
- (I) Heliport;
- (J) Cottage Industry Home Occupations (see Section 116.040) [Subsections (J) and (K) added by Ordinance #308, dated May 16, 1984. Subsection (K) redesignated (J) by Ordinance 89-17, dated December 6, 1989.]

**141.030. OPTIONAL BUSINESS.**

- (A) Certain optional businesses shall be permitted in a CR Zone when one or more of the following conditions are complied with, to with:
  - (1) That the lot is paved with a concrete or asphaltic hard-surface; that if a lot or open sales area abuts upon or is adjacent to the SR or AR-5 Zones, such lot shall be screened from the adjoining SR or AR-5 Zone by a sight obscuring ornamental fence, wall or hedge at least four (4) feet , but not more than seven (7) feet in height which shall be maintained in good condition; that any repair of vehicles shall be confined and conducted entirely within an enclosed building, and if such building is located on a lot which does not abut an alley and is within 50 feet of the SR or AR-5 Zones, the wall of building which parallels the nearest line of such zone shall have no opening other than stationary windows;
  - (2) Permitted, but if the use is located on a lot which does not abut an alley and is within 50 feet of any residential zone, the wall of the building which parallels the nearest line of such zone, shall have no opening other than stationary windows;
  - (3) Permitted, provided that any tire or tube repairing and storage of merchandise and supplies shall be conducted entirely within a building, and any lubrication or washing activity not conducted within a building shall be screened from any adjoining residential zone by the erection of a masonry wall, ornamental fence or compact evergreen hedge not less than five (5) feet or more than seven (7) feet in height and that such fence, wall, or hedge shall comply with the required yard, setback and vision clearance requirements.
- (B) The following vehicle service and specialty sales uses shall be permitted if all portions of the above subsections are complied with, to-wit:
  - (1) Accessory battery, parts and tire store;

- (2) Automobiles and small trucks, new and used;
- (3) Automobile service station and garage;
- (4) Automobile, truck and trailer sales;
- (5) Aircraft;
- (6) Boats and marine accessories;
- (7) Motorcycles, motor scooters;
- (8) Retail tire and recapping service;
- (9) Towing service;
- (10) Trailers (auto utility, boat, camping, mobile home, travel or vacation);
- (11) Trucks, new and used;
- (12) Upholstery cleaning and repair shop;
- (13) Washing and polishing, automobile laundries;

## **CHAPTER 142**

### **COMMERCIAL GENERAL (CG) ZONING DISTRICT**

- 142.010. Use
- 142.020. Conditional Uses
- 142.030. Optional Businesses



**142.010. USE.** Within any CG, Commercial General Zone, no building, structure, or premises shall be used, or arranged, except for one or more of the following uses:

- (A) Any use permitted in RM, CO and CR Zones;
- (B) Amusement and recreation:
  - (1) Athletic club, club house
  - (2) Ballroom
  - (3) Boxing arena
  - (4) Carnival (transient in character)
  - (5) Circus
  - (6) Community center
  - (7) Dance hall
  - (8) Drive-in motion picture theater
  - (9) Gymnasium
  - (10) Indoor sports arena
  - (11) Marina
  - (12) Penny arcade
  - (13) Pleasure boat repair and haul-out facilities
  - (14) Shooting gallery
  - (15) Stadium
  - (16) Summer recreational camp
  - (17) Swimming pool
  - (18) Theater
- (C) Printing and publishing:
  - (1) Book publishing house
  - (2) Bookbinding establishment and related activities
  - (3) Commercial printing house
  - (4) Greeting card manufacture establishment
  - (5) Manifold business forms manufacture establishment
  - (6) Newspaper, periodical, publishing and printing establishment
- (D) Traveler's accommodation:
  - (1) Travel trailer park
- (E) Retail:

- (1) Ice dealer
  - (2) Mail order houses, general or specialty merchandise
  - (3) Pawnshop
  - (4) Second hand shops such as:
    - (a) bookstore
    - (b) clothing and apparel store
    - (c) furniture store
    - (d) general merchandise
    - (e) office equipment
- (F) Retail and service:
- (1) Cabinet and carpenter shop conducted wholly within a building
  - (2) Electric motor repair shop
  - (3) Furniture repair and reupholstery shop
  - (4) Glass and glazing wholesale contractors establishments
  - (5) Heating and air conditioning shop
  - (6) Insulating and weather stripping shop
  - (7) Lumber yard and building materials store (shall have sight obscuring fence or screen at least six (6) feet in height)
  - (8) Rental of small tools and equipment, using an open paved lot
  - (9) Roofing establishment, provided all hot mix tar pots are stored wholly within a building
  - (10) Sheet metal shop
  - (11) Special trade contractor establishment, such as:
    - (a) cleaning and janitorial service
    - (b) exterminating and fumigating
    - (c) floor laying
    - (d) furnace cleaning
    - (e) masonry and stone
    - (f) ornamental metal work
    - (g) painting and paper-hanging
    - (h) plastering
    - (i) plumbing
    - (j) special building equipment installation

- (k) sheet metal
- (12) Tent and awning shop
- (13) Welding and blacksmith shop
- (G) Service:
  - (1) Fur repair and storage shop
  - (2) Laboratory seed and soil testing, research, testing and development facilities
  - (3) Laundries: laundry plant, including diaper, linen and uniform service facilities
  - (4) Veterinary hospital or clinic
- (H) Transportation:
  - (1) Aircraft maintenance and storage facilities
  - (2) Airport terminals, passenger and freight
  - (3) Ambulance service
  - (4) Bus storage and maintenance facilities (charter, local, highway, school)
  - (5) Bus terminals, depots (charter, local, highway)
  - (6) Freight forwarding facilities
  - (7) Loading docks
  - (8) Offices
  - (9) Railway express agency
  - (10) Railroad terminals (freight, passenger)
  - (11) Storage area (short term)
  - (12) Towing and tugboat facilities
  - (13) Truck maintenance facilities
  - (14) Waterfront terminals, piers and docks
  - (15) Sanitary service (garbage pickup); office and terminal yard (not to include disposal sites)
- (I) Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**142.020. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in a CG Zone:

- (A) Auto racing track
- (B) Crematories
- (C) Fishing pond or lake
- (D) Kennels (boarding and raising of animals)

- (E) Solid waste disposal sites (see Sections 120.310 to 120.380)
- (F) Sand and gravel resource sites (see Sections 120.410 to 120.460)
- (G) Heliport
- (H) Cottage Industry Home Occupations (see Section 116.040) [Subsections (H) and (I) added by Ordinance #308, dated May 16, 1984.]

**142.030. OPTIONAL BUSINESSES.** Those optional automotive businesses set forth in Section 141.030 shall be permitted in CG Zone under like restrictions; provided further, that if the conditions set forth in Section 141.030 are complied with, the following additional specialty sales and service firms shall be permitted, to-wit:

- (A) Battery, ignition and electrical shop
- (B) Body and fender shop
- (C) Garage and general repair shop
- (D) Glass installation and service shop
- (E) Tractor and farm equipment shop
- (F) Paint shop
- (G) Radiator repair service shop
- (H) Used and second hand parts and accessories shop

## **CHAPTER 144**

### **RURAL COMMERCIAL (R-COM) ZONING DISTRICT**

- 144.010. Purpose and Intent
- 144.020. Uses Subject To Size Limitations
- 144.030. Standard Industrial Classifications
- 144.040. Permitted Uses
- 144.050. Conditional Uses
- 144.060. Accessory Uses Permitted Under Prescribed Conditions

**144.010. PURPOSE AND INTENT.** The purpose of the Rural Commercial (R-COM) Zoning District is to implement the Comprehensive Plan policies for rural commercial development. This zone is applied to commercial lands outside of unincorporated communities and urban growth boundaries.

The intent of the R-COM Zoning District is to permit the continuation and expansion of existing uses in the district and allow for new commercial uses. It is also intended to provide for development in rural areas resulting in rural employment opportunities. Commercial activities in this zone generally consist of small scale, low impact uses which serve the needs of the surrounding rural area or the needs of the traveling public without adverse impacts on surrounding farm or forest activities. In the R-COM Zoning District, a new or expanded use may not exceed the capacity of the site itself to provide adequate water and absorb waste water.

**144.020. USES SUBJECT TO SIZE LIMITATIONS.** Specific uses listed under Sections 144.040 and 144.050 are subject to size limitations. These uses shall be established in a building or buildings which do not exceed the specified amount of floor space. The floor area calculation does not include outdoor storage areas.

Expansion of existing uses or establishment of new uses which would exceed to specified size limitation are subject to the following requirements:

- (A) Establishment of a new use which would exceed the size limitation standard shall require a Comprehensive Plan Amendment in the form of an exception to Statewide Planning Goal 14 as provided by the Zoning Ordinance and pursuant to ORS 197.732.
- (B) Expansion of a use existing as of May 10, 2000(date this ordinance is adopted) (see inventory included as Appendix 1) shall be limited to 4,000 square feet of floor space or 25 percent of the adopted inventory size, whichever is greater.
- (C) Expansion of an existing use which would exceed the size limitation standard shall require a Comprehensive Plan Amendment in the form of an exception to Statewide Planning Goal 14 as provided by the Zoning Ordinance and pursuant to ORS 197.732.
- (D) The new or expanded use will not have adverse impacts on surrounding farm and forest activities; and
- (E) The new or expanded use will not exceed the capacity of the site itself to provide adequate water and absorb waste water.

**144.030. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**144.040. PERMITTED USES.** The following uses and their accessory buildings and uses are permitted. All uses under this Section are subject to the applicable standards as set forth in Chapter 112 (Development Standards) and other general provisions and exceptions set forth by this ordinance.

These uses are permitted in a building or buildings which do not exceed the specified gross floor area. The floor area calculation does not include outdoor storage areas.

- (A) Lawfully established uses and structures that existed on or before (date this ordinance is adopted), not otherwise listed in the zone are allowed outright and shall not be classified as nonconforming uses (see Appendix 1).
- (B) Uses which serve the needs of the surrounding rural area or the traveling public:

- (1) Single-family residences;
  - (2) Grocery stores, where the buildings do not exceed 3,500 square feet of floor space (54);
  - (3) Antique, art, gift, handicraft, novelties or other similar stores and second hand stores, with sales and storage conducted wholly within an enclosed building(s) which does not exceed 2,500 square feet of floor space (593, 599);
  - (4) Retail sporting goods and guide services, where the buildings do not exceed 2,500 square feet of floor space (594, 7999);
  - (5) Automobile service stations and repair garages, including towing services, provided that repair is conducted wholly within an enclosed building(s) which does not exceed 3,500 square feet of floor space (75);
  - (6) Eating and drinking places (except those serving alcoholic beverages), where the buildings do not exceed 3,500 square feet of floor space (58);
  - (7) Veterinarian clinics, where the buildings do not exceed 4,000 square feet of floor space (excluding outdoor kennels, pens, or holding areas) (074);
  - (8) Governmental, public and quasi-public structures: special district (e.g. water and sewage disposal office etc.), city, county, state and federal, where the buildings do not exceed 4,000 square feet of floor space (91, 92, 93, 94, 95, 96, 97);
  - (9) Barber or beauty shops, where the buildings do not exceed 2,500 square feet of floor space (72);
- (C) Uses which complement natural resource industries:
- (1) Retail sales of previously prepared agricultural or forest products, where the buildings do not exceed 4,000 square feet of floor space;
  - (2) Wineries, including wine tasting rooms and sales, as defined in Section 110.595(B), where the buildings do not exceed 4,000 square feet of floor space (2084);
  - (3) Farm or forest implement and equipment sales when the sales area is fenced or a landscaped buffer is provided, where the buildings do not exceed 4,000 square feet of floor space;
  - (4) Farm or forest related equipment, machinery or truck repair, including associated service parts facilities, within an enclosed building, where the buildings do not exceed 4,000 square feet of floor space;
  - (5) Feed or agricultural supplies store, excluding wholesale distributions, where the buildings do not exceed 4,000 square feet of floor space;
  - (6) Farm or forest products stand, designed and used for the sale of farm crops, special forest products and livestock grown on farms in the local agricultural area, including the retail sale of incidental items accounting for no more than 25 percent of the total sales of the farm or forest stand. Farm or forest products stands do not include structures designed for residential occupancy or to accommodate activities other than the sale of farm crops, special forest products and livestock, such as structures for banquets, public gatherings or entertainment.
- (D) Uses which are small-scale, low-impact:
- (1) Contracting business office, where the buildings do not exceed 2,500 square feet of floor space (15, 16, 17).
- (E) Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**144.050. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in Chapter 119 of this ordinance, the following uses will be permitted in any R-COM Zone. The

uses identified in subsection (C) of this section shall be established in a building not to exceed 3,500 square feet of floor space. The floor area calculation does not include outdoor storage areas.

- (A) Uses which serve the needs of the surrounding rural area or the traveling public:
  - (1) Communications tower, subject to section 112.135 (48); [Amended by Ordinance 04-09]
  - (2) Living History Museum (84);
  - (3) Cottage Industry Home Occupation in conjunction with a residence that existed on the effective date of this ordinance (see Section 116.040);
  - (4) Bed and Breakfast (see Section 110.107);
  - (5) Recreational vehicle park as defined in Section 110.466 (703); and
  - (6) Public Utilities (exempted from these regulations are: underground pipes and conduits and above ground electric transmission distribution, communication signal lines on a single pole system) (49).
- (B) Uses which complement natural resource industries:
  - (1) Lumber yards, excluding outdoor storage areas;
  - (2) Nurseries for the primary sale of plants, seeds, related garden supplies, excluding wholesale distribution (526);
  - (3) Commercial activities in conjunction with farm or forest use including activities related to the processing, distribution, and retail marketing of farm or forest products a portion of which are produced on-site;
  - (4) Processing facility for farm or forest products (20, 24);
- (C) Uses which are small-scale, low-impact:
  - (1) Eating and drinking places, where alcoholic beverages are served (58);
  - (2) General merchandise stores (53);
  - (3) Boat, camper and trailer storage (see Specific Conditional Uses, Section 119.150(C));
  - (4) Public warehousing and storage (422);
  - (5) Equipment rental and leasing (735);
  - (6) Any other commercial use, where the buildings do not exceed 3,500 square feet of floor space, provided that:
    - (a) The use will not have adverse impacts on surrounding farm and forest activities; and
    - (b) The use will not exceed the capacity of the site itself to provide adequate water and absorb waste water.

**144.060. ACCESSORY USES PERMITTED UNDER PRESCRIBED CONDITIONS.**

Customary accessory uses shall comply with the following:

- (1) No separate permit shall be issued for the construction of any type accessory building prior to that of the main buildings.
- (2) All accessory buildings shall maintain the same yard setback requirements as the main buildings.



**Appendix 1**  
**Rural Commercial Properties Inventory**  
**September 1, 1998**

<b><u>Number</u></b>	<b><u>Tax Map ID</u></b>	<b><u>Location</u></b>	<b><u>Uses</u></b>	<b><u>Size (acres)</u></b>	<b><u>Bldg. Size (sq. ft.)</u></b>
1	7522CB 300	Hwy 223 – North of Dallas	Auto towing/Wrecking	0.57	12,660
2	7522CB 400	Hwy 223 – North of Dallas	Auto body shop	0.14	Vacant
3	7522CB 500	Hwy 223 – North of Dallas	Auto body shop	0.36	4,800
4	7522CB 600	Hwy 223 – North of Dallas	Construction Co/Pump Co. offices	0.36	2,304
5	7522CB 700	Hwy 223 – North of Dallas	Construction Co. (equipment)	0.49	2,588
6	7522CB 1200	Hwy 223 – North of Dallas	Construction Co. (equipment)	0.77	Vacant
7	7522CB 1700	Hwy 223 – North of Dallas	Construction Co. (equipment)	0.98	Vacant
8	7522CB 800	Hwy 223 – North of Dallas	Construction Co. (equipment)	0.99	Vacant
9	7522CB 1900	Hwy 223 – North of Dallas	Construction Co. (equipment)	0.56	Vacant
10	687 1000	Van Duzer Corridor	Restaurant	1.00	1 home
11	687 1001	Van Duzer Corridor	Restaurant	7.89	2,140
12	6810 1100	West of Grand Ronde	Restaurant	2.85	1,232
13	6810 1200	West of Grand Ronde	Logging Co.	4.42	2,640
14	8518 1501	3905 Kings Valley Hwy.	Second-hand store	1.00	1,592
15	8622 600	18425 Falls City Road	Appliance store (closed)	1.02	6,958
16	756 500	Hwy. 22 – Salt Creek	Salt Creek Store	0.86	3,302
17	756 600	Hwy. 22 – Salt Creek	Salt Creek Store	1.13*	Vacant
18	6712C 700	Business 18 – Willamina	Mini-storage warehouse/residence	5.20	2,400 mini-storage, 896 gen.use
		*Remaining 4.75 acres are zoned AR-5			

**Appendix 2**  
**Rural Commercial Property Inventory**  
**Post September 1, 1998**

<b><u>Number</u></b>	<b><u>Tax Map ID</u></b>	<b><u>Location</u></b>	<b><u>Uses/ Authorization/ Establishment Date</u></b>	<b><u>Size (acres)</u></b>	<b><u>Bldg. Size (sq. ft.)</u></b>	<b><u>Ordinance</u></b>
1	9519 302, 1000	15290 Airlie Road	body and paint shop / single-family dwelling PA 02-01, ZC 02-01, CU 00-01	0.63	1,600 shop, manufactured dwelling	No. #02-03, August 21, 2002
2	6811 600,	29795 Salmon River Highway	Retail Commercial store 1930 dwelling	2.50 <sup>1</sup>	4,296 1,344	No. # 01-02 <sup>2</sup> ; May 18, 2001

<sup>1</sup> The subject property contains 5.00 acres and the northern 2.5 acres are located in the Farm Forest Zone.

<sup>2</sup> The Ordinance also applies the Limited Use Overlay B that limits development due to limited Highway capacity. See ordinance for specific provisions, limitations, and allowances.

	1700		2 farm buildings		576; 216	
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## **CHAPTER 145**

### **UNINCORPORATED COMMUNITY COMMERCIAL OFFICE (UC-CO) ZONING DISTRICT**

145.010.	Purpose and Intent
145.020.	Small-Scale, Low Impact Uses
145.030.	Standard Industrial Classifications
145.040.	Permitted Uses
145.050.	Conditional Uses
145.060.	Optional Uses

**145.010. PURPOSE AND INTENT.** The purpose of the Unincorporated Community Commercial Office (UC-CO) Zoning District is to implement the Comprehensive Plan policies related to commercial development by providing for primarily service-related commercial activities. This zone is applied to commercial lands within unincorporated communities.

The intent of the UC-CO Zoning District is to provide for commercial development in unincorporated communities. Commercial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses which serve the needs of the surrounding community or the needs of the traveling public, or other uses which are small-scale and low impact.

**145.020. SMALL-SCALE, LOW-IMPACT USES.** Uses listed under Section 145.040(C) or Section 145.050(C) shall be established in a building or buildings not to exceed 4,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Establishment of a new use or expansion of a use listed under Sections 145.040(C) and 145.050(C) which would exceed the 4,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

**145.030. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**145.040. PERMITTED USES.** The following uses and their accessory buildings and uses are permitted. All uses under this Section are subject to the applicable standards as set forth in Chapter 112 (Development Standards) and other general provisions and exceptions set forth by this ordinance. No building, structure, or premises shall be used except for one or more of the following uses:

- (A) Uses which serve the needs of the community and surrounding rural area or the traveling public:
  - (1) Single-family residences;
  - (2) Child day care services, including pre-schools, nurseries and kindergartens (835);
  - (3) Churches;
- (B) Uses which complement natural resource industries:
  - (1) Laboratory-seed and soil testing, research facilities (8734);
- (C) Uses which are small-scale, low-impact:
  - (1) Medical and dental laboratories (807);
  - (2) Business services (73);
  - (3) Financial, insurance and real estate offices (61, 62, 63, 64, 65,67);
  - (4) Professional offices for engineering, accounting, research, management, and public relations, and legal services (81, 87); and
  - (5) Offices for membership organizations (86).
  - (6) Barber and beauty shops (72);
- (D) Transportation Improvements. [Amended by Ordinance #02-05, dated November 20, 2002.]

**145.050. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in Chapter 119 of this ordinance, the following uses will be permitted in any UC-CO Zone:

- (A) Uses which serve the needs of the community and surrounding rural area or the traveling public:
  - (1) Hotels, motels, rooming houses, camps and other lodging places, with no more than 35 units and which are connected to a community sewer system (70);
  - (2) Veterinary clinics (074);
  - (3) Parking lot when developed as prescribed in Chapter 112 (7521); and
  - (4) Communications tower, pursuant to Section 112.135 (48). [Amended by Ordinance 04-09]
  
- (B) Uses which complement natural resource industries:
  - (1) Sand and gravel resource processing sites, excluding quarries (see Sections 120.410 through 120.460) (14).
  
- (C) Uses which are small-scale, low-impact:
  - (1) Residential homes, as defined in Section 110.477;
  - (2) Motor freight terminal offices (421);
  - (3) Radio and TV transmitter stations (483);
  - (4) Telephone and telegraph communication facilities (482);
  - (5) Cottage Industry Home Occupations (see Section 116.040);
  - (6) Boat, camper and trailer storage areas or lots (see Specific Conditional Uses, Section 120.030);
  - (7) Health services (80);
  - (8) Funeral service and crematories (726); and
  - (9) Any other commercial office use, where the buildings do not exceed 4,000 square feet of floor space provided that the use will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or if such services are not available to the site, the capacity of the site itself to provide adequate water and absorb waste water.

[Amended by Ordinance #02-05, dated November 20, 2002.]

**145.060. OPTIONAL BUSINESSES.** Optional businesses may be conducted in any UC-CO Zone as an incidental or secondary use to a main use when conducted and entered only from within the building, provided there is no exterior display or advertisement except for a nameplate not over two (2) square feet in area, and not more than one-half (1/2) the floor area of a one (1) story is devoted to such use or uses. If the building is one (1) story in height, then not more than one-fourth (1/4) of the floor area shall be devoted to such use or uses, as follows:

- (A) Eating and drinking places (58);
- (B) News dealers, newsstands (5994); and
- (C) Barber and beauty shops (72).

## **CHAPTER 146**

### **UNINCORPORATED COMMUNITY COMMERCIAL RETAIL (UC-CR) ZONING DISTRICT**

- 146.010. Purpose and Intent
- 146.020. Small-Scale, Low Impact Uses
- 146.030. Standard Industrial Classifications
- 146.040. Permitted Uses
- 146.050. Conditional Uses

**146.010. PURPOSE AND INTENT.** The purpose of the Unincorporated Community Commercial Retail (UC-CR) Zoning District is to implement the Comprehensive Plan policies related to commercial development by providing for a range of service and product-oriented commercial activities. This zone is applied to commercial lands within unincorporated communities.

The intent of the UC-CR Zoning District is to provide for commercial development in unincorporated communities. Commercial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses which serve the needs of the surrounding community or the needs of the traveling public, or other uses which are small-scale and low impact.

**146.020. SMALL-SCALE, LOW-IMPACT USES.** Uses listed under Section 146.040(C) or Section 146.050(C) shall be established in a building or buildings not to exceed 4,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Establishment of a new use or expansion of a use listed under Section 146.040(C) or Section 146.050(C) which would exceed the 4,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

**146.030. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**146.040. PERMITTED USES.** The following uses and their accessory buildings and uses are permitted. All uses under this Section are subject to the applicable standards as set forth in Chapter 112 (Development Standards) and other general provisions and exceptions set forth by this ordinance. No building, structure, or premises shall be used except for one or more of the following uses:

- (A) Uses which serve the needs of the community and surrounding rural area or the traveling public:
  - (1) Any use permitted under Section 145.040(A);
  - (2) Single-family residences;
- (B) Uses which complement natural resource industries:
  - (1) Any use permitted under Section 145.040(B);
  - (2) Fruit store and vegetable market (54);
  - (3) Greenhouse (18);
  - (4) Farm or forest products stand, designed and used for the sale of farm crops, special forest products and livestock grown on farms in the local agricultural area, including the retail sale of incidental items accounting for no more than 25 percent of the total sales of the farm or forest stand. Farm or forest products stands do not include structures designed for residential occupancy or to accommodate activities other than the sale of farm crops, special forest products and livestock, such as structures for banquets, public gatherings or entertainment;
  - (5) Farm or forest implement and equipment sales;
  - (6) Farm or forest related equipment, machinery or truck repair, including associated service parts facilities;

- (C) Uses which are small-scale, low-impact:
  - (1) Any use permitted under Section 145.040(C);
  - (2) Printing, publishing and allied industries (27);
  - (3) Miscellaneous retail (59);
  - (4) Building materials, hardware, and garden supply (52);
  - (5) Equipment rental and leasing (735);
  - (6) Apparel and accessory stores (56);
  - (7) Home furniture, furnishing, and equipment stores (57); and
  - (8) Farm product warehousing and storage (4221);
  - (9) General merchandise stores (53);
  - (10) Grocery stores (54);
  - (11) Eating and drinking places, (except those serving alcoholic beverages) (58);
- (D) Transportation Improvements. [Amended by Ordinance #01-01, dated November 14, 2001.]

**146.050. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in Chapter 119 of this ordinance, the following uses will be permitted in any UC-CR Zone:

- (A) Uses which serve the needs of the community and surrounding rural area or the traveling public:
  - (1) Ambulance service (8099);
  - (2) Recreational vehicle park as defined in Section 110.466 (703);
  - (3) Utilities, secondary truck parking and material storage yard;
  - (4) Heliport (458);
  - (5) Public Utilities (49) (exempted from these regulations are: underground pipes and conduits and above ground electric transmission distribution, communication signal lines on signal lines on a single pole system);
  - (6) Living History Museum (84);
  - (7) Bed and Breakfast (see Section 110.107);
  - (8) Veterinary clinics (074);
  - (9) Transportation equipment, parts and supplies (37);
  - (10) Billboards; and
  - (11) Communications tower, pursuant to Section 112.135 (48). [Amended by Ordinance 04-09]
- (B) Uses which complement natural resource industries:
  - (1) Sand and gravel resource processing sites, excluding quarries (see Sections 120.410 through 120.460) (14);
  - (2) Nurseries for the primary sale of plants, seeds, related garden supplies, excluding wholesale distribution (526);
  - (3) Commercial activities in conjunction with farm or forest use including activities related to the processing, distribution, and retail marketing of farm or forest products a portion of which is grown on-site; and
  - (4) Processing facilities for farm or forest products (20, 24).
- (C) Uses which are small-scale, low-impact:
  - (1) Radio and TV transmitter stations (483);
  - (2) Telephone and telegraph communication facilities (482);



- (3) Educational services, including vocation schools (82);
- (4) Manufactured home dealers (527);
- (5) General warehousing and storage (4225);
- (6) Personal services (72);
- (7) Monument and stone cutting (328);
- (8) Taxidermist;
- (9) U-Haul concrete mix store (5032);
- (10) Cabinet shop and sales firm (see Specific Conditional Uses, Section 119.150(E));
- (11) Cottage Industry Home Occupations (see Section 116.040);
- (12) Amusement and recreation services (79);
- (13) Automotive repair and services (75);
- (14) Eating and drinking places where alcoholic beverages are served (58); and
- (15) Any other commercial retail use, where the buildings do not exceed 4,000 square feet of floor space provided that the use will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or if such services are not available to the site, the capacity of the site itself to provide adequate water and absorb waste water. [Amended by Ordinance #02-05, dated November 20, 2002.]

## **CHAPTER 147**

### **UNINCORPORATED COMMUNITY COMMERCIAL GENERAL (UC-CG) ZONING DISTRICT**

- 147.010. Purpose and Intent
- 147.020. Small-Scale, Low Impact Uses
- 147.030. Standard Industrial Classifications
- 147.040. Permitted Uses
- 147.050. Conditional Uses

**147.010. PURPOSE AND INTENT.** The purpose of the Unincorporated Community Commercial General (UC-CG) Zoning District is to implement the Comprehensive Plan policies related to commercial development by providing for a range of service and product-oriented commercial activities. This zone is applied to commercial lands within unincorporated communities.

The intent of the UC-CG Zoning District is to provide for commercial development in unincorporated communities. Commercial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses which serve the needs of the surrounding community or the needs of the traveling public, or other uses which are small-scale and low impact.

**147.020. SMALL-SCALE, LOW-IMPACT USES.** Uses listed under Section 147.040(C) or Section 147.050(C) shall be established in a building or buildings not to exceed 4,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Establishment of a new use or expansion of a use listed under Section 147.040(C) or Section 147.050(C) which would exceed the 4,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

**147.030. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**147.040. PERMITTED USES.** The following uses and their accessory buildings and uses are permitted. All uses under this Section are subject to the applicable standards as set forth in Chapter 112 (Development Standards) and other general provisions and exceptions set forth by this ordinance. No building, structure, or premises shall be used except for one or more of the following uses:

- (A) Uses which serve the needs of the community and surrounding rural area or the traveling public:
  - (1) Any use permitted under Section 146.040(A);
  - (2) Single-family residence;
  - (3) Ambulance services;
- (B) Uses which complement natural resource industries:
  - (1) Any use permitted under Section 146.040(B);
- (C) Uses which are small-scale, low-impact:
  - (1) Any use permitted under Section 146.040(C);
  - (2) Catalog and mail-order houses (5961);
  - (3) Construction, special trade contractors (17);
  - (4) Tent and awning shops (2394, 2399); and
  - (5) Welding and blacksmith shops.
  - (6) Second-hand stores (599);
- (D) Transportation Improvements [Amended by Ordinance #02-05, dated November 20, 2002.]

**147.050. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in Chapter 119 of in this ordinance, the following uses will be permitted in any UC-CG Zone:

- (A) Uses which serve the needs of the community and surrounding rural area or the traveling public:
  - (1) Fishing ponds or lakes;
  - (2) Heliports (458);
  - (3) Recreational vehicle park as defined in Section 110.466 (703);
  - (4) Transportation services (47);
  - (5) Railroad terminals (freight, passenger) (40);
  - (6) Water transportation facilities (44);
  - (7) Airport terminal services, including aircraft maintenance and storage facilities (458);
  - (8) Bus terminals and service facilities, including charter service (414, 417); and
  - (9) Communications tower, pursuant to Section 112.135 (48). [Amended by Ordinance 04-09]
- (B) Uses which complement natural resource industries:
  - (1) Sand and gravel resource processing sites, excluding quarries (see Sections 120.410 through 120.460) (14);
  - (2) Nurseries for the primary sale of plants, seeds, related garden supplies, excluding wholesale distribution (526);
  - (3) Commercial activities in conjunction with farm or forest use including activities related to the processing, distribution, and retail marketing of farm or forest products a portion of which is grown on-site;
  - (4) Processing facilities for farm or forest products (20,24);
- (C) Uses which are small-scale, low-impact:
  - (1) Amusement and recreation services (79);
  - (2) Laundry, cleaning, and garment services (721);
  - (3) Motor freight transportation and warehousing (42);
  - (4) Sanitary services (495);
  - (5) Kennels (boarding and raising of animals);
  - (6) Cottage Industry Home Occupations (see Section 116.040); and
  - (7) Funeral service and crematories (726);
  - (8) Automotive repair, services, and parking (75);
  - (9) Any other commercial retail or service use, where the buildings do not exceed 4,000 square feet of floor space provided that the use will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or if such services are not available to the site, the capacity of the site itself to provide adequate water and absorb waste water. [Amended by Ordinance #02-05, dated November 20, 2002.]

## **CHAPTER 148**

### **NORTHWEST POLK COMMUNITY COMMERCIAL (NPC-C) ZONING DISTRICT**

- 148.010. Purpose and Intent
- 148.020. Small-Scale, Low Impact Uses
- 148.030. Standard Industrial Classifications
- 148.040. Permitted Uses
- 148.050. Conditional Uses

**148.010. PURPOSE AND INTENT.** The purpose of the Northwest Polk Community Commercial (NPC-C) Zoning District is to implement the Comprehensive Plan policies related to commercial development by providing for a range of service and product-oriented commercial activities. This zone is applied to commercial lands within the unincorporated communities of Grand Ronde, Valley Junction, and Fort Hill.

The intent of the NPC-C Zoning District is to provide for commercial development in the unincorporated communities of Grand Ronde, Valley Junction, and Fort Hill. Commercial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses which serve the needs of the surrounding community or the needs of the traveling public, or other uses which are small-scale and low impact.

**148.020. SMALL-SCALE, LOW-IMPACT USES.** Uses listed under Section 148.040(C) or Section 148.050(C) shall be established in a building or buildings not to exceed 4,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Establishment of a new use or expansion of a use listed under Section 148.040(C) or Section 148.050(C) which would exceed the 4,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

**148.030. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**148.040. PERMITTED USES.** The following uses and their accessory buildings and uses are permitted. All uses under this section are subject to the applicable standards as set forth in Chapter 112 (Development Standards) and other general provisions and exceptions set forth by this ordinance. No building, structure, or premises shall be used except for one or more of the following uses:

- (A) Uses which serve the needs of the community and surrounding rural area or the traveling public:
  - (1) Unlimited number of dwelling units including:
    - (a) Dormitories;
    - (b) Sorority and fraternity houses;
    - (c) Student homes;
    - (d) Boarding houses (also see accessory uses);
    - (e) Rooming houses;
    - (f) Apartment houses;
    - (g) Court apartments;
    - (h) Churches;
    - (i) Community or neighborhood clubs;
    - (j) Child day care services, including pre-schools, nurseries and kindergartens (835);
  - (2) Single-family residences;

- (3) Eating and drinking places (58); (Note: The building is subject to a 7,000 square foot size limitation unless a Comprehensive Plan amendment is approved pursuant to Section 115.050 of this Ordinance).
  - (4) Boat launching facilities; and
  - (5) Pleasure boat moorage.
  - (6) Playgrounds, parks; and
  - (7) Public buildings and structures, such as libraries, fire stations.
- (B) Uses which complement natural resource industries:
- (1) Laboratory-seed and soil testing, research facilities (8734);
  - (2) Fruit store and vegetable market (54);
  - (3) Greenhouse (18);
  - (4) Farm product warehousing and storage (4221);
  - (5) Farm or forest products stand, designed and used for the sale of farm crops, special forest products and livestock grown on farms in the local agricultural area, including the retail sale of incidental items accounting for no more than 25 percent of the total sales of the farm or forest stand. Farm or forest products stands do not include structures designed for residential occupancy or to accommodate activities other than the sale of farm crops, special forest products and livestock, such as structures for banquets, public gatherings or entertainment;
  - (6) Farm or forest implement and equipment sales;
  - (7) Farm or forest related equipment, machinery or truck repair, including associated service parts facilities, and
  - (8) Farm and forest supply.
- (C) Uses which are small-scale, low-impact:
- (1) Grocery stores (54);
  - (2) News dealers, newsstands (5994);
  - (3) Auditorium;
  - (4) Billiard parlor;
  - (5) Pony riding ring (no stable);
  - (6) Printing, publishing and allied industries (27);
  - (7) Miscellaneous retail (59);
  - (8) General merchandise stores (53);
  - (9) Automotive repair, services, and parking (75);
  - (10) Towing service;
  - (11) Automotive dealers and gasoline service stations (55);
  - (12) Aircraft service;
  - (13) Boat repair and haulout facilities;
  - (14) Building materials, hardware, and garden supply (52);
  - (15) Equipment rental and leasing (735);
  - (16) Educational services, including vocation schools (82);
  - (17) Repair services (76);

- (18) Personal services (72);
- (19) Business services (73);
- (20) Financial, insurance and real estate offices (60, 61, 62, 63, 64, 65,67);
- (21) Offices for membership organizations (86);
- (22) Professional offices for engineering, accounting, research, management, and public relations, and legal services (81, 87);
- (23) Medical, dental, and other allied professional offices, clinics, and labs (801, 802, 803, 804, 805, 807, 809);
- (24) Apparel and accessory stores (56);
- (25) Veterinary clinics (074);
- (26) Home furniture, furnishing, and equipment stores (57);
- (27) Residential homes, as defined in Section 110.477; and
- (28) Unlimited number of dwelling units including:
  - (a) Homes for the aged;
  - (b) Retirement homes;
  - (c) Rest homes;
  - (d) Nursing homes;
  - (e) Sanitariums;
  - (f) Group Care Home.

(D) Transportation Improvements

**148.050. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in any NPC-C Zone:

- (A) Uses which serve the needs of the community and surrounding rural area or the traveling public:
  - (1) Community center;
  - (2) Private ambulance service (8099);
  - (3) Recreational vehicle park as defined in Section 110.466 (703);
  - (4) Boat, camper and trailer storage areas or lots (see Specific Conditional Uses, Section 120.030);
  - (5) Manufactured home parks when developed Pursuant to provisions of Section 119.150(A); and
  - (6) Public Utilities (49) (exempted from these regulations are: underground pipes and conduits and above ground electric transmission distribution, communication signal lines on signal lines on a single pole system).
  - (7) Hotels, motels with no more than 35 units and which are connected to a community sewer system (70);
- (B) Uses which complement natural resource industries:
  - (1) Processing facilities for farm or forest products (20, 24);
  - (2) Commercial activities in conjunction with farm or forest use including activities related to the processing, distribution, and retail marketing of farm or forest products a portion of which is grown on-site.
- (C) Uses which are small-scale, low-impact:



- (1) General warehousing and storage (4225);
- (2) Motor freight terminal offices (421);
- (3) Funeral service and crematories (726);
- (4) Billboards;
- (5) Radio and TV transmitter stations and towers (483);
- (6) Telephone and telegraph communication facilities (482);
- (7) Miniature golf course;
- (8) Athletic club, club house (7991)(7997);
- (9) Dance hall, ballroom (791);
- (10) Summer recreational camp;
- (11) Swimming pool;
- (12) Marina;
- (13) Utilities, secondary truck parking and material storage yard;
- (14) U-Haul concrete mix store (5032);
- (15) Cabinet shop and sales firm (see Specific Conditional Uses, Section 119.150(E));
- (16) Cottage Industry Home Occupations (see Section 116.040); and
- (17) Any other commercial use, where the buildings do not exceed 4,000 square feet of floor space provided that the use will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or if such services are not available to the site, the capacity of the site itself to provide adequate water and absorb waste water.

**Appendix 1**  
**Grand Ronde Unincorporated Community Commercial Properties Inventory**  
**September, 2004**

Number	Tax Map ID	Location	Uses	Size (acres)	Bldg. Size (sq. ft.)
1	6.8.1.200	9504 Grand Ronde Road	Commercial Portion Vacant	9.57	Vacant
2	6.8.12.C.403	None	Vacant	0.75	Vacant
3	6.8.12.C.410	None	Vacant	3.65	Vacant
4	6.8.12.C.600	No Address	unknown	2.98	2,184 Shop Building
5	6.8.12.C.601	28565 Salmon River Highway	Residential, Billboard	3.33	1920 1,066 Dwelling, 1930 816 Dwelling, 720 Carport, 25 Pump House, Billboard
6	6.8.12.C.700	28585 Salmon River Highway	Logging company, Billboard)	4.99	3,920 Building, Billboard
7	6.8.12.DC.500	8635 Grand Ronde Road	Bed and Breakfast	1.72	1920 7,140 Dwelling
8	6.8.12.DC.700	No Address	No tax information (Sprint telecommunications building)	0.13	Approximately 160 Building
9	6.8.12.DC.800	None	No Tax information	0.05	Vacant
10	6.8.12.DC.900	No Address	Vacant	0.06	Vacant
11	6.8.12.DC.1000	8640 Grand Ronde Road	Post Office	0.17	1977 984 Building
12	6.8.12.DC.1200	No Address	Grand Ronde Womens Club (1 building)	0.17	1910 960 Building (Old Library)
13	6.8.12.DC.1300	8615 Grand Ronde Road	(Social Services or machine shop?)	2.24	2,112 Building
14	6.8.12.DC.1400	No Address	Vacant	0.48	Vacant
15	6.8.12.DC.1500	No Address	Billboard	1.34	Billboard
16	6.8.12.DC.1600	28410 Salmon River Highway	Commercial repair shop	0.51	1940 3,012 Building
17	6.8.12.DC.1700	No Address	Vacant	0.36	Vacant
18	6.8.12.DC.1800	28405 Salmon River Highway	Bonanza Restaurant Bar / Retail Store	0.46	1947 4,976 Building
19	6.8.12.DC.1900	8580 Grand Ronde Road	retail outlet = Convenience Store, Second Hand Store, Billboard, laundry mat	0.78	1921 11,568 Building, 649 Carport, Billboard
20	6.8.12.DC.2100	8530 Grand Ronde Road	Residential and Retail Antique	1.44	1953 1,256 Dwelling, 416 Garage
21	6.8.12.DC.2200	28400 Salmon River Highway	Residential, Commercial Retail	0.22	1940 836 Dwelling, 480 Garage, 40 Building
22	6.8.12.DC.2300	No Address	Vacant	2.83	Vacant
23	6.8.13.B.1500	28800 Salmon River Highway	Wandering Spirit RV Park, Billboard	6.90	672 Building, 1200 Building, 240 Building, Billboard
24	6.8.13.B.1501	28800 Salmon River Highway	Part of 6.8.13.B.1500 Wandering Spirit RV Park (vacant)	0.04	Vacant
25	6.8.13.B.1600	28600 Salmon River Highway	Gas Station, Convenience Store, 1 Apartment, Billboard	2.06	1930 2,214 Store, 906 Apartment, 1,152 Garage Storage Building, Billboard
26	6.8.13.B.1801	28678 Salmon River Highway	Part of 6.8.13.B.1900 property (vacant)	0.03	Vacant
27	6.8.13.B.1900	28678 Salmon River Highway	Residential	0.29	1931 1,208 Dwelling, 1 Manufactured Dwelling,
28	6.8.13.B.2000	28800 Salmon River Highway	Part of 6.8.13.B.1500 Wandering Spirit RV Park, RV Sales (1 building) (Billboard)	4.92	2,772 Office Building, 432 Rest Room, Billboard
29	6.8.13.B.2100	28840 Salmon River Highway	Confederated Tribes of Grand Ronde Human Resources Department / Gaming Commission (old mill site) (1 house 2 buildings)	4.69	1961 1,620 Office Building, 1994 5,376 Office Building
30	6.8.13.B.2200	28900 Salmon River Highway	Residential, Billboard	0.45	1921 1,161 Dwelling, 231 Carport, Billboard
31	6.8.13.B.2300	28940 Salmon River Highway	Residential	2.20	1890 1,168 dwelling, 176 shed, 140 shed, 575 barn
32	6.8.14.A.200	No Address	Vacant	4.78	Vacant

**Appendix 2**  
**Valley Junction Unincorporated Community Commercial Properties Inventory**  
**May, 2005**

Number	Tax Map ID	Location	Uses	Size (acres ±)	Bldg. Size (sq. ft.)
1	6.7.8.C.100	8840 Hebo Road	Vacant	1.76	Vacant
2	6.7.8.C.200	8840 Hebo Road	Residential	0.90	2,160 Dwelling
3	6.7.8.C.300	No address	Vacant	1.34	Vacant
4	6.7.8.C.400	26555 Salmon River Highway	Automotive Rental / Billboard	0.39	2,400 Building
5	6.7.8.C.500	8805 Hebo Road	Residential	0.45	1,512 Dwelling
6	6.7.8.C.600	8825 Hebo Road	Residential	0.87	1900 1,149 Duplex, 1935 1239 Dwelling
7	6.7.8.C.700	26575 Salmon River Highway	Residential	2.80	Vacant
8	6.7.8.C.800	26645 Salmon River Highway	Residential	0.69	1940 1,359 Dwelling
9	6.7.8.C.900	26675 Salmon River Highway	Residential	0.88	1940 986 Dwelling, 128 Building, Billboard
10	6.7.8.C.1000	26685 Salmon River Highway	Residential	0.50	1920 1,814 Dwelling, 128 Building
11	6.7.8.C.1100	No address	Parking Lot	0.53	Vacant
12	6.7.8.C.1200	No address	Parking Lot	0.40	Vacant
13	6.7.8.C.1300	No address	Parking Lot	5.50	Vacant
14	6.7.8.C.1400	26930 Salmon River Highway	Casino / Parking Lot	5.53	1995 185,985 Building
15	6.7.8.C.1500	No address	Parking Lot	0.83	Vacant
16	6.7.8.C.1600	26870 Salmon River Highway	Residential	0.92	1948 1,056 Dwelling, Building 720
17	6.7.8.C.1700	26690 Salmon River Highway	Grand Ronde Water Association office	0.26	1965 1,056 Building, 616 Building, 936 Building
18	6.7.8.C.1800	26600 Salmon Ricer Highway	Vacant	6.90	Vacant
19	6.7.17.800	No address	Vacant	2.40	Vacant
20	6.7.17.801	26820 Salmon River Highway	Gas Station / Convenience Store/ Restaurant, Car Wash	2.00	4,539 Building
21	6.7.17.802	No address	RV parking	10.49	Vacant
22	6.7.17.803	No address	Parking Lot	1.81	Vacant
23	6.7.17.900	26856 Salmon River Highway	Residential	6.31	1978 1,390 Dwelling, 24,000 Museum Building
24	6.7.17.1000	26800 Salmon River Highway	Residential	2.91	1975 1,143 Dwelling, 528 Manufactured Dwelling w/ 256 Addition, 320 Building, 1464 Building, 704 Building
25	6.7.17.1001	26850 Salmon River Highway	Residential, Maintenance Shops, Parking	6.68	Dwelling, Maintenance Shops, Parking
26	6.7.18.101	27100 Salmon River Highway	Casino / Hotel / Water Treatment Facility / Parking Lot	69.52	Casino exceeding 140,000, Hotel exceeding 100,000

**Appendix 3**  
**Fort Hill Unincorporated Community Commercial Properties Inventory**  
**May, 2005**

Number	Tax Map ID	Location	Uses	Size (acres ±)	Bldg. Size (sq. ft.)
1	6.7.8.D.100	No address (26033 Salmon River Highway)	Billboard	1.51	576 Building, Billboard
2	6.7.8.D.200	26033 Salmon River Highway	Fruit and Vegetable Market	1.05	1,106 Building, 100 Office Building
3	6.7.8.D.1200	No address	Billboard	0.59	Billboard
4	6.7.8.D.1300	26200 Salmon River Highway	Residential, Convenience Store, Billboard	1.33	1950 720 Dwelling, 2,016 Store
5	6.7.9.C.1400	25695 Salmon River Highway	Billboard, Service Station, Convenience Store, Residential, Restaurant, Tavern	4.71	1955 1,206 Dwelling, 3,352 Restaurant, 1594 Store, 1,872 Store, 1,872 Apartment
6	6.7.9.C.2300	25850 Salmon River Highway	Logging Contractor	8.50	1972 2,628 Dwelling, 1,440 Building, 640 Building, 900, Building, 2100 Building, 192, Building, 440 Building, 2640 Building
7	6.7.9.C.2600	25740 Salmon River Highway	Car Lot, Freight Truck Parking	1.02	1,200 Office Building
8	6.7.9.C.2700	No Address	Billboard	3.31	2 Billboards
9	6.7.9.C.3100	25591 Yamhill River Road	Repair Shop, Billboard	2.20	2,400 Building

These tables were created using Polk County Tax Assessors Tax Maps. Each tax lot should not be inferred to be a separate lawfully created lot or parcel. The deed to the subject property describes, in the legal description, how many lots or parcels comprise the subject property. The legal status of the lots or parcels described in a deed can be determined by evaluating the land-use applications made through the Polk County Planning Division and the deed history for the subject property.

## **CHAPTER 151**

### **INDUSTRIAL COMMERCIAL (IC) ZONING DISTRICT**

- 151.010. Use
- 151.020. Optional Business
- 151.030. Department of Environmental Quality Approval
- 151.040. Conditional Uses

**151.010. USE.** Within any IC, Industrial Commercial Zone, no building, structure, or premises shall be used, enlarged or designed to be used, erected, structurally altered, or enlarged except for one or more of the following uses:

- (A) Any use permitted in the CR or CG Zone.
- (B) Industrial Uses:
  - (1) Appliances, office and electrical product equipment manufacturing:
    - (a) Battery manufacture
    - (b) Communications equipment
    - (c) Electrical industrial apparatus
    - (d) Electric lighting and wiring equipment
    - (e) Electric transmission and distribution equipment
    - (f) Electronic components and accessories
    - (g) Household appliances
    - (h) Radio and TV receiving sets
  - (2) Leather and leather products manufacture:
    - (a) Boot and shoe cut stock and findings
    - (b) Footwear except rubber
    - (c) Handbags and other personal leather goods
    - (d) Industrial leather belting and packing
    - (e) Leather gloves and mitten
    - (f) Leather tanning and finishing
    - (g) Luggage
  - (3) Metal fabricated products manufacture:
    - (a) Cutlery, handtools and general hardware
    - (b) Fabricated metal products
    - (c) Fabricated structural metal products
    - (d) Fabricated wire products
  - (4) Printing, publishing and allied industries:
    - (a) Books
    - (b) Book binding and related industries
    - (c) Commercial printing
    - (d) Greeting card manufacturing

- (e) Manifold business forms manufacturing
- (f) Newspapers, publishing, printing
- (g) Periodicals, publishing, printing
- (5) Professional, scientific and controlling equipment manufacturing:
  - (a) Engineering, laboratory and scientific and research instruments and associated equipment
  - (b) Instruments for measuring, indicating and controlling physical characteristics
  - (c) Optical equipment, instruments, lenses
  - (d) Surgical, medical and dental instruments and supplies, except pharmaceuticals (see Chemicals)
  - (e) Watches, clocks, clockwork operated devices and parts
- (6) Rubber and allied products manufacturing:
  - (a) Fabricated rubber and plastic products
  - (b) Reclaimed rubber products
  - (c) Rubber and plastic footwear
  - (d) Tire and inner tube manufacturing
  - (e) Tire recapping
- (7) Textile products manufacture:
  - (a) Broad woven fabric mills, cotton
  - (b) Broad woven fabric mills, man-made fiber and silk
  - (c) Broad woven fabric mills, wool-including dyeing and finishing
  - (d) Dyeing and finishing textiles
  - (e) Floor covering mills
  - (f) Knitting mills, hosiery, outerwear, underwear, knit fabrics
  - (g) Narrow fabrics and other small ware mills, cotton, wool, silk, and man-made fibers
  - (h) Yarn and thread mills
- (8) Textiles and apparel manufacture and fabrication of textile products:
  - (a) Wearing apparel, hats and millinery, and fur goods
  - (b) Fabrication of household textile products
  - (c) Fabrication of outdoor textile products (tents, awnings, canopies, vehicle tops, seat covers, etc.)
- (9) Textiles and apparel - other facilities:

- (a) Cleaning and dyeing plants
  - (b) Laundry plant
  - (c) Storage of fur and clothing
- (10) Tobacco processing:
- (a) Cigarettes
  - (b) Cigars
  - (c) Tobacco (chewing, smoking, snuff)
  - (d) Tobacco stemming and drying
- (11) Transportation equipment, manufacture and repair:
- (a) Aircraft and parts
  - (b) Aircraft and parts dealers, distributor
  - (c) Boat and watercraft building and repair
  - (d) Boat and watercraft sales and service
  - (e) Boat and watercraft moorages and marinas
  - (f) Motor vehicles and motor vehicle equipment
  - (g) Manufacture of special use vehicles (sanitary trucks, vans, etc.)
  - (h) Manufacture of parts and accessories
  - (i) Motor freight depots
  - (j) Rental and storage
  - (k) Repair garage
  - (l) Body and fender shops
  - (m) Towing
  - (n) Service stations
  - (o) Auto laundries, washing and polishing
  - (p) Motor cycles, bicycles and parts
- (12) Other uses:
- (a) Metal working equipment and machinery manufacturing wholly within a building
  - (b) Warehouses
  - (c) Wholesale firms
  - (d) Utilities - primary equipment and storage yard
  - (e) Well drilling pump repair facilities [Subsection (e) amended by Ordinance #128, dated January 14, 1975.]



- (f) Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**151.020. OPTIONAL BUSINESS.** Those businesses set forth in Section 141.030 and 142.030 shall be permitted in an IC Zone under like restrictions.

**151.030. DEPARTMENT OF ENVIRONMENTAL QUALITY APPROVAL.** The following uses are allowed, subject to approval of the Department of Environmental Quality. [Amended by Ordinance #89-17, dated December 6, 1989.]

- (A) Chemicals, fertilizers, insecticides, paint and allied products manufacturing:
- (1) Agricultural chemicals
  - (2) Gum and wood chemicals
  - (3) Industrial inorganic and organic chemicals
  - (4) Laboratories (feed and seed, soil testing)
  - (5) Paints, varnishes, lacquers, enamels and allied products
  - (6) Perfumes, cosmetics and other toilet preparations
  - (7) Plastic materials, and synthetic resins, synthetic rubber, synthetic and other man-made fibers, except glass
  - (8) Soaps, detergents and cleaning preparations
  - (9) Pharmaceuticals
- (B) Food, Grain, Feed and Derivative Products Processing:
- (1) Bakery products
  - (2) Canning, drying, freezing, preserving, fruits, vegetables, sea foods
  - (3) Coffee processing
  - (4) Confectionery and related products (candy, chocolate, chewing gum)
  - (5) Beverage industries (beer, wine, liquor, soft drinks, including bottling, flavoring extracts, etc.)
  - (6) Dairy products (butter making, creamery, cheeses making, ice cream, milk processing)
  - (7) Frozen food, cold storage locker and ice plants
  - (8) Grain mill products (flour, prepared animal's feed, cereals, etc.)
  - (9) Grain elevators, storage
- (C) Furniture and Fixtures - Manufacturing:
- (1) Custom cabinet, carpenter shop
  - (2) Furniture repair, re-upholstery
  - (3) Household furniture
  - (4) Metal plating operations

- (5) Plumbing fixtures
- (6) Silverware and plated ware
- (D) Machinery Manufacturing:
  - (1) Office, computing, accounting equipment
- (E) Paper and Allied Products - Assembly:
  - (1) Paperboard containers and boxes
- (F) Transportation Equipment, Manufacture and Repair:
  - (1) Motor vehicle and equipment painting
- (G) Other uses:
  - (1) Sign construction and painting shop, contained wholly within a building

**151.040. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in an IC Zone:

- (A) Any use permitted in Section 142.020.
- (B) Industrial Uses:
  - (1) Chemicals, fertilizers, insecticides, paint and allied products manufacturing:
    - (a) Fertilizers
    - (b) Insecticides
  - (2) Metal fabricated products, manufacture:
    - (a) Metal stampings
    - (b) Screw machine products, and bolts, nuts, screws, rivets and washers
  - (3) Machinery manufacturing:
    - (a) Sawmill equipment
    - (b) Service industry machines and equipment
  - (4) Metal working shops:
    - (a) Machine shop
  - (5) Petroleum, petroleum products, provided all storage is underground
  - (6) Wood and lumber and products processing, manufacture and storage of:
    - (a) Millwork (doors, windows, pre-cutting structures)
    - (b) Prefabricated structural wood products
    - (c) Wooden containers

## **CHAPTER 152**

### **UNINCORPORATED COMMUNITY INDUSTRIAL COMMERCIAL (UC-IC) ZONING DISTRICT**

- 152.010. Purpose and Intent
- 152.020. Small-Scale, Low Impact Uses
- 152.025 Industrial Mill Sites
- 152.030. Standard Industrial Classifications
- 152.040. Permitted Uses
- 152.050. Conditional Uses

**152.010. PURPOSE AND INTENT.** The purpose of the Unincorporated Community Industrial Commercial (UC-IC) Zoning District is to implement the Comprehensive Plan policies related to both industrial and commercial development by providing for a mixture of commercial and manufacturing activities. This zone is applied to designated lands within unincorporated communities.

Commercial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses which serve the needs of the surrounding community or the needs of the traveling public, or other uses which are small-scale and low impact. Industrial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses that require proximity to rural resources, or other uses which are small-scale and low impact.

**152.020. SMALL-SCALE, LOW-IMPACT USES.** Commercial uses allowed in any UC-IC Zone which are listed under Section 147.040(C) or Section 147.050(C) shall be established in a building or buildings not to exceed 4,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Except as provided in Section 152.025, an industrial use listed under Section 152.040(D) or Section 152.050(C) or (D) shall be established in a building or buildings not to exceed 40,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Establishment of a new commercial use or expansion of a commercial use listed under Section 147.040(C) or Section 147.050(C) which would exceed the 4,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

Except as provided in Section 152.025, the establishment of a new industrial use listed under Sections 152.040(D), 152.050(C), and 152.050(D) or expansion of an industrial use other than those listed under Section 152.040(B) which would exceed the 40,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

**152.025. INDUSTRIAL MILL SITES.** A use sited on an abandoned or diminished industrial mill site that was engaged in the processing or manufacturing of wood products is not subject to the small-scale, low-impact building size limitation, provided that the use will be located only on the portion of the mill site that was zoned for industrial use on October 28, 1994.

**152.030. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**152.040. PERMITTED USES.** The following uses and their accessory buildings and uses are permitted. All uses under this Section are subject to the applicable standards as set forth in Chapter 112 (Development Standards) and other general provisions and exceptions set forth by this ordinance. No building, structure, or premises shall be used except for one or more of the following uses:

- (A) Commercial uses:
  - (1) Any use permitted under Section 147.040.
- (B) Expansion of an existing industrial use which existed on December 5, 1994;
- (C) Industrial uses which require proximity to rural resources:
  - (1) Food and derivative products processing, including grain elevators, storage (20);
  - (2) Laboratories (feed and seed, soil testing) (8734);

- (D) Industrial uses which are small-scale, low-impact:
  - (1) Electronic and other electrical equipment and components manufacturing (36);
  - (2) Metal fabricated products manufacturing (34);
  - (3) Printing, publishing and allied industries (27);
  - (4) Measuring, analyzing, and controlling instruments manufacturing (38);
  - (5) Manufacturing of rubber products and miscellaneous plastics products (30);
  - (6) Transportation equipment repair (37);
  - (7) Computer and office equipment assembling (357);
  - (8) Metal working equipment and machinery manufacturing wholly within a building (354);
  - (9) Public warehousing and storage (422);
  - (10) Wholesale trade, non-durable goods (51);
  - (11) Utilities - primary equipment and storage yard; and
  - (12) Well drilling pump repair facilities.
- (E) Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**152.050. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in any UC-IC Zone:

- (A) Commercial Uses:
  - (1) Any use permitted in Section 147.050;
- (B) Industrial uses which require proximity to rural resources:
  - (1) Millwork, veneer, and wooden container manufacturing (243, 244).
- (C) Industrial uses which are small-scale, low-impact:
  - (1) Chemicals, fertilizers, insecticides, paint and allied products mixing and packaging (2875);
  - (2) Furniture and fixtures manufacturing (25);
  - (3) Paperboard containers and boxes assembly (265);
  - (4) Sign construction and painting shop, contained wholly within a building;
  - (5) Special industry machinery manufacturing, such as sawmill equipment (355);
  - (6) Refrigeration and service industry machinery manufacturing (358);
  - (7) Leather and leather products manufacture (31);
  - (8) Textile products manufacture, including apparel (22, 23); and
  - (9) Asphalt batch plants.
- (D) Any other industrial use, where the buildings do not exceed 40,000 square feet of floor space provided that:
  - (1) The use is small in size and low impact; or
  - (2) The use is significantly dependent upon a specific resource located on agricultural or forest land; and
  - (3) The use will not have adverse impacts on surrounding farm and forest activities; and
  - (4) The new use will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or if such services are not available to the site, the capacity of the site itself to provide adequate water and absorb waste water.

**Appendix 1**  
**Fort Hill Unincorporated Community Industrial Properties Inventory**  
**May, 2005**

Number	Tax Map ID	Location	Uses	Size (acres ±)	Bldg. Size (sq. ft.)
1	6.7.16A.500	25225 Yamhill River Road	Automotive repair and towing	1.13	2,880 Building and 4,000 Building

## **CHAPTER 153**

### **EOLA UNINCORPORATED COMMUNITY COMMERCIAL (EOLA UC-C) ZONING DISTRICT**

- 153.010. Purpose and Intent
- 153.020. Small-Scale, Low Impact Uses
- 153.030. Standard Industrial Classifications
- 153.040. Permitted Uses
- 153.050. Conditional Uses

**153.010. PURPOSE AND INTENT.** The purpose of the Eola Unincorporated Community Commercial (UC-C) Zoning District is to implement the Comprehensive Plan policies related to commercial development by providing for a range of service and product-oriented commercial activities. This zone is applied to commercial lands within the unincorporated community of Eola.

The intent of the EOLA UC-C Zoning District is to provide for commercial development in the unincorporated community of Eola. Commercial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses which serve the needs of the surrounding community or the needs of the traveling public, or other uses which are small-scale and low impact.

**153.020. SMALL-SCALE, LOW-IMPACT USES.** Uses listed under Section 153.040(C) or Section 153.050(C) shall be established in a building or buildings not to exceed 4,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Establishment of a new use or expansion of a use listed under Section 153.040(C) or Section EOLA 153.050(C) which would exceed the 4,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

**153.030. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**153.040. PERMITTED USES.** The following uses and their accessory buildings and uses are permitted. All uses under this section are subject to the applicable standards as set forth in Chapter 112 (Development Standards) and other general provisions and exceptions set forth by this ordinance. No building, structure, or premises shall be used except for one or more of the following uses:

- (A) Uses which serve the needs of the community and surrounding rural area or the traveling public:
  - (1) Unlimited number of dwelling units including:
    - (a) Dormitories;
    - (b) Sorority and fraternity houses;
    - (c) Student homes;
    - (d) Boarding houses (also see accessory uses);
    - (e) Rooming houses;
    - (f) Apartment houses;
    - (g) Court apartments;
    - (h) Churches;
    - (i) Community or neighborhood clubs;
    - (j) Child day care services, including pre-schools, nurseries and kindergartens (835);
  - (2) Single-family residences;



- (3) Eating and drinking places (58); (Note: The building is subject to a 7,000 square foot size limitation unless a Comprehensive Plan amendment is approved pursuant to Section 115.050 of this Ordinance).
  - (4) Boat launching facilities; and
  - (5) Pleasure boat moorage.
  - (6) Playgrounds, parks; and
  - (7) Public buildings and structures, such as libraries, fire stations.
- (B) Uses which complement natural resource industries:
- (1) Laboratory-seed and soil testing, research facilities (8734);
  - (2) Fruit store and vegetable market (54);
  - (3) Greenhouse (18);
  - (4) Farm product warehousing and storage (4221);
  - (5) Farm or forest products stand, designed and used for the sale of farm crops, special forest products and livestock grown on farms in the local agricultural area, including the retail sale of incidental items accounting for no more than 25 percent of the total sales of the farm or forest stand. Farm or forest products stands do not include structures designed for residential occupancy or to accommodate activities other than the sale of farm crops, special forest products and livestock, such as structures for banquets, public gatherings or entertainment;
  - (6) Farm or forest implement and equipment sales;
  - (7) Farm or forest related equipment, machinery or truck repair, including associated service parts facilities, and
  - (8) Farm and forest supply.
- (C) Uses which are small-scale, low-impact:
- (1) Grocery stores (54);
  - (2) News dealers, newsstands (5994);
  - (3) Auditorium;
  - (4) Billiard parlor;
  - (5) Pony riding ring (no stable);
  - (6) Printing, publishing and allied industries (27);
  - (7) Miscellaneous retail (59);
  - (8) General merchandise stores (53);
  - (9) Automotive repair, services, and parking (75);
  - (10) Towing service;
  - (11) Automotive dealers and gasoline service stations (55);
  - (12) Aircraft service;
  - (13) Boat repair and haulout facilities;
  - (14) Building materials, hardware, and garden supply (52);
  - (15) Equipment rental and leasing (735);
  - (16) Educational services, including vocation schools (82);
  - (17) Repair services (76);

- (18) Personal services (72);
- (19) Business services (73);
- (20) Financial, insurance and real estate offices (60, 61, 62, 63, 64, 65,67);
- (21) Offices for membership organizations (86);
- (22) Professional offices for engineering, accounting, research, management, and public relations, and legal services (81, 87);
- (23) Medical, dental, and other allied professional offices, clinics, and labs (801, 802, 803, 804, 805, 807, 809);
- (24) Apparel and accessory stores (56);
- (25) Veterinary clinics (074);
- (26) Home furniture, furnishing, and equipment stores (57);
- (27) Residential homes, as defined in Section 110.477; and
- (28) Unlimited number of dwelling units including:
  - (a) Homes for the aged;
  - (b) Retirement homes;
  - (c) Rest homes;
  - (d) Nursing homes;
  - (e) Sanitariums;
  - (f) Group Care Home.

(D) Transportation Improvements [Amended by Ordinance #02-05, dated November 20, 2002.]

**153.050. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in Chapter 119 of this ordinance, the following uses will be permitted in any UC-C Zone:

- (A) Uses which serve the needs of the community and surrounding rural area or the traveling public:
  - (1) Community center;
  - (2) Private ambulance service (8099);
  - (3) Recreational vehicle park as defined in Section 110.466 (703);
  - (4) Boat, camper and trailer storage areas or lots (see Specific Conditional Uses, Section 120.030);
  - (5) Manufactured home parks when developed Pursuant to provisions of Section 119.150(A);
  - (6) Public Utilities (49) (exempted from these regulations are: underground pipes and conduits and above ground electric transmission distribution, communication signal lines on signal lines on a single pole system); and
  - (7) Communications tower, as provided in Section 112.135 (48). [Amended by Ordinance 04-09]
- (B) Uses which complement natural resource industries:
  - (1) Processing facilities for farm or forest products (20, 24); and
  - (2) Commercial activities in conjunction with farm or forest use including activities related to the processing, distribution, and retail marketing of farm or forest products a portion of which is grown on-site.

- (C) Uses which are small-scale, low-impact:
- (1) General warehousing and storage (4225);
  - (2) Motor freight terminal offices (421);
  - (3) Funeral service and crematories (726);
  - (4) Billboards;
  - (5) Radio and TV transmitter stations (483);
  - (6) Telephone and telegraph communication facilities (482);
  - (7) Miniature golf course;
  - (8) Athletic club, club house (7991)(7997);
  - (9) Dance hall, ballroom (791);
  - (10) Summer recreational camp;
  - (11) Swimming pool;
  - (12) Marina;
  - (13) Utilities, secondary truck parking and material storage yard;
  - (14) U-Haul concrete mix store (5032);
  - (15) Cabinet shop and sales firm (see Specific Conditional Uses, Section 119.150(E));
  - (16) Cottage Industry Home Occupations (see Section 116.040); and
  - (17) Any other commercial use, where the buildings do not exceed 4,000 square feet of floor space provided that the use will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or if such services are not available to the site, the capacity of the site itself to provide adequate water and absorb waste water.

Appendix 1  
Eola Unincorporated Community Commercial Properties Inventory  
January, 2001

Number	Tax Map ID	Location	Uses	Size (acres)	Bldg. Size (sq. ft.)
1	7425B 1900	4785 Highway 22-Eola	Miscellaneous retail (59)/ not in operation & residence	7.60	1632 + 1 dwelling
2	7425B 2000	Highway 22-Eola	Vacant	6.12	Vacant
3	7425C 400	4800 Highway 22-Eola	Business offices of the firm or operations	1.33	3,480
4	7425D 1200	Highway 22-Eola	Vacant	0.96	Vacant
5	7425D 2300	Highway 22-Eola	Vacant	0.46	Vacant
6	7425D 2400	4305 Highway 22-Eola	Residence	0.86	1 dwelling
7	7425D 2500	4355 Highway 22-Eola	Residence	0.47	1 dwelling
8	7425D 3300	4645 Highway 22-Eola	Residence	0.48	1 dwelling
8	7425D 3400	4655 Highway 22-Eola	Residence	0.48	1 dwelling
10	7425D 4100	Highway 22-Eola	Vacant	1.03	Vacant
11	7425D 4300	4350 Highway 22-Eola	Residence	1.08	1 dwelling
12	7425D 4400	Highway 22-Eola	Processing facilities for farm or forest products (20, 24)	0.67	Outside storage
13	7425D 4500	Highway 22-Eola	Vacant	0.31	Vacant
14	7425D 4501	4344 Highway 22-Eola	Residence	0.27	1 dwelling
15	7425D 4700	4310 Highway 22-Eola	Residence	0.60	1 dwelling
16	7425D 4800	Highway 22-Eola	Vacant	0.24	Vacant
17	7425D 4900	4250 Highway 22-Eola	Eating and drinking places (58) & 1 apartment/ not in operation	0.57	6,880 + 1575 apartment
18	7426 3003	5322 Highway 22-Eola	Gasoline service station (55)	0.48	Convenience store: 2,050
19	7426 3100	5292 Highway 22-Eola	Residence + 2 vacant commercial buildings	2.00	Building 1: 1,143 Building 2: 1092 + 1 dwelling
20	7426 3200	5232 Highway 22-Eola	Residence	2.00	1 dwelling
21	7426 3300	5152 Highway 22-Eola	Fruit store and vegetable market (54)/ Dwelling used as a miscellaneous retail (59)/ Eating and drinking place (58)	5.70	Fruit stand: 1,188 Coffee stand: 128 Dwelling used as antique shop: 1,636
22	7426A 1400	Highway 22-Eola	Vacant	0.30	Vacant
23	7426A 1500	Highway 22-Eola	Special trade construction contractors (17)	0.88	Office: 508
24	7426A 1600	214 52 <sup>nd</sup> Avenue-Eola	Residence	1.80	1 dwelling
25	7426A 2400	Highway 22-Eola	Commercial activities in conjunction with farm or forest use including activities related to the processing, distribution, and retail marketing of farm or forest products a portion of which is grown on-site	0.39	2,120
26	7426A 2500	Highway 22-Eola	Vacant	0.30	Vacant
27	7426A 2600	5135 Highway 22-Eola	Farm or forest implement and equipment sales	1.21	Commercial storage Building: 4,480 + 1 dwelling

This table was created using Polk County Tax Assessors Tax Maps. Each tax lot should not be inferred to be a separate lawfully created lot or parcel. The deed to the subject property describes, in the legal description, how many lots or parcels comprise the subject property. The legal status of the lots or parcels described in a deed can be determined by evaluating the land-use applications made through the Polk County Planning Division and the deed history for the subject property.

## **CHAPTER 153.500**

### **RICKREALL UNINCORPORATED COMMUNITY COMMERCIAL (RICKREALL UC-C) ZONING DISTRICT**

- 153.510. Purpose and Intent
- 153.520. Small-Scale, Low Impact Uses
- 153.530. Standard Industrial Classifications
- 153.540. Permitted Uses
- 153.550. Conditional Uses

**153.510. PURPOSE AND INTENT.** The purpose of the Rickreall Unincorporated Community Commercial (UC-C) Zoning District is to implement the Comprehensive Plan policies related to commercial development by providing for a range of service and product-oriented commercial activities. This zone is applied to commercial lands within the unincorporated community of Rickreall.

The intent of the RICKREALL UC-C Zoning District is to provide for commercial development in the unincorporated community of Rickreall. Commercial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses which serve the needs of the surrounding community or the needs of the traveling public, or other uses which are small-scale and low impact.

**153.520. SMALL-SCALE, LOW-IMPACT USES.** Uses listed under Section 153.540(C) or Section 153.550(C) shall be established in a building or buildings not to exceed 4,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Establishment of a new use or expansion of a use listed under Section 153.540(C) or Section 153.550(C) which would exceed the 4,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

**153.530. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**153.540. PERMITTED USES.** The following uses and their accessory buildings and uses are permitted. All uses under this Section are subject to the applicable standards as set forth in Chapter 112 (Development Standards) and other general provisions and exceptions set forth by this ordinance. No building, structure, or premises shall be used except for one or more of the following uses:

- (A) Uses which serve the needs of the community and surrounding rural area or the traveling public:
  - (1) Unlimited number of dwelling units including:
    - (a) Dormitories;
    - (b) Sorority and fraternity houses;
    - (c) Student homes;
    - (d) Boarding houses (also see accessory uses);
    - (e) Rooming houses;
    - (f) Churches;
    - (g) Community or neighborhood clubs;
    - (h) Child day care services, including pre-schools, nurseries and kindergartens (835);
    - (i) Apartment houses;
    - (j) Court apartments;
  - (2) Single-family residences;

- (3) Eating and drinking places (58); (Note: The building is subject to a 6,000 square foot size limitation unless a Comprehensive Plan amendment is approved pursuant to Section 115.050 of this Ordinance).
- (4) Playgrounds, parks;
- (5) Public buildings and structures, such as libraries, fire stations;
- (B) Uses which complement natural resource industries:
  - (1) Laboratory-seed and soil testing, research facilities (8734);
  - (2) Fruit store and vegetable market (54);
  - (3) Greenhouse (18);
  - (4) Farm product warehousing and storage (4221);
  - (5) Farm or forest products stand, designed and used for the sale of farm crops, special forest products and livestock grown on farms in the local agricultural area, including the retail sale of incidental items accounting for no more than 25 percent of the total sales of the farm or forest stand. Farm or forest products stands do not include structures designed for residential occupancy or to accommodate activities other than the sale of farm crops, special forest products and livestock, such as structures for banquets, public gatherings or entertainment;
  - (6) Farm or forest implement and equipment sales; and
  - (7) Farm or forest related equipment, machinery or truck repair, including associated service parts facilities;
  - (8) Farm and forest supply.
- (C) Uses which are small-scale, low-impact:
  - (1) Grocery stores (54);
  - (2) News dealers, newsstands (5994);
  - (3) Auditorium;
  - (4) Billiard parlor;
  - (5) Pony riding ring (no stable);
  - (6) Printing, publishing and allied industries (27);
  - (7) Miscellaneous Retail (59);
  - (8) General merchandise stores (53);
  - (9) Community Services Schools (barber, beauty, commercial, dancing, driving, music, trade);
  - (10) Boat repair and haul-out facilities;
  - (11) Building materials, hardware, and garden supply (52);
  - (12) Equipment rental and leasing (735);
  - (13) Educational services, including vocation schools (82);
  - (14) Repair services (76);
  - (15) Automotive dealers and gasoline service stations (55);

- (16) Personal services (72);
- (17) Business services (73);
- (18) Residential homes, as defined in Section 110.477;
- (19) Amusement game center;
- (20) Financial, insurance and real estate offices (60, 61, 62, 63, 64, 65,67);
- (21) Offices for membership organizations (86);
- (22) Professional offices for engineering, accounting, research, management, and public relations, and legal services (81, 87);
- (23) Medical, dental, and other allied professional offices, laboratories and clinics(801, 802, 803, 804, 805, 807, 809);
- (24) Apparel and accessory stores (56);
- (25) Veterinary clinics (074);
- (26) Home furniture, furnishing, and equipment stores (57);
- (27) Automotive repair, services, and parking (75);
- (28) Towing service;
- (29) Unlimited number of dwelling units including:
  - (a) Homes for the aged;
  - (b) Retirement homes;
  - (c) Rest homes;
  - (d) Nursing homes;
  - (e) Sanitariums;
  - (f) Group Care Home.

(D) Transportation Improvements [Amended by Ordinance #02-05, dated November 20, 2002, Ordinance #04-16 on December 29, 2004.]

**153.550. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in any UC-C Zone:

- (A) Uses which serve the needs of the community and surrounding rural area or the traveling public:
  - (1) Community center;
  - (2) Residential homes, as defined in Section 110.477;
  - (3) Private ambulance service (8099);
  - (4) Recreational vehicle park as defined in Section 110.466 (703);
  - (5) Boat, camper and trailer storage areas or lots (see Specific Conditional Uses, Section 120.030);
  - (6) Manufactured home parks (when developed pursuant to provisions of PCZO Section 119.150 (A));
  - (7) Public Utilities (49) (exempted from these regulations are: underground pipes and conduits and above ground electric transmission distribution, communication signal lines on signal lines on a single pole system);



- (8) Communications tower, as provided in Section 112.135 (48). [Amended by Ordinance 04-09]
- (B) Uses which complement natural resource industries:
  - (1) Processing facilities for farm or forest products (20, 24);
  - (2) Commercial activities in conjunction with farm or forest use including activities related to the processing, distribution, and retail marketing of farm or forest products a portion of which is grown on-site; and
- (C) Uses which are small-scale, low-impact:
  - (1) General warehousing and storage (4225);
  - (2) Motor freight terminal offices (421);
  - (3) Funeral service and crematories (726);
  - (4) Billboards;
  - (5) Radio and TV transmitter stations and towers (483);
  - (6) Telephone and telegraph communication facilities (482);
  - (7) Performance theater (783);
  - (8) Kennels (boarding and raising animals);
  - (9) Miniature golf course;
  - (10) Athletic club, club house (7991)(7997);
  - (11) Dance hall, ballroom (791);
  - (12) Summer recreational camp;
  - (13) Swimming Pools;
  - (14) Boat sales and service;
  - (15) Utilities, secondary truck parking and material storage yard;
  - (16) Auto racing track;
  - (17) U-Haul concrete mix store (5032);
  - (18) Cabinet shop and sales firm (see Specific Conditional Uses, Section 119.150(E));
  - (19) Cottage Industry Home Occupations (see Section 116.040); and
  - (20) Any other commercial use, where the buildings do not exceed 4,000 square feet of floor space provided that the use will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or if such services are not available to the site, the capacity of the site itself to provide adequate water and absorb waste water.

**Appendix 1**  
**Rickreall Unincorporated Community Commercial Properties Inventory**  
**Building Size Inventory**  
**January 2001**

#	Tax Lot	Map#	Acres	Dwelling	Zone	Owner	Use	Building Size sq. ft.	Buildable
1	200	7.4.30C	0.84	1	CG	HANSON B M	1920 dwelling (Historic)		
2	300	7.4.30C	0.22		CG	CONRAD IRENE VERA, DECLARATION	Vacant		
3	400	7.4.30C	0.12		CG	CONRAD IRENE VERA, DECLARATION	Vacant		
4	500	7.4.30C	0.19		CG	CONRAD IRENE VERA, DECLARATION	Vacant		
5	600	7.4.30C	0.4	1	CG	CONRAD IRENE VERA, DECLARATION	1930 dwelling		
6	700	7.4.30C	1.42	1	CG	CONRAD IRENE VERA, DECLARATION	1925 dwelling (Historic)		
7	5803	7.4.30C	1	1	CG	ROCHA DANNY L & DORIS M	1925 dwelling		
8	400	7.4.30CA	0.92	1	CG	BRIEDWELL JAMES & T CHRISTINE	1916 dwelling (Historic)		
9	500	7.4.30CA	3.3		CG	RICKREALL FARM SUPPLY, INC	Farm Supply/Gas Station-Garage	6,000 /3,584 - 20,232	
10	600	7.4.30CA	0.36	1	CG	RICKREALL FARM SUPPLY, INC	1926 dwelling (Historic)		
11	700	7.4.30CA	0.3		CG	MEIER PLUMBING, INC	Retail store	2,132	
12	800	7.4.30CA	0.32		CG	HEDGES FRANK J & MARILYN A	Rickreall Mini market	3,960	
13	900	7.4.30CA	1.28	1	CG	RICKREALL FARM SUPPLY, INC	1930 dwelling (Historic)		
14	2700	7.4.30CA	0.11	1	CG	POTTER ROGER S	1945 dwelling		
15	2800	7.4.30CA	0.2	1	CG	BELL KATHERINE A & POTTER ROGE	1952 dwelling		
16	2900	7.4.30CA	0.4	1	CG	SEIPP MARTHA K & KENNETH LYNN	1920 dwelling		
17	3000	7.4.30CA	0.69		CG	KINGERY DOUGLAS F	Automotive Repair	3,456	
18	200	7.4.31	3.85	2	CR	CAUDILLO MANUEL SR	1940 & 1935 dwellings		
19	202	7.4.31	1.54	1	CR	FALK PAPROCKI JOINT TRUST	Farrol's restaurant / 8 Unit Offices	5,111 / 2,982	
20	500	7.4.31	1.9	2	CG	TABER A LLOYD & PATRICIA ANN	1900 dwelling, mnf. Home		
21	1600	7.4.31	0.12		CR	STATE OF OREGON, DEPARTMENT OF	Highway		
22	1200	7.5.25D	1.01		CG	JACOB DAVID E	RV retail sales Inds. / Storage	4,800	

This table was created using Polk County Tax Assessors Tax Maps. Each tax lot should not be inferred to be a separate lawfully created lot or parcel. The deed to the subject property describes, in the legal description, how many lots or parcels comprise the subject property. The legal status of the lots or parcels described in a deed can be determined by evaluating the land-use applications made through the Polk County Planning Division and the deed history of the subject property.

[Amended by Ordinance #04-16 on December 29, 2004.]

## CHAPTER 153.700

### GR/LI, GRAND RONDE: LIGHT INDUSTRIAL ZONE

153.710	Permitted Uses
153.720	Permitted Uses, DEQ Approval
153.730	Conditional Uses
153.740	General Development Standards
153.750	Future Right-of-Way Lines
153.760	Off-Street Parking and Loading
153.770	Fences
153.780	Industrial Development Standards

**153.710. PERMITTED USES.** Within any GR/LI, Grand Ronde: Light Industrial Zone, no building, structure, or premises shall be used, arranged or designed to be used, erected, structurally altered, or enlarged except for one or more of the following uses:

- A. Any industrial use permitted in subsection (B), Section 151.010; and subsection (B), Section 160,010.
- B. Substation, transformer, gate station, and pumping or lift station.
- C. Public works offices, yards, shops, bus barns, equipment and materials storage yards, and similar uses.
- D. Accessory Uses and Buildings.
- E. Communications tower 70 feet in height or less, pursuant to Section 112.135.  
[Amended by Ordinance 04-09]

**153.720. PERMITTED USES, DEQ APPROVAL.** The industrial uses permitted in Sections 151.030 are allowed, subject to approval of the Department of Environmental Quality.

**153.730. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in Chapter 119 of this ordinance, the following uses will be permitted in the GR/LI Zone:

- A. Dwelling, Single Family. Not more than one dwelling in conjunction with a permitted use, shall be all allowed on any parcel.
- B. Any industrial use provided in subsection (B) Section 151.040 and subsections (B) and (C) Section 160.030.
- C. Chimneys and steeples exceeding 70 feet.
- D. Communications tower exceeding 70 feet in height, as provided in Section 112.135. [Amended by Ordinance 04-09]

**153.740. GENERAL DEVELOPMENT STANDARDS.** The general development standards in Sections 112.010 through 112.120 and 112.140 through 112.175 shall apply.

**153.750. FUTURE RIGHT-OF-WAY LINES.** Sections 112.180 through shall apply.

**153.760. OFF-STREET PARKING AND LOADING.** The off-street parking and loading requirements found in Sections 112.210 through 112.270 shall apply.

**153.770. FENCES.** Fences shall conform to the requirements found in Sections 112.350 through 112.370.

**153.780. INDUSTRIAL DEVELOPMENT STANDARDS.** The Industrial Development Standards found in subsection (B) Section 112.410 shall apply.

## **CHAPTER 154**

### **EOLA UNINCORPORATED COMMUNITY INDUSTRIAL COMMERCIAL (Eola UC- IC) ZONING DISTRICT**

- 154.010. Purpose and Intent
- 154.020. Small-Scale, Low Impact Uses
- 154.025. Industrial Mill Sites
- 154.030. Standard Industrial Classifications
- 154.040. Permitted Uses
- 154.050. Conditional Uses

**154.010. PURPOSE AND INTENT.** The purpose of the Eola Unincorporated Community Industrial Commercial (Eola UC-IC) Zoning District is to implement the Comprehensive Plan policies related to both industrial and commercial development by providing for a mixture of commercial and manufacturing activities. This zone is applied to designated lands within the unincorporated community of Eola.

Commercial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses which serve the needs of the surrounding community or the needs of the traveling public, or other uses which are small-scale and low impact. Industrial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses that require proximity to rural resources, or other uses which are small-scale and low impact.

**154.020. SMALL-SCALE, LOW-IMPACT USES.** Commercial uses allowed in the Eola UC-IC Zone which are listed under Section 153.040(C) or 153.050(C) shall be established in a building or buildings not to exceed 4,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Except as provided in Section 154.025, an industrial use listed under Section 154.040(C) or Section 154.050(C) shall be established in a building or buildings not to exceed 40,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Establishment of a new commercial use or expansion of a commercial use listed under Section 153.040(C) or Section 153.050(C) which would exceed the 4,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

Except as provided Section 154.025, the establishment of a new industrial use listed under Sections 154.040(C), 154.050(C) or expansion of an industrial use other than those listed under Section 154.040(B) which would exceed the 40,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

**154.025. INDUSTRIAL MILL SITES.** A use sited on an abandoned or diminished industrial mill site that was engaged in the processing or manufacturing of wood products is not subject to the small-scale, low-impact building size limitation, provided that the use will be located only on the portion of the mill site that was zoned for industrial use on October 28, 1994.

**154.030. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**154.040. PERMITTED USES.** The following uses and their accessory buildings and uses are permitted. All uses under this section are subject to the applicable standards as set forth in Chapter 112 (Development Standards) and other general provisions and exceptions set forth by this ordinance. No building, structure, or premises shall be used except for one or more of the following uses:

- (A) Commercial uses:
  - (1) Any use permitted under section 153.040, when established using the guidelines of the 153.040 subsection that the use is listed under.
- (B) Expansion of an existing industrial use which existed on December 5, 1994.
- (C) Industrial uses which are small-scale, low-impact:
  - (1) Electronic and other electrical equipment and components manufacturing (36);

- (2) Metal fabricated products manufacturing (34); except metal stampings, and screw machine products;
- (3) Measuring, analyzing, and controlling instruments manufacturing (38);
- (4) Tobacco processing (21);
- (5) Transportation equipment manufacture (371)(372)(373)(375)(379);
- (6) Public warehousing and storage (422);
- (7) Wholesale trade, non-durable goods (51);
- (8) Utilities - primary equipment and storage yard;
- (9) Communications tower, as provided in Section 112.135 (48); [Amended by Ordinance 04-09]
- (10) Well drilling pump repair facilities; and
- (11) Paperboard containers and boxes assembly (265).

**154.050. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in any UC-IC Zone:

- (A) Commercial uses:
  - (1) Any use permitted under section 153.050, when established using the guidelines of the 153.050 subsection that the use is listed under.
- (B) Industrial uses which require proximity to rural resources:
  - (1) Food and derivative products processing, including grain elevators, storage (20); and
  - (2) Millwork, veneer, and wooden container manufacturing (243, 244).
- (C) Industrial uses which are small-scale, low-impact:
  - (1) Manufacturing of rubber products and miscellaneous plastics products (30);
  - (2) Textile products manufacture, including apparel (22, 23);
  - (3) Metal working equipment and machinery manufacturing wholly within a building (354) except machine shops;
  - (4) Pharmaceuticals (283);
  - (5) Furniture and fixtures manufacturing (25);
  - (6) Sign construction and painting shop, contained wholly within a building.
  - (7) Leather and leather products manufacture (31);
  - (8) Special industry machinery manufacturing, such as sawmill equipment (355);
  - (9) Refrigeration and service industry machinery manufacturing (358);
  - (10) Metal stampings (346);
  - (11) Screw machine products, and bolts, nuts, screws, rivets and washers (345); and
  - (12) Machine shop.

Appendix 1  
 Eola Unincorporated Community Industrial Commercial Properties Inventory  
 January, 2001

Number	Tax Map ID	Location	Uses	Size (acres)	Bldg. Size (sq. ft.)
1	7425C 100	Highway 22-Eola	Vacant	0.72	Vacant
2	7425C200	4282 Highway 22-Eola	Church	0.62	12,515

This table was created using Polk County Tax Assessors Tax Maps. Each tax lot should not be inferred to be a separate lawfully created lot or parcel. The deed to the subject property describes, in the legal description, how many lots or parcels comprise the subject property. The legal status of the lots or parcels described in a deed can be determined by evaluating the land-use applications made through the Polk County Planning Division and the deed

history for the subject property.



## **CHAPTER 154.500**

### **RICKREAL UNINCORPORATED COMMUNITY INDUSTRIAL COMMERCIAL (Rickreall UC-IC) ZONING DISTRICT**

- 154.510. Purpose and Intent
- 154.520. Small-Scale, Low Impact Uses
- 154.525. Industrial Mill Sites
- 154.530. Standard Industrial Classifications
- 154.540. Permitted Uses
- 154.550. Conditional Uses

**154.510. PURPOSE AND INTENT.** The purpose of the Rickreall Unincorporated Community Industrial Commercial (Rickreall UC-IC) Zoning District is to implement the Comprehensive Plan policies related to both industrial and commercial development by providing for a mixture of commercial and manufacturing activities. This zone is applied to designated lands within the unincorporated community of Rickreall.

Commercial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses which serve the needs of the surrounding community or the needs of the traveling public, or other uses which are small-scale and low impact. Industrial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses that require proximity to rural resources, or other uses which are small-scale and low impact.

**154.520. SMALL-SCALE, LOW-IMPACT USES.** Commercial uses allowed in the Rickreall UC-IC Zone which are listed under Section 154.540(C) or Section 154.550(C) shall be established in a building or buildings not to exceed 4,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Except as provided in Section 154.525, an industrial use allowed in the Rickreall UC-IC Zone which are listed under Section 154.540(C) or Section 154.550(C) shall be established in a building or buildings not to exceed 40,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Establishment of a new commercial use or expansion of a commercial use listed under Section 154.540(C) or Section 154.550(C) which would exceed the 4,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

Except as provided in Section 154.525, the establishment of a new industrial use listed under Sections 154.540(C), and 154.550(C) or expansion of an industrial use other than those listed under Section Rickreall 154.540(B) which would exceed the 40,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

**154.525. INDUSTRIAL MILL SITES.** A use sited on an abandoned or diminished industrial mill site that was engaged in the processing or manufacturing of wood products is not subject to the small-scale, low-impact building size limitation, provided that the use will be located only on the portion of the mill site that was zoned for industrial use on October 28, 1994.

**154.530. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**154.540. PERMITTED USES.** The following uses and their accessory buildings and uses are permitted. All uses under this Section are subject to the applicable standards as set forth in Chapter 112 (Development Standards) and other general provisions and exceptions set forth by this ordinance. No building, structure, or premises shall be used except for one or more of the following uses:

- (A) Commercial uses:
  - (1) Any use permitted under Rickreall UC-C, Section 153.540, when established using the guidelines of the Section 153.540 subsection the use is listed under.
- (B) Expansion of an existing industrial use which existed on December 5, 1994.
- (C) Industrial uses which are small-scale, low-impact:

- (1) Electronic and other electrical equipment and components manufacturing (36);
- (2) Metal fabricated products manufacturing (34); except metal stampings, and screw machine products;
- (3) Measuring, analyzing, and controlling instruments manufacturing (38);
- (4) Manufacturing of rubber products and miscellaneous plastics products (30);
- (5) Textile products manufacture, including apparel (22, 23);
- (6) Tobacco processing (21);
- (7) Transportation equipment manufacture (371)(372)(373)(375)(379);
- (8) Metal working equipment and machinery manufacturing wholly within a building (354) except machine shops;
- (9) Public warehousing and storage (422);
- (10) Wholesale trade, non-durable goods (51);
- (11) Utilities - primary equipment and storage yard;
- (12) Communications tower, as provided in Section 112.135; [Amended by Ordinance 04-09]
- (13) Well drilling pump repair facilities;
- (13) Pharmaceuticals (283);
- (14) Furniture and fixtures manufacturing (25);
- (15) Paperboard containers and boxes assembly (265); and
- (16) Sign construction and painting shop, contained wholly within a building.

**154.550. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in any UC-IC Zone:

- (A) Commercial uses:
  - (1) Any use permitted under Rickreall UC-C, Section 153.550, when established using the guidelines of the Section 153.550 subsection the use is listed under.
- (B) Industrial uses which require proximity to rural resources:
  - (1) Food and derivative products processing, including grain elevators, storage (20), and;
  - (2) Millwork, veneer, and wooden container manufacturing (243, 244).
- (C) Industrial uses which are small-scale, low-impact:
  - (1) Leather and leather products manufacture (31);
  - (2) Special industry machinery manufacturing, such as sawmill equipment (355);
  - (3) Refrigeration and service industry machinery manufacturing (358);
  - (4) Metal stampings (346);
  - (5) Screw machine products, and bolts, nuts, screws, rivets and washers (345);
  - (6) Machine shop;
  - (7) Bulk fuel storage, provided all storage is underground.

## Appendix 1

### Rickreall Unincorporated Community Industrial Commercial Properties

#### Building Size Inventory

January 2001

#	Tax Lot	Map#	Acres	Dwelling	Zone	Owner	Use	Building Size sq. ft.
1	5800	7.4.30C	2.15		IC	EOLA HILLS WINE CELLARS, INC	Industrial	9,000
2	5804	7.4.30C	2		IC	EOLA HILLS WINE CELLARS, INC	Warehouses / Storage	22,350 / 2,400

This table was created using Polk County Tax Assessors Tax Maps. Each tax lot should not be inferred to be a separate lawfully created lot or parcel. The deed to the subject property describes, in the legal description, how many lots or parcels comprise the subject property. The legal status of the lots or parcels described in a deed can be determined by evaluating the land-use applications made through the Polk County Planning Division and the deed history of the subject property.

## CHAPTER 154.700

### GR/HI, GRAND RONDE: HEAVY INDUSTRIAL ZONE

154.710	Permitted Uses
154.720	Permitted Uses, DEQ Approval
154.730	Conditional Uses
154.740	General Development Standards
154.750	Future Right-of-Way Lines
154.760	Off-Street Parking and Loading
154.770	Fences
154.780	Industrial Development Standards

**154.710. PERMITTED USES.** Within any GR/HI, Grand Ronde: Heavy Industrial Zone, no building, structure, or premises shall be used, arranged or designed to be used, erected, structurally altered, or enlarged except for one or more of the following uses:

- A. Any industrial use permitted in subsection (B), Section 151.010; subsections (B) through (H), Section 161.010; and subsections (B) through (F), Section 162.010.
- B. Substation, transformer, gate station, and pumping or lift station.
- C. Public works offices, yards, shops, bus barns, equipment and materials storage yards, and similar uses.
- D. Accessory Uses and Buildings.
- E. Communications tower 70 feet in height or less, pursuant to Section 112.135.  
[Amended by Ordinance 04-09]

**154.720. PERMITTED USES, DEQ APPROVAL.** The industrial uses permitted in Sections 151.030, 161.020 and 162.020 are allowed, subject to approval of the Department of Environmental Quality.

**154.730. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in Chapter 119 of this ordinance, the following uses will be permitted in the GR/HI Zone:

- A. Dwelling, Single Family. Not more than one dwelling in conjunction with a permitted use, shall be all allowed on any parcel;
- B. Any industrial use provided in subsection (B) Section 151.040; subsections (B) through (I) Section 161.030; and, subsection (B) Section 162.030.
- C. Commercial utilities for the purpose of generating power for public use by sale; and,
- D. Chimneys and steeples exceeding 70 feet.
- E. Communications tower exceeding 70 feet as provided in Section 112.135.  
[Amended by Ordinance 04-09]

**154.740. GENERAL DEVELOPMENT STANDARDS.** The general development standards in Sections 112.010 through 112.120 and 112.140 through 112.175 shall apply.

**154.750. FUTURE RIGHT-OF-WAY LINES.** Sections 112.180 through shall apply.

**154.760. OFF-STREET PARKING AND LOADING.** The off-street parking and loading requirements found in Sections 112.210 through 112.270 shall apply.

**154.770. FENCES.** Fences shall conform to the requirements found in Sections 112.350 through 112.370.

**154.780. INDUSTRIAL DEVELOPMENT STANDARDS.** The Industrial Development Standards found in subsection (D) Section 112.410 shall apply.

## **CHAPTER 155**

### **EOLA UNINCORPORATED COMMUNITY INDUSTRIAL (EOLA UC-I) ZONING DISTRICT**

- 155.010. Purpose and Intent
- 155.020. Small-Scale, Low-Impact Uses
- 155.025 Industrial Mill Sites
- 155.030. Standard Industrial Classifications
- 155.040. Permitted Uses
- 155.050. Conditional Uses

**155.010. PURPOSE AND INTENT.** The purpose of the Eola Unincorporated Community Industrial (Eola UC-I) Zoning District is to implement the Comprehensive Plan policies related to industrial development by providing for industrial uses with limited off-site impacts such as noise, dust, or odor. This zone is applied to designated industrial lands within the unincorporated community of Eola.

Industrial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses that require proximity to rural resources, or other uses which are small-scale and low impact.

**155.020. SMALL-SCALE, LOW-IMPACT USES.** Except as provided Section 155.025, small-scale, low impact uses listed under Section 155.040(F) or Section 155.050(B), and 155.050(C) shall be established in a building or buildings not to exceed 40,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Except as provided in Section 155.025, the establishment of a new industrial use listed under Section 155.040(F), Section 155.050(B), or Section 155.050(C) or expansion of an industrial use other than those listed under Section 155.040(A) which would exceed the 40,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

**155.025. INDUSTRIAL MILL SITES.** A use sited on an abandoned or diminished industrial mill site that was engaged in the processing or manufacturing of wood products is not subject to the small-scale, low-impact building size limitation, provided that the use will be located only on the portion of the mill site that was zoned for industrial use on October 28, 1994.

**155.030. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**155.040. PERMITTED USES.** Within the Eola UC-I Zone, no building, structure, or premises shall be used, enlarged, or designed to be used, erected, structurally altered, or enlarged except for one or more the following uses:

- (A) Expansion of an existing industrial use which existed on December 5, 1994.
- (B) Dwelling for a caretaker or watchman for the premises only (88).
- (C) Ambulance service (8099).
- (D) Fire stations.
- (E) Industrial uses which require proximity to rural resources:
  - (1) Gardens, orchards, crop cultivation and timber raising and tree farm (01, 02);
  - (2) Greenhouses and outdoor plant nurseries (018, 526);
  - (3) Lumber and wood products processing, manufacturing and storage facilities (24);
  - (4) Food and kindred products manufacturing (20); and
  - (5) Millwork, veneer, and wooden container manufacturing (243, 244).
- (F) Industrial uses which are small-scale, low-impact:
  - (1) Any use permitted under 154.040(C);
  - (2) Public utilities (49);
  - (3) Communications tower, as provided in PCZO 112.135 (48); and [Amended by Ordinance 04-09]



- (4) Business offices of the firm or operations;
- (5) Parking lot, garage (commercial) when developed as prescribed in Chapter 112 (7521);
- (6) Restaurants (buildings not to exceed 4,000 square feet) (58);
- (7) Tractor and heavy equipment sales and service (352);
- (8) Wholesale trade (50, 51);
- (9) Manufacturing of fabricated metal products (34);
- (10) Building contractors (general, highway and street contractors, heavy construction contractors) (15, 16);
- (11) Special trade construction contractors (17);
- (12) Motor freight depot (421);
- (13) Industrial and commercial machinery and computer manufacturing facilities (35);
- (14) Blacksmith;
- (15) Welding, welding shop; and
- (16) Machine shop;

(G) Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**155.050. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in the Eola UC-I Zone:

- (A) Industrial uses which require proximity to rural resources:
  - (1) Any use permitted under 154.050(B);
  - (2) Sand and gravel resource processing sites, excluding quarries (see Sections 120.410 through 120.460) (14); and
  - (3) Cement, clay, glass and stone products manufacturing facilities (32).
- (B) Industrial uses which are small-scale, low-impact:
  - (1) Any use permitted under 154.050(C);
  - (2) Heliport (458);
  - (3) Railroad equipment manufacture and repair (374);
  - (4) Auto wrecking yard, perimeter fenced and landscaped;
  - (5) Paper and allied products manufacturing facilities (265)(267);
  - (6) Petroleum, petroleum products, by-products manufacturing and storage facilities (29);
  - (7) Agricultural chemicals manufacturing (287);
  - (8) Industrial inorganic and organic chemicals manufacturing (281)(286);
  - (9) Paints, varnishes, lacquers, enamels and allied products manufacturing (285);
  - (10) Plastic materials, and synthetic resins, synthetic rubber, synthetic and other man-made fibers manufacturing, except glass manufacturing (282); and
  - (11) Soaps, detergents and cleaning preparations, perfumes, cosmetics and other toilet preparations (284).
- (C) Any other industrial use, where the buildings do not exceed 40,000 square feet of floor space provided that:
  - (1) The use is small in size and low impact; or
  - (2) The use is significantly dependent upon a specific resource located on agricultural or forest land; and
  - (3) The use will not have adverse impacts on surrounding farm and forest activities; and

- (4) The new use will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or if such services are not available to the site, the capacity of the site itself to provide adequate water and absorb waste water.

Appendix 1  
 Eola Unincorporated Community Industrial Properties Inventory  
 January, 2001

Number	Tax Map ID	Location	Uses	Size (acres)	Bldg. Size (sq. ft.)
1	7425B 101	5073 Highway 22-Eola	Manufacturing of fabricated metal products (34)	1.33	6,000
2	7425B 104	5073 Highway 22-Eola	Manufacturing of fabricated metal products (34)	2.25	4,000
3	7425B 106	50 <sup>th</sup> Avenue NW-Eola	Tractor and heavy equipment sales and service (352)	1.18	Outdoor storage
4	7425B 107	Highway 22-Eola	Vacant	0.08	Vacant
5	7425B 108	111 50 <sup>th</sup> Avenue NW-Eola	Tractor and heavy equipment sales and service (352)	0.97	18,976
6	7425B 109	111 50 <sup>th</sup> Avenue NW-Eola	Tractor and heavy equipment sales and service (352)	0.63	4,000
7	7425B 2101	5073 Highway 22-Eola	Manufacturing of fabricated metal products (34)	3.22	21,900
8	7425C 300	Highway 22-Eola	Vacant	0.20	Vacant
9	7425C 400	4800 Highway 22-Eola	Cement products manufacturing facilities (32)	1.07	App. 3,480 on commercial zoned portion
10	7425C 500	Highway 22-Eola	Cement products manufacturing facilities (32)	3.90	Outdoor storage
11	7425C 600	5032 Highway 22-Eola	Cement products manufacturing facilities (32)	4.56	App. 32,262
12	7425C 700	Highway 22-Eola	Cement products manufacturing facilities (32)	3.15	Outdoor storage
13	7425C 800	5082 Highway 22-Eola	Gasoline service station (55)	0.75	2,040
14	7425D 3500	Highway 22-Eola	Vacant	0.56	Vacant
15	7425D 3501	4282 Highway 22-Eola	Wholesale trade (50, 51)	0.80	5,440
16	7425D 3601	4582 Highway 22-Eola	Wholesale trade (50, 51)	1.00	14,520
17	7425D 3900	Highway 22-Eola	Vacant	0.30	Vacant
18	7425D 3901	4520 Highway 22-Eola	Special trade construction contractors (17)	1.56	3,350
19	7425D 4000	4520 Highway 22-Eola	Special trade construction contractors (17)	0.74	3,120

This table was created using Polk County Tax Assessors Tax Maps. Each tax lot should not be inferred to be a separate lawfully created lot or parcel. The deed to the subject property describes, in the legal description, how many lots or parcels comprise the subject property. The legal status of the lots or parcels described in a deed can be determined by evaluating the land-use applications made through the Polk County Planning Division and the deed history for the subject property.

## **CHAPTER 155.500**

### **RICKREALL UNINCORPORATED COMMUNITY INDUSTRIAL (Rickreall UC-I) ZONING DISTRICT**

- 155.510. Purpose and Intent
- 155.520. Small-Scale, Low-Impact Uses
- 155.525. Industrial Mill Sites
- 155.530. Standard Industrial Classifications
- 155.540. Permitted Uses
- 155.550. Conditional Uses

**155.510. PURPOSE AND INTENT.** The purpose of the Rickreall Unincorporated Community Industrial (Rickreall UC-I) Zoning District is to implement the Comprehensive Plan policies related to industrial development by providing for industrial uses with limited off-site impacts such as noise, dust, or odor. This zone is applied to designated industrial lands within the unincorporated community of Rickreall.

Industrial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses that require proximity to rural resources, or other uses which are small-scale and low impact.

**155.520. SMALL-SCALE, LOW-IMPACT USES.** Except as provided in Section 155.525, a small-scale, low impact uses listed under Section 155.540(F) or Section 155.550(B) or (C) shall be established in a building or buildings not to exceed 40,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Except as provided in Section 155.525, the establishment of a new industrial use listed under Section 155.540(F), Section 155.550(B), or Section 155.550(C) or expansion of an industrial use other than those listed under Section 155.540(A) which would exceed the 40,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

**155.525. INDUSTRIAL MILL SITES.** A use sited on an abandoned or diminished industrial mill site that was engaged in the processing or manufacturing of wood products is not subject to the small-scale, low-impact building size limitation, provided that the use will be located only on the portion of the mill site that was zoned for industrial use on October 28, 1994.

**155.530. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**155.540. PERMITTED USES.** Within the Rickreall UC-I Zone, no building, structure, or premises shall be used, enlarged, or designed to be used, erected, structurally altered, or enlarged except for one or more the following uses:

- (A) Expansion of an existing industrial use which existed on December 5, 1994.
- (B) Dwelling for a caretaker or watchman for the premises only (88).
- (C) Ambulance service (8099).
- (D) Fire stations.
- (E) Industrial uses which require proximity to rural resources:
  - (1) Gardens, orchards, crop cultivation and timber raising and tree farm (01, 02);
  - (2) Greenhouses and outdoor plant nurseries (018, 526);
  - (3) Lumber and wood products processing, manufacturing and storage facilities (24);
  - (4) Food and kindred products manufacturing (20); and
  - (5) Millwork, veneer, and wooden container manufacturing (243, 244).
  - (6) Farm product warehousing and storage (4221);

- (7) Farm or forest products stand, designed and used for the sale of farm crops, special forest products and livestock grown on farms in the local agricultural area, including the retail sale of incidental items accounting for no more than 25 percent of the total sales of the farm or forest stand. Farm or forest products stands do not include structures designed for residential occupancy or to accommodate activities other than the sale of farm crops, special forest products and livestock, such as structures for banquets, public gatherings or entertainment;
  - (8) Farm or forest implement and equipment sales;
  - (9) Farm or forest related equipment, machinery or truck repair, including associated service parts facilities; and
  - (10) Farm and forest supply.
- (F) Industrial uses which are small-scale, low-impact:
- (1) Any use permitted under 154.540(C);
  - (2) Communications tower, as provided in PCZO 112.135 (48); [Amended by Ordinance 04-09]
  - (3) Business offices of the firm or operations;
  - (4) Restaurants (buildings not to exceed 4,000 square feet) (58);
  - (5) Public utilities (49);
  - (6) Parking lot, garage (commercial) when developed as prescribed in Chapter 112 (7521);
  - (7) Tractor and heavy equipment sales and service (352);
  - (8) Motor vehicle body & painting facility (371);
  - (9) Truck stop facility (423);
  - (10) Wholesale trade (50);
  - (11) Appliance, office and electrical product equipment manufacturing (39);
  - (12) Professional, scientific and controlling equipment manufacturing (873);
  - (13) Rubber and allied products manufacturing (30);
  - (14) Food, grain, feed and derivative products processing facility;
  - (15) Meat processing and manufacturing facilities (021);
  - (16) Manufacturing of fabricated metal products (34);
  - (17) Building contractors (general, highway and street contractors, heavy construction contractors) (15, 16);
  - (18) Special trade construction contractors (17);
  - (19) Auction house or market;
  - (20) Motor freight depot (421);
  - (21) Industrial and commercial machinery and computer manufacturing facilities (355);
  - (22) Blacksmith;
  - (23) Welding, welding shop; and
  - (24) Machine shop.

**155.550. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in the Rickreall UC-I Zone:

- (A) Industrial uses which require proximity to rural resources:
  - (1) Any use permitted under 154.550(B);
  - (2) Mining and quarrying of nonmetallic minerals, except fuels (14);
  - (3) Sand and gravel resource processing sites, excluding quarries (see Sections 120.410 to 120.460) (144);
  - (4) Cement, clay, glass and stone products manufacturing facilities (32); and
  - (5) Livestock auctions and sales, including feed lots (0211).
- (B) Industrial uses which are small-scale, low-impact:
  - (1) Any use permitted under 154.550(C);
  - (2) Kennels (boarding and raising of animals);
  - (3) Cottage Industry Home Occupations;
  - (4) Metals, primary, manufacturing facilities (33);
  - (5) Manufacturing of fabricated metal products (34);
  - (6) Machinery facilities;
  - (7) Railroad equipment manufacture and repair (374);
  - (8) Auto wrecking yard, perimeter fenced and landscaped;
  - (9) Paper and allied products manufacturing facilities (265)(267);
  - (10) Bulk fuel storage;
  - (11) Petroleum, petroleum products, and storage facilities (29);
- (C) Any other industrial use, where the buildings do not exceed 40,000 square feet of floor space provided that:
  - (1) The use is small in size and low impact; or
  - (2) The use is significantly dependent upon a specific resource located on agricultural or forest land; and
  - (3) The use will not have adverse impacts on surrounding farm and forest activities; and
  - (4) The new use will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or if such services are not available to the site, the capacity of the site itself to provide adequate water and absorb waste water.

**Appendix 1**  
**Rickreall – Derry Unincorporated Community Industrial Properties**  
**Building Size Inventory**  
**January 2001**

#	Tax Lot	Map#	Acres	Dwelling	Zone	Owner	Use	Building Size sq. ft.	Buildable
1	1000	7.4.30	1.44		IL	WEST HILLS MFG.	Vacant		X
5	802	7.4.31	9.91		IL	DEMBOWSKI AL	Dallas Coop Grain Storage Silos	432,000 Bushel Cap	
6	801	7.4.31	4		IL	SIEBER RAYMOND A	Dallas Equipment Repair	7,624	
7	1001	7.4.31	1		IL	WESTERN FARM SERVICES, INC	Seed Warehouse & Office	3,456 2,318	
8	1600	7.5.25	1.6		IL	BLESSING TONI JO	Vacant		X
9	1000	7.5.25D	0.82	1	IL	HINCHCLIFF CHARLES E & NORA E	1930 dwelling		
10	1100	7.5.25D	0.71		IL	HINCHCLIFF CHARLES E & NORA E	Red Mule Store	2,400	
11	300	7.5.25D	1	1	IL	PENNA EDWARD & REBECCA	1881 dwelling (Historic Registry)		
12	500	7.5.25D	1	1	IL	GOINS MARSHALL & MADISON D	1917 dwelling		
13	700	7.5.25D	0.87		IL	COUEY JOE E & LETA J	Vacant		X
14	800	7.5.25D	0.56	1	IL	COUEY LETA J	1945 dwelling		
15	900	7.5.25D	0.56	1	IL	COUEY LETA J	1920 dwelling		
16	100	7.5.25D	7.2		IL	HOFF GWENDOLYN CLAIRE ET AL	Burelbach Inds./Warehs./Manf./Shop	21,040 / 12,700 / 1,200	
17	200	7.5.25D	1		IL	POOLE JONATHAN W & MICHELLE	Industrial	1,728	
18	201	7.5.25D	3.01		IL	PEGG WYATT	Vacant		X
19	400	7.5.25D	2		IL	PEGG WYATT	Western Interlock	~9,000?	
20	600	7.5.25D	5.49		IL	IOTT KEN & JUDY ET AL	Rickreall Mini Storage	40,248	
21	100	7.4.29C	0.82		IH	WILLAMETTE GRASS SEED, LLC	Warehouses	9,408 / 5,040	X
22	101	7.4.31	1.36		IH	MARX RONALD L ET AL	Seed cleaning operation	Part of building 9,505	X
23	200	7.4.29C	1.52		IH	AG WEST SUPPLY	Farm equipment parking		X
24	300	7.4.29C	1.56		IH	WILLAMETTE GRASS SEED, LLC	Machine shop / warehouses / office/ utility building	14,640 / 17,252 / 1,896	
25	500	7.4.29C	9.56		IH	POLK COUNTY FARMS CO-OP	Showroom / Warehouse / Machine shop / tanks/ office / storage	6,710 / 11,675 / 6,912 / 1,540 / 1,240 / 14,010	
26	600	7.4.29C	1.72		IH	MARX RONALD L ET AL	Seed Warehouses (4)	39,908	
27	400	7.4.29C	2.67		IH	S. PACIFIC / BURLINGHAM	Grain warehouse	5,520	

This table was created using Polk County Tax Assessors Tax Maps. Each tax lot should not be inferred to be a separate lawfully created lot or parcel. The deed to the subject property describes, in the legal description, how many lots or parcels comprise the subject property. The legal status of the lots or parcels described in a deed can be determined by evaluating the land-use applications made through the Polk County Planning Division and the deed history of the subject property.



## **CHAPTER 160**

### **INDUSTRIAL PARK (IP) ZONING DISTRICT**

- 160.010. Use
- 160.020. Department of Environmental Quality Authority
- 160.030. Conditional Uses

**160.010. USE.** Within any IP, Industrial Park Zone, no building, structure, or premise shall be used, enlarged, or designed to be used, erected, structurally altered, or enlarged except for one or more of the following uses:

- (A) Any use permitted in subsection (B) of Section 151.010;
- (B) Other Uses:
  - (1) Dwelling for a caretaker or watchman for the premises only;
  - (2) Gardens, orchards, crop cultivation and timber raising and tree farm;
  - (3) Greenhouse;
  - (4) Outdoor plant nursery;
  - (5) Public utilities;
  - (6) Advertising sign for structure pertaining to the business or operation conducted on the premises;
  - (7) Airport terminal facilities;
  - (8) Ambulance service;
  - (9) Business offices of the firm or operations;
  - (10) Fire stations;
  - (11) Metal working equipment and machinery manufacturing wholly within a building;
  - (12) Parking lot, garage (commercial) when developed as prescribed in Chapter 112;
  - (13) Restaurants;
  - (14) Tractor and heavy equipment sales and service;
  - (15) Truck stop facility;
  - (16) Trade, vocational school;
  - (17) Wholesale firms (not open to general public);
  - (18) Bank; and
  - (19) Communications tower, as provided in Section 112.135. [Amended by Ordinance 04-09]
- (C) Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**160.020. DEPARTMENT OF ENVIRONMENTAL QUALITY AUTHORITY.** The following uses are allowed, subject to approval from the Department of Environmental Quality:

- (A) Any uses provided in Section 151.030.

**160.030. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in Chapter 119 of this ordinance, the following uses will be permitted in an IP Zone, to-wit:

- (A) Any use provided in subsection (B) of Section 151.040;
- (B) Blacksmith;
- (C) Welding, welding shop;
- (D) Solid waste disposal sites (see Sections 120.310 to 120.380);
- (E) Sand and gravel resource sites (see Sections 120.410 to 120.460);
- (F) Heliport;

## **CHAPTER 161**

### **LIGHT INDUSTRIAL (IL) ZONING DISTRICT**

- 161.010. Use
- 161.020. Department of Environmental Quality Approval
- 161.030. Conditional Uses

**161.010. USE.** Within an IL, Light Industrial Zone, no building, structure, or premises shall be used, enlarged, or designed to be used, erected, structurally altered, or enlarged except for one or more the following uses:

- (A) Any use permitted under Section 160.010 of this ordinance.
- (B) Metal fabricated products manufacturing facilities
  - (1) Metal stampings
  - (2) Screw machine, bolts, nuts, screws, rivets and washers
- (C) Machinery manufacturing facilities
  - (1) Sawmill equipment
- (D) Motor vehicles and motor vehicle equipment facilities
  - (1) Painting
  - (2) Wrecking
- (E) Wood and lumber products processing, manufacturing and storage facilities
  - (1) Wood fuel dealers
- (F) Contracting and service facilities
  - (1) Building contractors (general, highway and street contractors, heavy construction contractors)
  - (2) Special trade contractors, such as:
    - (a) concrete work
    - (b) electrical
    - (c) excavating
    - (d) foundation work
    - (e) septic tank, cesspool and catch basin
    - (f) wrecking and demolition
  - (3) Roofing.
- (G) Cement, clay, glass and stone products manufacturing facilities:
  - (1) Abrasives, asbestos and other non-metallic mineral
  - (2) Concrete, gypsum and plaster, excluding sand and gravel processing
  - (3) Cut stone (monuments)
  - (4) Flat glass
  - (5) Glass and glassware, pressed or blown
  - (6) Glass products made of purchased glass
  - (7) Pottery and related products

- (8) Structural clay
- (H) Other use facilities:
  - (1) Auction house or market (no livestock or poultry sales)
  - (2) Motor freight depot
  - (3) Veterinary office, hospital

**161.020. DEPARTMENT OF ENVIRONMENTAL QUALITY APPROVAL.** The following uses are allowed, subject to approval from the Department of Environmental Quality:

- (A) Any use permitted under Section 160.020 of this ordinance.
- (B) Chemicals, fertilizers, insecticides, paint and allied products manufacturing facilities:
  - (1) Fertilizers
  - (2) Insecticides
- (C) Food, grain, feed and derivative products processing facilities:
  - (1) Gelatin
  - (2) Glue and size
  - (3) Rendering
- (D) Machinery manufacturing facilities:
  - (1) Service industry machines and equipment
- (E) Meat products processing and manufacturing facilities (slaughtering, canning, curing, smoking, preserving).
- (F) Metal working shops:
  - (1) Blacksmith
  - (2) Machine
  - (3) Welding
- (G) Paper and allied products manufacturing facilities:
  - (1) Building paper and building board
  - (2) Converted paper and paperboard
  - (3) Paperboard containers and boxes
- (H) Petroleum products and gasoline storage only, provided all storage is underground.
- (I) Transportation equipment manufacturing facilities:
  - (1) Motor vehicle brakes
- (J) Wood and lumber products (except furniture) processing, manufacturing and storage facilities:

- (1) Sawdust and shavings fuel
- (2) Millwork (doors, windows, pre-cutting structures)
- (3) Prefabricated structural wood products
- (4) Wooden containers

**161.030. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in an IL zone:

- (A) Any conditional use permitted in an IP Zone
- (B) Auto racing track
- (C) Food, grain, feed and derivative products processing facilities:
  - (1) Livestock auctions and sales, including feed lots
- (D) Metals, primary, manufacturing facilities:
  - (1) Iron and steel
  - (2) Non-ferrous metals
  - (3) Primary smelting and refining of non-ferrous metals
  - (4) Secondary smelting and refining of non-ferrous metals and alloys
  - (5) Rolling, drawing and extruding of non-ferrous metals
- (E) Machinery manufacturing facilities:
  - (1) Construction and mining equipment
  - (2) Engines and turbines
  - (3) Farm machinery and equipment
  - (4) General industrial machinery and equipment
  - (5) Materials handling machinery and equipment
- (F) Mining, pits and quarries facilities:
  - (1) Earth, top soil, clay, peat
  - (2) Sand and gravel pits, quarries, including extraction from rivers and streams
  - (3) Rock crushing and preparing sand and gravel for construction uses or other special uses
- (G) Paper and allied products manufacturing facilities:
  - (1) Paper, except building paper
  - (2) Pulp
- (H) Petroleum, petroleum products, by-products manufacturing and storage facilities:
  - (1) Propane gas, provided all storage is underground

- (2) Asphalt
- (3) Asphalt paving mix
- (4) Creosote and creosote products
- (5) Oil reconditioning
- (6) Turpentine
- (I) Transportation equipment, manufacturing and repair facilities:
  - (1) Railroad equipment

## **CHAPTER 162**

### **HEAVY INDUSTRIAL (IH) ZONING DISTRICT**

- 162.010. Use
- 162.020. Department of Environmental Quality Approval
- 162.030. Conditional Uses



**162.010. USE.** Within any IH, Heavy Industrial Zone, no building, structure, or premises shall be used, enlarged or designed, to be used, erected, structurally altered or enlarged except for one or more of the following uses:

- (A) Any use permitted under Section 161.010.
- (B) Metals, primary, manufacturing facilities:
  - (1) Iron and steel
  - (2) Non-ferrous metals
  - (3) Primary smelting and refining of non-ferrous metals
  - (4) Secondary smelting and refining of non-metals and alloys
  - (5) Rolling, drawing and extruding of non-ferrous metals
- (C) Machinery manufacturing:
  - (1) Service industry machines and equipment
- (D) Transportation equipment manufacturing and repair facilities:
  - (1) Railroad equipment
- (E) Wood and lumber products facilities:
  - (1) Fuel dealers (wood, sawdust, shavings, etc.)

**162.020. DEPARTMENT OF ENVIRONMENTAL QUALITY APPROVAL.** The following uses are allowed, subject to approval from the Department of Environmental Quality:

- (A) Any use permitted under Section 161.020.
- (B) Food, grain, feed and derivative products processing facilities:
  - (1) Livestock auctions and sales, including feed lots
  - (2) Slaughterhouse
- (C) Machinery Manufacturing facilities:
  - (1) Construction and mining equipment
  - (2) Engines and turbines
  - (3) Farm machinery and equipment
  - (4) General industrial machinery and equipment
  - (5) Materials handling machinery and equipment
  - (6) Metal working equipment and machinery
- (D) Paper and allied products manufacturing facilities:
  - (1) Paper
  - (2) Pulp
- (E) Petroleum, petroleum products, by-products manufacturing and storage facilities:

- (1) Petroleum (including all process and storage)
  - (2) Paving and roofing materials
  - (3) Propane gas
  - (4) Asphalt
  - (5) Asphalt paving mix
  - (6) Creosote and creosote products
  - (7) Oil reconditioning
  - (8) Turpentine
- (F) Wood and lumber products processing, manufacturing and storage facilities:
- (1) Sawmills and planing mills
  - (2) Veneer, plywood and pressure-formed products

**162.030. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in an IH Zone:

- (A) Any conditional use permitted in an IL Zone.
- (B) Metals, primary, manufacturing facilities.
  - (1) Blast furnaces, steel and rolling and finishing mills

## **CHAPTER 165**

### **RURAL INDUSTRIAL (R-IND) ZONING DISTRICT**

- 165.010. Purpose and Intent
- 165.020. Uses Subject To Size Limitations
- 165.030. Standard Industrial Classifications
- 165.040. Permitted Uses
- 165.050. Conditional Uses
- 165.060. Accessory Uses Permitted Under Prescribed Conditions

**165.010 PURPOSE AND INTENT.** The purpose of the Rural Industrial Zoning District is to implement the Comprehensive Plan policies for rural industrial development. This zone is applied to industrial lands outside unincorporated communities and urban growth boundaries.

The intent of the Rural Industrial Zoning District is to permit the continuation and expansion of existing uses in the district and to provide rural employment opportunities for new uses that are generally small- scale, low impact or provide for the processing and manufacturing of timber and forest related products, farm crops and produce, minerals and aggregates, or the maintenance and repair of mechanical equipment related to farm or forest uses. In the R-IND Zone, a new or expanded use may not exceed the capacity of the site itself to provide adequate water and absorb waste water.

**165.020. USES SUBJECT TO SIZE LIMITATIONS.** Specific uses listed under Sections 165.040 and 165.050 are subject to size limitations. These uses shall be established in a building or buildings which do not exceed the specified amount of floor space. The floor area calculation does not include outdoor storage areas.

Expansion of existing uses or establishment of new uses which would exceed to specified size limitation are subject to the following requirements:

- (A) Establishment of a new use which would exceed the standard provided in this section shall require a Comprehensive Plan Amendment in the form of an exception to Statewide Planning Goal 14 as provided by the Zoning Ordinance and pursuant to ORS 197.732.
- (B) An expansion of a use existing as of (date this ordinance is adopted) (see inventory included as Appendix 1) shall be limited to 10,000 square feet of floor space or 25 percent of the adopted inventory size, whichever is greater.
- (C) Expansion of an existing use which would exceed the size limitation standard shall require a Comprehensive Plan Amendment in the form of an exception to Statewide Planning Goal 14 as provided by the Zoning Ordinance and pursuant to ORS 197.732.
- (D) The new or expanded use will not have adverse impacts on surrounding farm and forest activities; and
- (E) The new or expanded use will not exceed the capacity of the site itself to provide adequate water and absorb waste water.

**165.030. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**165.040. PERMITTED USES.** Within a Rural Industrial Zone, no building, structure, or premises shall be used, enlarged, or designed to be used, erected, structurally altered, or enlarged except for one or more the following uses:

- (A) Lawfully established uses and structures that existed on or before (date this ordinance is adopted), not otherwise listed in the zone are allowed outright and shall not be classified as nonconforming uses (see Appendix A);

(B) Expansion of an existing industrial use (see Appendix A), as provided by Section 165.020;

(C) Industrial uses which require proximity to rural resources:

- (1) Production, processing, assembling, packaging, storage, treatment of farm crops or forest products;
- (2) Wineries, as defined in Section 110.595(C) (2084);
- (3) Sawmills, lumber manufacturing, and processing of forest products (24);

(D) Industrial uses which are small-scale, low-impact:

- (1) General, highway, heavy construction, and home construction contractors, where the buildings do not exceed 10,000 square feet of floor area (15, 16);
- (2) Special trade contractors, including excavating, septic installers, concrete and electrical, where the buildings do not exceed 10,000 square feet of floor area (17);
- (3) Farm and forest related machinery repair, truck and incidental automobile repair, welding and service part facilities where the buildings do not exceed 10,000 square feet of floor area.

(E) Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**165.050. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in any R-IND Zone. These uses shall be established in a building or buildings not to exceed 10,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

(A) Industrial uses which require proximity to rural resources:

- (1) Manufacturing of stone, clay, glass, and concrete products (32);
- (2) Manufacturing and processing of mineral and aggregate materials (14);
- (3) Wholesale plant nurseries (5193);
- (4) Processing facilities for farm or forest products (20, 24);
- (5) Asphalt and concrete batch plants;

(B) Industrial uses which are small-scale, low-impact:

- (1) Recycling facility consisting of outdoor storage bins;
- (2) Bulk fuel storage;
- (3) Ambulance service;
- (4) Auto wrecking yard, perimeter fenced and landscaped;
- (5) Boat moorage, consisting of 20 or fewer dock spaces;
- (6) Governmental, public and quasi-public structures: special district (e.g., water and sewage disposal office etc.), city, county, state and federal (91, 92, 93, 94, 95, 96, 97);
- (7) Kennels, boarding and raising of animals;

- (8) Public power generation facilities (49);
- (9) Public utilities (exempted from these regulations are: underground pipes and conduits and above ground electric transmission distribution, communication single lines on single pole system) (49);
- (10) Radio, television and communication towers, as provided in Section 112.135 (483); [Amended by Ordinance 01-3]
- (11) Veterinary or animal hospitals, primarily devoted to the treatment of large animals, (Note: Outdoor kennels, pens, or holding areas are not subject to the 10,000 square foot size limitation) (0741);
- (12) Any other industrial use, where the buildings do not exceed 7,500 square feet of floor space provided that:
  - (a) The use will not have adverse impacts on surrounding farm and forest activities; and
  - (b) The use will not exceed the capacity of the site itself to provide adequate water and absorb waste water.

**165.060. ACCESSORY USES PERMITTED UNDER PRESCRIBED CONDITIONS.** The following accessory uses of land and structures are permitted uses subject to conditions imposed for each use:

- (A) Cafeteria facilities for employees.
- (B) Temporary caretaker residence, in a manufactured dwelling or mobile home, if situated upon a portion of the principal lot with an approved on-site sewage disposal system and a potable water source.
- (C) Customary accessory uses shall comply with the following:
  - (1) No separate permit shall be issued for the construction of any type accessory building, including a manufactured or mobile home placement permit, for any accessory building prior to that of the main buildings.
  - (2) Temporary caretaker residence located on the principal lot shall meet the following setback requirements:
    - (a) front yard 30 feet.
    - (b) side yard 20 feet.
    - (c) rear yard 20 feet.
  - (3) All other accessory buildings shall maintain the same yard and setbacks as the main building.

Appendix 1  
Rural Industrial Properties Inventory  
September 1, 1998

<u>Number</u>	<u>Tax Map ID</u>	<u>Location</u>	<u>Uses</u>	<u>Size (acres)</u>	<u>Bldg. Size (sq. ft.)</u>
<u>1</u>	<u>6713B 500</u>	<u>Business 18 - Willamina</u>	<u>Log yard</u>	<u>21.70</u>	<u>9,859 in 4 buildings</u>
<u>2</u>	<u>6712C 400</u>	<u>Business 18 - Willamina</u>	<u>Auto wrecking yard</u>	<u>6.81</u>	<u>7,444 in 5 buildings</u>
<u>3</u>	<u>6712C 500</u>	<u>Business 18 - Willamina</u>	<u>Residence</u>	<u>0.95</u>	<u>1 home</u>
<u>4</u>	<u>6712C 600</u>	<u>Business 18 - Willamina</u>	<u>Residence</u>	<u>2.30</u>	<u>1 home</u>
<u>5</u>	<u>6712C 800</u>	<u>Business 18 - Willamina</u>	<u>Residence</u>	<u>3.38</u>	<u>1 home</u>
<u>6</u>	<u>6712C 900</u>	<u>Business 18 - Willamina</u>	<u>Residence</u>	<u>2.00</u>	<u>1 home</u>
<u>7</u>	<u>6712C 1000</u>	<u>Business 18 - Willamina</u>	<u>Residence</u>	<u>3.54</u>	<u>1 home</u>
<u>8</u>	<u>6712C 1100</u>	<u>Business 18 - Willamina</u>	<u>Residence</u>	<u>1.73</u>	<u>1 home</u>
<u>9</u>	<u>6712C 1200</u>	<u>Business 18 - Willamina</u>	<u>Residence</u>	<u>1.07</u>	<u>1 home</u>
<u>10</u>	<u>6712C 1300</u>	<u>Business 18 - Willamina</u>	<u>Logging company</u>	<u>1.09</u>	<u>7,584</u>
<u>11</u>	<u>6712C 1400</u>	<u>Business 18 - Willamina</u>	<u>Logging company</u>	<u>0.57</u>	<u>Outdoor storage</u>
<u>12</u>	<u>6712C 1500</u>	<u>Business 18 - Willamina</u>	<u>Logging company</u>	<u>0.36</u>	<u>Outdoor storage</u>
<u>13</u>	<u>6713C 1003</u>	<u>Business 18 - Willamina</u>	<u>Vacant</u>	<u>14.59</u>	<u>Vacant</u>
<u>14</u>	<u>748 1000</u>	<u>Crowley Road</u>	<u>Crowley Station/RR Siding</u>	<u>4.80</u>	<u>3,168</u>
<u>15</u>	<u>9519 302</u>	<u>Maple Grove &amp; Airlie Road</u>	<u>Paving stone construction</u>	<u>0.14</u>	<u>Vacant</u>
<u>16</u>	<u>9519 1000</u>	<u>Maple Grove &amp; Airlie Road</u>	<u>Paving stone construction</u>	<u>0.49</u>	<u>1,600</u>

## **CHAPTER 166**

### **UNINCORPORATED COMMUNITY INDUSTRIAL PARK (UC-IP) ZONING DISTRICT**

- 166.010. Purpose and Intent
- 166.020. Small-Scale, Low Impact Uses
- 166.025 Industrial Mill Sites
- 166.030. Standard Industrial Classifications
- 166.040. Permitted Uses
- 166.050. Conditional Uses



**166.010. PURPOSE AND INTENT.** The purpose of the Unincorporated Community Industrial Park (UC-IP) Zoning District is to implement the Comprehensive Plan policies related to industrial development by providing for primarily service-related industrial uses with minimal off-site impacts such as noise, dust, or odor. This zone is applied to designated industrial lands within unincorporated communities.

Industrial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses that require proximity to rural resources, or other uses which are small-scale and low impact.

**166.020. SMALL-SCALE, LOW-IMPACT USES.** Except as provided in Section 166.025, a small-scale, low impact use listed under Section 166.040(C) or 166.050(B) or (C) shall be established in a building or buildings not to exceed 40,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Except as provided in Section 166.025, the establishment of a new industrial use listed under Section 166.040(C), Section 166.050(C), or Section 166.050(B) or expansion of an industrial use other than those listed under Section 166.040(A) which would exceed the 40,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

**166.025. INDUSTRIAL MILL SITES.** A use sited on an abandoned or diminished industrial mill site that was engaged in the processing or manufacturing of wood products is not subject to the small-scale, low-impact building size limitation, provided that the use will be located only on the portion of the mill site that was zoned for industrial use on October 28, 1994.

**166.030. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**166.040. PERMITTED USES.** Within any UC-IP Zone, no building, structure, or premise shall be used, enlarged, or designed to be used, erected, structurally altered, or enlarged except for one or more of the following uses:

- (A) Expansion of an existing industrial use which existed on December 5, 1994;
- (B) Industrial uses which require proximity to rural resources:
  - (1) Any use permitted under Section 152.040(C);
  - (2) Gardens, orchards, crop cultivation and timber raising and tree farm (01, 02);  
and
  - (3) Greenhouses and outdoor plant nurseries (018, 526);
- (C) Industrial uses which are small-scale, low-impact:
  - (1) Any use permitted under Section 152.040(D);
  - (2) Dwelling for a caretaker or watchman for the premises only (88);
  - (3) Public utilities (49);
  - (4) Communications tower, as provided in Section 112.135 (48); [Amended by Ordinance 04-09]
  - (5) Ambulance service (8099);
  - (6) Business offices of the firm or operations;

- (7) Fire stations;
- (8) Metal working equipment and machinery manufacturing wholly within a building (354);
- (9) Restaurants (buildings not to exceed 4,000 square feet) (58);
- (10) Tractor and heavy equipment sales and service (352);
- (11) Wholesale trade (50, 51); and
- (12) Banks (buildings not to exceed 4,000 square feet) (60);

(D) Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**166.050. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in any UC-IP Zone:

- (A) Industrial uses which require proximity to rural resources:
  - (1) Any use provided in Section 152.050(B);
  - (2) Sand and gravel resource processing sites, excluding quarries (see Sections 120.410 to 120.460) (144);
- (B) Industrial uses which are small-scale, low-impact:
  - (1) Any use provided in Section 152.050(C);
  - (2) Heliport;
  - (3) Airport terminal facilities (45);
  - (4) Parking lot, garage (commercial) when developed as prescribed in Chapter 112 (7521);
  - (5) Truck stop facility (423);
  - (6) Trade, vocational school (824);
- (C) Any other industrial use, where the buildings do not exceed 40,000 square feet of floor space provided that:
  - (1) The use is small in size and low impact; or
  - (2) The use is significantly dependent upon a specific resource located on agricultural or forest land; and
  - (3) The use will not have adverse impacts on surrounding farm and forest activities; and
  - (4) The new use will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or if such services are not available to the site, the capacity of the site itself to provide adequate water and absorb waste water.

**CHAPTER 167**

**UNINCORPORATED COMMUNITY LIGHT INDUSTRIAL  
(UC-IL) ZONING DISTRICT**

- 167.010. Purpose and Intent
- 167.020. Small-Scale, Low-Impact Uses
- 167.025 Industrial Mill Sites
- 167.030. Standard Industrial Classifications
- 167.040. Permitted Uses
- 167.050. Conditional Uses

**167.010. PURPOSE AND INTENT.** The purpose of the Unincorporated Community Light Industrial (UC-IL) Zoning District is to implement the Comprehensive Plan policies related to industrial development by providing for industrial uses with limited off-site impacts such as noise, dust, or odor. This zone is applied to designated industrial lands within unincorporated communities.

Industrial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses that require proximity to rural resources, or other uses which are small-scale and low impact.

**167.020. SMALL-SCALE, LOW-IMPACT USES.** Except as provided in Section 167.025, a small-scale, low impact use listed under Section 167.040(C) or Section 167.050(B) or (C) shall be established in a building or buildings not to exceed 40,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Except as provided in Section 167.025, the establishment of a new industrial use listed under Section 167.040(C), Section 167.050(B), or Section 167.050(C) or expansion of an industrial use other than those listed under Section 167.040(A) which would exceed the 40,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

**167.025. INDUSTRIAL MILL SITES.** A use sited on an abandoned or diminished industrial mill site that was engaged in the processing or manufacturing of wood products is not subject to the small-scale, low-impact building size limitation, provided that the use will be located only on the portion of the mill site that was zoned for industrial use on October 28, 1994.

**167.030. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**167.040. PERMITTED USES.** Within any UC-IL Zone, no building, structure, or premises shall be used, enlarged, or designed to be used, erected, structurally altered, or enlarged except for one or more the following uses:

- (A) Expansion of an existing industrial use which existed on December 5, 1994;
- (B) Industrial uses which require proximity to rural resources:
  - (1) Any use permitted under Section 166.040(B);
  - (2) Cement, clay, glass and stone products manufacturing facilities (32);
- (C) Industrial uses which are small-scale, low-impact:
  - (1) Any use permitted under Section 166.040(C);
  - (2) Building contractors (general, highway and street contractors, heavy construction contractors) (15, 16);
  - (3) Special trade construction contractors (17);
  - (4) Veterinary office, hospital (074);
- (D) Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**167.050. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in any UC-IL Zone:

- (A) Industrial uses which require proximity to rural resources:
  - (1) Any use permitted under Section 166.050(A);

- (2) Food and kindred products manufacturing (20);
- (3) Livestock auctions and sales, including feed lots (0211);
- (4) Lumber and wood products processing, manufacturing and storage facilities (24);
- (B) Industrial uses which are small-scale, low-impact:
  - (1) Any use permitted under Section 166.050(B);
  - (2) Manufacturing of computer equipment (35);
  - (3) Manufacturing of fabricated metal products (34);
  - (4) Paper and allied products manufacturing facilities (26);
  - (5) Metals, primary, manufacturing facilities (33);
  - (6) Metal fabricated products manufacturing facilities (345, 346);
  - (7) Special industry machinery manufacturing facilities (355);
  - (8) Automotive repair, services, and parking (75);
  - (9) Auction house or market;
  - (10) Motor freight depot (421);
  - (11) Bulk fuel storage;
- (C) Any other industrial use, where the buildings do not exceed 40,000 square feet of floor space provided that:
  - (1) The use is small in size and low impact; or
  - (2) The use is significantly dependent upon a specific resource located on agricultural or forest land; and
  - (3) The use will not have adverse impacts on surrounding farm and forest activities; and
  - (4) The new use will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or if such services are not available to the site, the capacity of the site itself to provide adequate water and absorb waste water.

**Appendix 1**  
**Grand Ronde Unincorporated Community Light Industrial Properties Inventory**  
**May, 2005**

Number	Tax Map ID	Location	Uses	Size (acres ±)	Bldg. Size (sq. ft.)
1	6.8.1.500	9635 Grand Ronde Road	Residential, Wrecking Yard	2.35	1,584 Dwelling, 1,080 Building, 432 Building, 1,152 Building, 192 Building
2	6.8.11.D.1000	No Address	Vacant	4.61	Railroad Tracks
3	6.8.11.D.1100	No Address	Billboard	2.87	Billboard
4	6.8.11.D.1101	29005 Salmon River Highway	Billboard	2.36	Billboard
5	6.8.11.D.1200	29335 Salmon River Highway	Hardware Store, Book Store, Residential	1.84	6,266 Hardware Store, 4,660 Book Store, 3,624 Dwelling
6	6.8.11.D.1300	No Address	Vacant	0.94	Vacant

This table was created using Polk County Tax Assessors Tax Maps. Each tax lot should not be inferred to be a separate lawfully created lot or parcel. The deed to the subject property describes, in the legal description, how many lots or parcels comprise the subject property. The legal status of the lots or parcels described in a deed can be determined by evaluating the land-use applications made through the Polk County Planning Division and the deed history for the subject property.

## **CHAPTER 168**

### **UNINCORPORATED COMMUNITY HEAVY INDUSTRIAL (UC-IH) ZONING DISTRICT**

- 168.010. Use
- 168.020. Small-Scale, Low-Impact Uses
- 168.025 Industrial Mill Sites
- 168.030. Standard Industrial Classifications
- 168.040. Permitted Uses
- 168.050. Conditional Uses

**168.010. PURPOSE AND INTENT.** The purpose of the Unincorporated Community Heavy Industrial (UC-IH) Zoning District is to implement the Comprehensive Plan policies related to industrial development by providing for more intensive industrial and manufacturing uses which may have some off-site impacts such as noise, dust, or odor. This zone is applied to designated industrial lands within unincorporated communities.

Industrial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses that require proximity to rural resources, or other uses which are small-scale and low impact.

**168.020. SMALL-SCALE, LOW-IMPACT USES.** Except as provided in 168.025, a small-scale, low impact uses listed under Section 168.040(C) or Section 168.050(B) or (C) shall be established in a building or buildings not to exceed 40,000 square feet of floor space. The floor area calculation does not include outdoor storage areas.

Except as provided in Section 168.025, the establishment of a new industrial use listed under Sections 168.040(C), Section 168.050(B), or Section 168.050(C) or expansion of an industrial use other than those listed under Section 168.040(A) which would exceed the 40,000 square foot standard shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.

**168.025. INDUSTRIAL MILL SITES.** A use sited on an abandoned or diminished industrial mill site that was engaged in the processing or manufacturing of wood products is not subject to the small-scale, low-impact building size limitation, provided that the use will be located only on the portion of the mill site that was zoned for industrial use on October 28, 1994.

**168.030. STANDARD INDUSTRIAL CLASSIFICATIONS.** Standard Industrial Classification (SIC) code numbers for most of the uses in this zone are shown in parentheses after the listed use. The SIC codes are a coding system used by the federal government to identify specific industries. Two-digit codes are used most often in the Zoning Ordinance to describe general categories of uses. In some instances, more specific three and four-digit codes are used. A copy of the SIC Manual is available for use at the Community Development Department and provides a more detailed description of the uses described in each general category.

**168.040. PERMITTED USES.** Within any UC-IH Zone, no building, structure, or premises shall be used, enlarged or designed, to be used, erected, structurally altered or enlarged except for one or more of the following uses:

- (A) Expansion of an existing industrial use which existed on December 5, 1994;
- (B) Industrial uses which require proximity to rural resources:
  - (1) Any use permitted under Section 167.040(B);
- (C) Industrial uses which are small-scale, low-impact:
  - (1) Any use permitted under Section 167.040(C);
  - (2) Special industry machinery manufacturing facilities (355);
  - (3) Manufacturing of transportation equipment (37); and
  - (4) Metals, primary, manufacturing facilities (33).
- (D) Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**168.050. CONDITIONAL USES.** When authorized under the procedure provided for conditional uses in this ordinance, the following uses will be permitted in any UC-IH Zone:

- (A) Industrial uses which require proximity to rural resources:

- (1) Any use permitted under Section 167.050(A);
- (B) Industrial uses which are small-scale, low-impact:
  - (1) Any use permitted under Section 166.050(B);
  - (2) Manufacturing of industrial and commercial machinery (35);
  - (3) Manufacturing of transportation equipment (37);
- (C) Any other industrial use, where the buildings do not exceed 40,000 square feet of floor space provided that:
  - (1) The use is small in size and low impact; or
  - (2) The use is significantly dependent upon a specific resource located on agricultural or forest land; and
  - (3) The use will not have adverse impacts on surrounding farm and forest activities; and
  - (4) The new use will not exceed the capacity of water and sewer service available to the site on December 5, 1994, or if such services are not available to the site, the capacity of the site itself to provide adequate water and absorb waste water.

### Appendix 1

#### Fort Hill Unincorporated Community Industrial Properties Inventory

May, 2005

Number	Tax Map ID	Location	Uses	Size (acres ±)	Bldg. Size (sq. ft.)
1	6.7.9.500	No address	Vacant	3.33	Vacant
2	6.7.9.C.100	No Address	Mill Site (Saw Mill)	23.8	118,500±
3	6.7.9.C.200	No Address	Vacant	1.56	Vacant
4	6.7.9.C.300	No Address	Mill Site (Saw Mill)	2.52	Railroad Tracks
5	6.7.9.C.400	8885 Fort Hill Road	Residential, Saw Mill	1.29	1941 1,505 Dwelling, 288 Building
6	6.7.9.C.500	No Address	Mill Site (Saw Mill)	0.33	Vacant
7	6.7.9.C.900	No Address	Vacant	2.50	Railroad Tracks
8	6.7.9.C.1100	No Address	Mill Site (Saw Mill)	1.58	Vacant

This table was created using Polk County Tax Assessors Tax Maps. Each tax lot should not be inferred to be a separate lawfully created lot or parcel. The deed to the subject property describes, in the legal description, how many lots or parcels comprise the subject property. The legal status of the lots or parcels described in a deed can be determined by evaluating the land-use applications made through the Polk County Planning Division and the deed history for the subject property.



**Appendix 2**  
**Grand Ronde Unincorporated Community Heavy Industrial Properties Inventory**  
**May, 2005**

Number	Tax Map ID	Location	Uses	Size (acres ±)	Bldg. Size (sq. ft.)
1	6.8.11.700	No Address	Billboards	0.53	2 Billboards
2	6.8.11.800	29695 Salmon River Highway	Residential, Mill Site	41.71	696 Dwelling, 600 Dwelling, 600 Dwelling
3	6.8.11.2000	No Address	Vacant	2.26	Railroad Tracks
4	6.8.11.D.500	No Address	Vacant	0.80	Vacant
5	6.8.11.D.600	29395 Salmon River Highway	Residential, Mill Site	6.40	530 Dwelling, 864 Building, 3,192 Building
6	6.8.11.D.700	No Address	Mill Site	0.60	Vacant
7	6.8.11.D.800	No Address	Mill Site	0.36	Vacant
8	6.8.12.C.402	28925 Salmon River Highway	Mill Site (Veneer)	6.76	44,000±
9	6.8.12.C.405	No Address	Mill Site (Veneer)	5.17	Vacant
10	6.8.12.C.409	No Address	Mill Site (Veneer)	8.32	Vacant
11	6.8.12.C.701	No Address	Vacant	4.08	Railroad Tracks

This table was created using Polk County Tax Assessors Tax Maps. Each tax lot should not be inferred to be a separate lawfully created lot or parcel. The deed to the subject property describes, in the legal description, how many lots or parcels comprise the subject property. The legal status of the lots or parcels described in a deed can be determined by evaluating the land-use applications made through the Polk County Planning Division and the deed history for the subject property.

## **CHAPTER 170**

### **PUBLIC ZONES**

- 170.005. Transportation Improvements
- 170.010. PA, Public Amusement and Recreation Zone, Use
- 170.020. PC, Public and Private Cemeteries Zone, Use
- 170.030. PE, Public and Private Educational Facilities Zone, Use
- 170.040. PH, Public and Private Hospitals, Use
- 170.050. PP, Public Park Zone, Use
- 170.060. PS, Public Service Zone, Use
- 170.065. Conditional Uses
- 170.070. Abandoning Use: Transfer of Ownership
- 170.080. Changing Use

**170.005. TRANSPORTATION IMPROVEMENTS.** Transportation Improvements are permitted within any Public Zone [Amended by Ordinance #01-01, dated November 14, 2001.]

**170.010. PA, PUBLIC AMUSEMENT AND RECREATION ZONE. USE.** Within any PA, Public Amusement and Recreation Zone, no building, structure, or premises shall be used, arranged, or designed to be used, erected, structurally altered, or enlarged except for one or more of the following uses:

- (A) Airport
- (B) Amusement park
- (C) Armory
- (D) Auditorium
- (E) Ball park
- (F) Dwelling for the caretaker or watchman; or mobile home
- (G) Exposition
- (H) Fairground
- (I) Golf course
- (J) Military training facilities
- (K) Race tracks
- (L) Stadium
- (M) Stock show
- (N) Zoo
- (O) When authorized under the procedure provided for conditional uses, a recreational vehicle park may be allowed, if the location is (1) within an urban growth boundary, or (2) within a rural community center.
- (P) Marina or boat club.
- (Q) Eating places and / or drinking places where alcoholic beverages may or may not be served, accessory to a permitted non-residential use identified in this section, subject to:
  - (1) The commercial use within an unincorporated community shall be an area within a building or buildings not to exceed 4,000 square feet of floor space. The floor area calculation does not include outdoor storage areas. Expansion beyond the building size limitation shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance,
  - (2) The commercial use outside an urban growth boundary and outside an unincorporated community shall use an area in a building or buildings less than 3,950 square feet (the floor area calculation does not include outdoor storage areas), and
    - (a) Expansion beyond the building size limitation shall require a Comprehensive Plan Amendment in the form of an exception to Statewide Planning Goal 14 as provided in the Zoning Ordinance and pursuant to ORS 197.732, and
    - (b) Expansion beyond the building size limitation shall show that the use will not have adverse impacts on surrounding farm and forest activities or exceed the capacity of the site itself to provide adequate water and absorb wastewater.

[Amended by Ordinance 91-15, dated July 24, 1991.] [Amended by Ordinance 96-3, dated June 5, 1996. (P)] [Amended by Ordinance 02-02, dated July 3, 2002 (Q)]

**170.020. PC, PUBLIC AND PRIVATE CEMETERIES ZONE. USE.** Within any PC, Public and Private Cemeteries Zone, no building, structure, or premises shall be used, arranged or designed to be used, erected, structurally altered, or enlarged except for one or more following uses:

- (A) Cemetery
- (B) Dwelling for the caretaker or watchman

When authorized under the procedure provided for conditional uses crematoriums and mausoleums shall be permitted in a PC, Public and Private Cemeteries, Zone.

**170.030. PE, PUBLIC AND PRIVATE EDUCATIONAL FACILITIES ZONE. USE.** Within any PE, Public and Private Educational Facilities Zone, no building, structure, or premises shall be used, arranged, or designed to be used, erected, structurally altered or enlarged except for one or more of the following uses:

- (A) School
- (B) Educational institution
- (C) School or institution for the handicapped, provided it is non-residential
- (D) Dwelling for the caretaker or watchman or housing for staff
- (E) Dwelling, mobile home, or dormitory for students and/or faculty
- (F) Eating places and / or drinking places where alcoholic beverages may or may not be served, accessory to a permitted non-residential use identified in this section, subject to:
  - (1) The commercial use within an unincorporated community shall be an area within a building or buildings not to exceed 4,000 square feet of floor space. The floor area calculation does not include outdoor storage areas. Expansion beyond the building size limitation shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.
  - (2) The commercial use outside an urban growth boundary and outside an unincorporated community shall use an area in a building or buildings less than 3,950 square feet (the floor area calculation does not include outdoor storage areas), and
    - (a) Expansion beyond the building size limitation shall require a Comprehensive Plan Amendment in the form of an exception to Statewide Planning Goal 14 as provided in the Zoning Ordinance and pursuant to ORS 197.732, and
    - (b) Expansion beyond the building size limitation shall show that the use will not have adverse impacts on surrounding farm and forest activities or exceed the capacity of the site itself to provide adequate water and absorb wastewater.

[Subsection (E) adopted by Ordinance #219, dated September 22, 1978.] [Subsection (F) adopted by Ordinance #02-02, dated July 3, 2002.]

**170.040. PH, PUBLIC AND PRIVATE HOSPITALS. USE.** Within any PH, Public and Private Hospitals Zone, no building, structure, or premises shall be used, arranged, or designed to be used, erected, structurally altered, or enlarged except for one or more of the following uses:

- (A) Penal institution
- (B) Reformatory

- (C) Detention and correctional home, institution or school
- (D) Hospital and institution for the mentally retarded
- (E) Hospital
- (F) Medical and dental clinic
- (G) Dwelling for the caretaker or watchman or housing for staff
- (H) Residential school for the handicapped
- (I) Eating places and / or drinking places where alcoholic beverages may or may not be served, accessory to a permitted non-residential use identified in this section, subject to:
  - (1) The commercial use within an unincorporated community shall be an area within a building or buildings not to exceed 4,000 square feet of floor space. The floor area calculation does not include outdoor storage areas. Expansion beyond the building size limitation shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.
  - (2) The commercial use outside an urban growth boundary and outside an unincorporated community shall use an area in a building or buildings less than 3,950 square feet (the floor area calculation does not include outdoor storage areas), and
    - (a) Expansion beyond the building size limitation shall require a Comprehensive Plan Amendment in the form of an exception to Statewide Planning Goal 14 as provided in the Zoning Ordinance and pursuant to ORS 197.732, and
    - (b) Expansion beyond the building size limitation shall show that the use will not have adverse impacts on surrounding farm and forest activities or exceed the capacity of the site itself to provide adequate water and absorb wastewater.

[Amended by Ordinance 02-02, dated July 3, 2002 (I)]

**170.050. PP, PUBLIC PARK ZONE. USE.** Within any PP, Public Park Zone, no building, structure, or premises shall be used arranged, or designed to be used, erected, structurally altered, or enlarged except for one or more of the following uses:

- (A) Public park (non-commercial)
- (B) Public playground (non-commercial)
- (C) Parkway
- (D) Municipal Golf Course
- (E) Dwelling for the caretaker or watchman
- (F) Eating places and / or drinking places where alcoholic beverages may or may not be served, accessory to a permitted non-residential use identified in this section, subject to:
  - (1) The commercial use within an unincorporated community shall be an area within a building or buildings not to exceed 4,000 square feet of floor space. The floor area calculation does not include outdoor storage areas. Expansion beyond the building size limitation shall require a Comprehensive Plan Amendment as specified in Chapter 115 of the Zoning Ordinance.
  - (2) The commercial use outside an urban growth boundary and outside an unincorporated community shall use an area in a building or buildings less than

3,950 square feet (the floor area calculation does not include outdoor storage areas), and

- (a) Expansion beyond the building size limitation shall require a Comprehensive Plan Amendment in the form of an exception to Statewide Planning Goal 14 as provided in the Zoning Ordinance and pursuant to ORS 197.732, and
- (b) Expansion beyond the building size limitation shall show that the use will not have adverse impacts on surrounding farm and forest activities or exceed the capacity of the site itself to provide adequate water and absorb wastewater.

[Amended by Ordinance 02-02, dated July 3, 2002 (F)]

**170.060. PS, PUBLIC SERVICE ZONE. USE.** Within any PS, Public Service Zone, no building, structure, or premises shall be used, arranged, or designed to be used, erected, structurally altered or enlarged except for one or more of the following uses:

- (A) Municipal or government service building, structure and use, i.e., reservoir, water tower, pump station, sewage treatment plant, land fill operation, bus equipment, parking, servicing or repairing
- (B) Dwelling for the caretaker or watchman [Amended by Ordinance #113, dated January 22, 1974.]

**170.065. CONDITIONAL USES.**

- (A) Commercial utilities for the purpose of generating power for public use by sale, including but not limited to turbine, thermonuclear, geothermal, hydro-electric installations and transformer stations, electric transmission lines and substations owned by the utility.
- (B) Public or private solid waste disposal site, solid waste transfer facility, sanitary land fill (see Chapter 120.300).
- (C) Television, microwave, radio, and communication towers and facilities, as provided in Section 112.135. [Amended by Ordinance 01-3]

**170.070. ABANDONING USE: TRANSFER OF OWNERSHIP.** Whenever the existing use of any Public Zone, or a part of any such zone, is abandoned or the property transferred to private ownership for different use, the Planning Commission shall recommend to the Board of Commissioners appropriate rezoning for any such area. [Amended by Ordinance #96-3, dated June 5, 1996.]

**170.080. CHANGING USE.** Any area shown on the official zoning map as a park, playground, cemetery, ball park, fairgrounds, airport, school or other public or semi-public area, shall not be used for any other purpose than that for which such area is used at the effective date of the Polk County Zoning Ordinance, and whenever the use of such an area is discontinued or proposed to be changed, the Planning Commission shall recommend to the Board of Commissioners appropriate rezoning for any such area. [Amended by Ordinance #89-17, dated December 6, 1989.]

## **CHAPTER 173**

### **GREENWAY MANAGEMENT OVERLAY (GM) ZONE**

- 173.010. Purpose
- 173.020 Application of the Overlay Zone
- 173.030. Site Development Requirements
- 173.040. Permitted Uses
- 173.050. Conditional Uses
- 173.060. Conditions
- 173.070. Notification

**173.010. PURPOSE.** The purpose of the Greenway Management Overlay Zone (GM) is the following:

- (A) To protect the natural, scenic and recreation qualities of lands along the Willamette River in Polk County;
- (B) To preserve and allow for the restoration of historical sites, structures, and facilities along the Willamette River;
- (C) To implement the goals and policies of the State of Oregon's Willamette River Greenway Program;
- (D) To implement the goals and policies of Polk County's Comprehensive Plan;
- (E) To establish standards and requirements for the use of lands within the Willamette River Greenway in Polk County; and
- (F) To provide for the review of any intensification of use, change of use, or development on properties located within the Willamette River Greenway of Polk County.

**173.020. APPLICATION OF THE OVERLAY ZONE.**

- (A) The provisions of this Chapter shall apply to all lands within the Willamette River Greenway of Polk County.
- (B) The provisions of this Chapter shall apply to lands within the Willamette River Greenway of Polk County in addition to any standards and requirements of the Flood Plain Overlay Zone that may apply to such lands. Nothing in this Chapter shall be construed to constitute a waiver or suspension of the provisions of any primary zone or Flood Plain Overlay Zone within the Willamette River Greenway. In the case of any conflict between the provisions of this Chapter and the provisions of any other chapter of this Ordinance, the more restrictive provisions shall apply.

**173.030. SITE DEVELOPMENT REQUIREMENTS.** For any lot or parcel located within the Willamette River Greenway of Polk County the requirements for the following shall be determined by the primary zone except when such requirements are specifically modified by this Chapter.

- (A) Minimum area;
- (B) Maximum density;
- (C) Front yard;
- (D) Side yard;
- (E) Rear yard;
- (F) Building height;
- (G) Lot or parcel coverage;
- (H) Off-street parking and loading; and
- (I) Signs



**173.040. PERMITTED USES.** Within any Greenway Management Zone, no structure shall be used, constructed, erected, or altered and no lot or parcel shall be used or occupied for any purposes except the following:

- (A) Customary dredging and channel maintenance conducted under permit from the State of Oregon;
- (B) Seasonal increases in gravel operations as provided under permit from the State of Oregon;
- (C) The placing by a public agency of signs, markers, aids, etc., to serve the public;
- (D) Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses of public lands, except that a substantial increase in the level of development of existing public recreational, scenic, historical, or natural uses on public lands shall require review as provided by this Chapter;
- (E) Erosion control operations not requiring a permit from the Division of State Lands;
- (F) Agriculture as defined in ORS 215.203 (2);
- (G) Reasonable emergency procedures necessary for the safety or protection of property;
- (H) Maintenance and repair usual and necessary for the continuance of an existing use;
- (I) Landscaping, construction of driveways, repair or maintenance of existing structures and the construction or placement of accessory structures other than guest houses, provided that such activities are conducted in conjunction with uses already existing on the same property and that they are accomplished in a manner compatible with the purpose of this Chapter;
- (J) The propagation of timber or the cutting of timber which is done for public safety or personal non-commercial use or which does not require a permit in accordance with the Forest Practices Act;
- (K) Uses legally existing on the effective date of this Ordinance; any change or intensification of such use, however, shall require review as provided by this Ordinance.

**173.050. CONDITIONAL USES.**

- (A) All uses permitted in the primary zone but not permitted in the Greenway Management Zone, and all partitions and subdivisions, shall be considered conditional uses. Such uses shall be subject to the general provisions of Chapter 119 of this Ordinance, "Conditional Uses."
- (B) An application for a conditional use in the Greenway shall be approved by the Hearings Officer or the Planning Director only if the proposed activity is found to be in substantial compliance with a majority of the following applicable criteria:
  - (1) Agricultural lands will be preserved and maintained for farm use.
  - (2) Significant fish and wildlife habitats will be protected.
  - (3) Identified natural and scenic areas, viewpoints and vistas will be preserved.
  - (4) Areas of ecological, scientific, historical or archeological significance will be protected, preserved, restored, or enhanced to the maximum extent possible.

- (5) The quality of the air, water and land resources in and adjacent to the Greenway will be preserved to the maximum possible extent in the development, change of use, or intensification of use of land within the Greenway Management Zone.
- (6) Areas of annual flooding, floodplain, and wetlands will be preserved in their natural state to the maximum possible extent to protect water retention, overflow, and natural functions.
- (7) The natural vegetative fringe along the river will be maintained to the maximum extent that is practical in order to assure scenic quality, protection of wildlife, protection from erosion, and screening the uses from the river.
- (8) The harvesting of timber will be done in a manner which will ensure that wildlife habitat and natural scenic qualities of the Greenway be maintained or will be restored.
- (9) The proposed development, change, or intensification of use is compatible with the site, and the surrounding area.
- (10) The proposed development, change or intensification of use, if located within 50 feet of the ordinary high water line, is a water-dependent use.
- (11) Areas considered for development, change or intensification of use which have erosion potential will be protected from loss by appropriate means which are compatible with the provisions of the Greenway Management Zone.
- (12) Extraction of aggregate deposits will be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, guarantee necessary reclamation.
- (13) Any public recreational use or facility will not substantially interfere with the long-term capacity of the land for farm use.
- (14) Any public recreational use or facility will be developed, maintained, and operated in such a way as to minimize adverse affects on adjacent properties.
- (15) Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, will be provided to the maximum extent practicable.
- (16) A minimum building setback line of 50 feet from the ordinary high water line of the Willamette River will be provided except for non-residential structures provided in conjunction with farm use and except for buildings and structures in conjunction with a water-related or a water dependent use
- (17) Necessary public access will be provided to and along the Willamette River by appropriate legal means for all development except development related to agriculture or development of single-family residences and accessory structure when such development occurs for the personal use of the property owner.
- (18) The development will be located away from the river to the greatest possible extent.
- (19) The development, change, or intensification of use provides the maximum possible landscaped area, open space, or vegetation between the activity and the river. [AMENDED BY ORDINANCE #88-21, DATED NOVEMBER 30, 1988.]

**173.060. CONDITIONS.** The Planning Director or Hearings Officer, shall have the power to impose, conditions, restrictions, or limitations upon a conditional use in the Greenway Management Zone if such conditions, restrictions, or limitations are found to be necessary in order to accomplish one or more of the following:

- (A) To protect the public health, safety, or welfare;
- (B) To protect the health or safety of any person in the vicinity of the proposed conditional use;
- (C) To protect property or improvements in the vicinity of the proposed conditional use;  
or
- (D) To accomplish the purpose of the Greenway Management Zone.

**173.070. NOTIFICATION.** Notification regarding requests for conditional uses in the Greenway Management Zone will be done in accordance with the procedures established for all conditional uses in Chapters 119 and 111 of this Ordinance. In addition, notification regarding such requests shall be sent to the Oregon State Department of Transportation and to the Polk County Soil and Water Conservation District. Notification of the Oregon State Parks Department shall be given by certified mail, return receipt requests, and shall be sent within seven days of the receipt of the application for the conditional use. Notification of the Polk County Soil and Water Conservation District shall be given in accordance with the notification procedures established for conditional uses in this Ordinance.

## **CHAPTER 174**

### **MINERAL AND AGGREGATE OVERLAY (MA) ZONE**

- 174.010. Purpose
- 174.015. Definitions
- 174.020. Application of Overlay Zone
- 174.030. Exemptions
- 174.040. Pre-Existing and Nonconforming Uses
- 174.050. Permitted Uses - Extraction Area
- 174.060. Development Standards - Extraction Area
- 174.070. Application Process
- 174.080. Site Plan Approval
- 174.090. Impact Area - Uses and Standards
- 174.100. Designation of Overlay Zone
- 174.110. Determination of Significance
- 174.120. Termination of Overlay Zone

**174.010. PURPOSE.** The purpose and intent of the Mineral and Aggregate Overlay (MA) Zone is:

- (A) To allow the development and use of mineral and aggregate resources;
- (B) To provide uniform standards for extraction and processing of mineral and aggregate resources;
- (C) To balance conflicts between mining operations and new and existing surrounding conflicting uses;
- (D) To ensure the rehabilitation and restoration of mining sites; and
- (E) To protect mineral and aggregate resources for future use consistent with Comprehensive Plan goals and policies and Statewide Planning Goal 5.

**174.015. DEFINITIONS.**

CONFLICTING USE. As used under OAR 660-16-005, a conflicting use is a use which, if allowed, could negatively impact a Goal 5 resource site. It is the responsibility of the County to identify conflicts with significant Goal 5 resource sites. This is done primarily by examining the uses allowed in the underlying zoning districts in which the resource site is located.

ESEE ANALYSIS. Refers to the County's response to the requirements in OAR 660-16-005 and 660-16-010 which direct local jurisdictions to analyze the Economic, Social, Environmental and Energy (ESEE) consequences of the identified conflicts with the inventoried resource sites.

It is the function of the ESEE analysis to resolve conflicts between the inventoried mineral and aggregate site(s) and any other identified conflicting uses, including those occurring as a result of any other applicable provisions in the Comprehensive Plan and this ordinance.

The ESEE analysis documents the county's decision to prohibit, restrict or fully allow conflicting uses on or near the inventoried resource site(s) is intended to serve as the County's "program to achieve the Goal" under Statewide Planning Goal 5.

The ESEE analysis:

- (A) Shall identify the resource site's Extraction and Impact Areas as defined in Section 174.015 of this Chapter; and
- (B) May describe site-specific development standards, including, but not limited to, setbacks, screening, road grading, and other requirements to protect and resolve conflicts with the inventoried resource site(s).

The ESEE analysis is referred to in this ordinance by reference under several subsections.

EXTRACTION AREA. The area within which mineral and aggregate extraction, processing and storage may take place under the provisions of this Chapter (see Appendix "A").

IMPACT AREA. An area determined on a case-by-case basis through the ESEE analysis, within which sensitive uses are limited or regulated (see Appendix "A").

MINERAL AND AGGREGATE. Includes soil, select fill, coal, clay, stone, sand, gravel, aggregate, pumice, cinders, metallic ore, and any other inorganic solid excavated from a natural deposit in the earth for commercial, industrial or constructional use.

MINING. All or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, blasting, processing, surface impacts of underground

mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads.

**PROCESSING.** Includes, but is not limited to, extraction, washing, crushing, milling, screening, handling, conveying, batching and blending into asphalt or portland cement, and transportation of mineral and aggregate materials.

**SENSITIVE USE.** A use or structure considered sensitive to dust, odor, vibration and/or noise, such as a residence, school, park, or hospital. Industrial, agricultural and forestry activities are not sensitive uses unless the activity includes an accessory residential use.

**SIGNIFICANT RESOURCE SITE.** Includes resource sites which meet or exceed location, quality and quantity criteria set forth under Section 174.110 of this Chapter and are so designated by the County through a legislative or quasi-judicial process.

**174.020. APPLICATION OF OVERLAY ZONE.** The provisions of this Chapter shall apply to all lands zoned Mineral and Aggregate Overlay. Nothing in this Chapter shall constitute a waiver or suspension of the provisions of any underlying zone or concurrent overlay zone. Any conflicts between the provisions of this Chapter and the provisions of other chapters of this Ordinance, Comprehensive Plan Goals and Policies and the Statewide Planning Goals shall be resolved through the ESEE analysis.

The Mineral and Aggregate Overlay Zone consists of two distinct areas, the Extraction area and the Impact area.

- (A) **EXTRACTION AREA.** The Mineral and Aggregate Extraction Area shall be applied to any site which has been identified as a significant resource area (3A or 3C) in the Comprehensive Plan Inventory or through the MA Overlay Zone designation procedure, outlined in Section 174.100. The area may consist of one or more taxlots or portion(s) of single taxlots, and may be applied to contiguous properties under different ownership. The size of the Extraction Area shall be determined by the ESEE, but there shall be a minimum distance of 750' between any existing Sensitive Use to the extraction area boundary.

This distance may be decreased subject to a written agreement between the owner of the Sensitive Use and the owner or operator of the mining operation. This agreement shall be notarized and recorded on the property deed. However, in no case shall the Extraction Area boundary be less than 100 feet from the Sensitive Use (see example in Appendix "A").

- (B) **IMPACT AREA.** The Mineral and Aggregate Impact Area shall be applied to properties or portions of properties adjacent to and immediately surrounding an Extraction Area. The width of the Impact Area shall be determined through the ESEE analysis prior to application of the MA Overlay Zone, based on the type of mineral or aggregate resource to be extracted as well as physical features of the area which may cause a larger or smaller area to be affected. The minimum width of the impact area shall be 750 feet from the Extraction Area boundary unless a reduced distance is justified, based on the ESEE analysis (see example in Appendix "A").

**174.030. EXEMPTIONS.** The following activities are exempt from the requirements of this Chapter, in accordance with ORS 517.750 (15) and ORS 215.298. Operators or owners claiming any of these exemptions may be asked to establish the validity of the exemption.

- (A) In zones qualified under ORS 215 and Statewide Planning Goal 3, mining less than 1000 cubic yards of material or excavation preparatory to mining of a surface area of

less than one acre. In other zones, mining less than 5000 cubic yards of material or activities affecting less than one acre of land within a period of 12 consecutive calendar months.

- (B) Excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant of a parcel for the primary purpose of reconstruction or maintenance of on-site access roads.
- (C) Excavation or grading operations conducted in the process of farming, forestry or cemetery operations.
- (D) On-site road construction or other on-site construction or nonsurface impacts of underground mines.

**174.040. PRE-EXISTING AND NONCONFORMING USES.** Mineral and aggregate sites which have a valid DOGAMI and/or county permit on the effective date of this Chapter all be considered pre-existing sites. Pre-existing sites may continue to operate under the standards of Section 120.400. However, any expansion of a mineral and aggregate activity on a pre-existing site beyond the boundaries of the surface mining area covered by the DOGAMI or county permit, or any activity requiring a new DOGAMI or county permit, shall require a new Conditional Use permit in accordance with Section 119 of this Ordinance.

The lawful use of any building, structure or land on the effective date of this Chapter shall be considered a nonconforming use. Any enlargement, alteration or other change in use, or cessation of the nonconforming use shall be in accordance with Section 114 of the Polk County Zoning Ordinance and the requirements of this Chapter.

**174.050. PERMITTED USES - EXTRACTION AREAS.** Any permitted use or conditional use allowed in the underlying zone, except Sensitive Uses as defined in Section 174.015, may be permitted in the MA Extraction Area subject to the underlying zone criteria and as otherwise authorized by the ESEE analysis.

The following uses may be permitted in the MA Extraction Area subject to Site Plan approval in accordance with Section 174.080:

- (A) Mining or extraction of rock, clay, soil, sand, gravel, or other mineral or aggregate material.
- (B) Stockpiling and storage of mineral and aggregate materials.
- (C) Processing of:
  - (1) Materials, including crushing, washing, milling, screening, sizing, batching of portland cement; and
  - (2) Batching or blending of mineral and aggregate into asphaltic concrete, except within 2 miles of a planted commercial vineyard.
- (D) Buildings, structures and equipment directly related to the above permitted uses.
- (E) One temporary manufactured home for a caretaker or watchman in conjunction with a mineral and aggregate activity. The manufactured home shall meet the setbacks of the underlying zone, and shall be removed when the aggregate operation ceases, unless allowed in accordance with the requirements of the underlying zone.
- (F) Storage of transportation equipment or storage of machinery or equipment used in conjunction with the on-site mineral and aggregate activity.

- (G) Sale of products extracted and processed on-site from a mineral and aggregate operation.

**174.060. DEVELOPMENT STANDARDS - EXTRACTION AREA.** A development plan shall be submitted to the County Planning Department for any activity allowed in Section 174.050. The development plan shall provide the necessary documents, permits, and maps to demonstrate compliance with the following standards and requirements:

(A) Screening and Fencing

- (1) An earthen berm or vegetative screening which, at maturity, shall be established to fully screen the view of any mineral and aggregate activity and all related equipment from any public road, public park, or residence within 1000 feet. Where screening is shown through the ESEE analysis to be unnecessary because of topography or other features of the site, the screening requirements may be waived by the Planning Director.
- (2) Fencing or approved barrier type shrubs (e.g., blackberries) shall be required to eliminate any safety hazards that use of the site may create. Fencing, if used, shall be of cyclone type and a minimum of 6 feet high.

(B) Access

- (1) All private access roads from mineral and aggregate sites to public roads shall be paved or graveled. If graveled, the access road shall be graded and maintained as needed to minimize dust.
- (2) Improvement or fees in lieu of improvements of public roads, County roads and state highways may be required when the Planning Director or hearings body, in consultation with the appropriate road authority, determines that the increased traffic on the roads resulting from the surface mining activity will damage the road sufficiently to warrant off-site improvement. If the fee in lieu of improvements is required, the amount of the fee shall reflect the applicant's pro-rata share of the actual total cost of the capital expenditure of the road construction or reconstruction project necessitated by and benefiting the surface mining operation. Discounts for taxes and fees already paid for such improvements, such as road taxes for vehicles and for property already dedicated or improved, shall be applied.
- (3) Any internal road at a mineral and aggregate site within 250 feet of a Sensitive Use shall be paved or graveled, and shall be maintained at all times to reduce noise and dust in accordance with County or DEQ standards specified in the ESEE analysis.
- (4) An effective vehicular barrier or gate shall be required at all access points to the site.

(C) Hours of Operation

- (1) Drilling and blasting shall be restricted to the hours of 9:00 am to 5:00 pm, Monday through Friday. No blasting or drilling shall occur on Saturdays, Sundays, or any recognized legal holiday.
- (2) Mineral and aggregate extraction, processing and equipment operation located within 750 feet or as established by the ESEE analysis of any Sensitive Use is restricted to the hours of 7:00 am to 6:00 pm Monday through Friday, and 8:00



am to 5:00 pm Saturday. All other sites are limited to operating hours of 7:00 am to 10:00 pm Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.

- (3) An increase in operating time limits shall be granted for all activities except blasting if:
  - (a) There are no Sensitive Uses within 750 feet of the mining site; or if
  - (b) There are Sensitive Uses within 750 feet, the increased activity will not exceed noise standards established by the County or DEQ; and
  - (c) The operator shall notify the owners and occupants of all Sensitive Uses within 750 feet or the distance established by the ESEE analysis by first class mail which is mailed at least 96 hours prior to the date and approximate time of the activity for which the operator receives an exception.
- (4) The operating time limits may be waived in the case of an emergency as determined by the County governing body.

(D) Environmental Standards

- (1) DEQ Standards. Mineral and aggregate extraction, processing and other operations shall conform to the all applicable environmental standards of the County and State. Any crusher, asphalt, concrete, ready-mix or other machinery shall submit an approved DEQ permit(s) at the time of development plan application.
- (2) DOGAMI Standards. Mineral and aggregate extraction, processing, other operations and site reclamation shall conform to the requirements of the Department of Geology and Mineral Industries (DOGAMI). The County will not recognize a Department of Geology and Mineral Industries Mined Land Reclamation (MLR) permit until County approval of the mining application under this Chapter has been issued.

(E) Equipment Removal. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.

(F) Performance Agreement.

- (1) The operator of a mineral and aggregate site shall provide the County sufficient evidence on an annual basis that the operator has in full force and effect with DOGAMI the bond or security deposit required by ORS 517.810 to assure conformance with the State-required reclamation plan.
- (2) Mineral and aggregate operations shall be insured for \$500,000.00 against liability and tort arising from production activities or operations incidental thereto conducted or carried on by virtue of any law, ordinance or condition, and such insurance shall be kept in full force and effect during the period of such operations. A prepaid policy of such insurance which is effective for a period of one year shall be deposited with the County prior to commencing any mineral and aggregate operations. The owner or operator shall annually provide the County with evidence that the policy has been renewed.

(G) Significant Resource Area Protection. Conflicts between inventoried mineral and aggregate resource sites and significant fish and wildlife habitat, riparian areas and

wetlands, and ecologically and scientifically significant natural areas protected by the Significant Resource Areas Overlay Zone in accordance with Chapter 182 of this Ordinance and identified on the Significant Resource Areas Map, shall be balanced as determined in by the site-specific ESEE analysis.

- (H) Site Reclamation. A reclamation plan shall be submitted concurrently with the development plan required in Section 174.070. The reclamation plan shall include a schedule showing the planned order and sequence of reclamation, shall assure that the site will be restored or rehabilitated for the land uses specified in the underlying zone consistent with the site specific Goal 5 program, and shall meet DOGAMI requirements.
- (I) Water Management.
  - (1) All surface water shall be managed to provide protection against sediment discharge into streams, rivers and lakes. Existing natural drainages on the site shall not be changed in a manner which substantially interferes with drainage patterns on adjoining property, or which drains waste materials or waste water onto adjoining property or perennial streams. Where the mineral and aggregate operation abuts a lake, river, or perennial stream, all existing vegetation within 100 feet of the mean high water mark shall be retained unless otherwise authorized in accordance with the ESEE analysis and the development plan.
  - (2) All water required for the mineral and aggregate operation, including dust control, landscaping and processing of material, shall be legally available and appropriated for such use. The applicant shall provide written documentation of water rights from the State Department of Water Resources and/or local water district prior to any site operation.
- (J) Flood Plain. Any MA Extraction Area located wholly or in part in a Special Flood Hazard Area as shown on the Federal Insurance Rate Map (FIRM) shall receive approval in accordance with Section 178 of this Ordinance prior to any site operation.

**174.070. APPLICATION PROCESS.** Final development plan approval is required prior to the beginning of any mineral and aggregate activity listed in Section 174.050 (A), and before any expansion of a pre-existing or nonconforming site. The applicant shall provide the following at the time of application:

- (A) A development plan demonstrating that the development standards required in Section 174.060 can be met, including:
  - (1) Screening and Fencing;
  - (2) Access;
  - (3) Hours of Operation;
  - (4) Environmental Standards;
  - (5) Equipment Removal;
  - (6) Performance Agreement;
  - (7) Significant Resource Area Protection;
  - (8) Site Reclamation;
  - (9) Water Management; and

(10) Flood Plain.

- (B) A map or diagram showing the location and setbacks of all proposed mineral and aggregate activities and operations and the location and distance to all Sensitive Uses within the Impact Area.

**174.080. SITE PLAN APPROVAL.** The Planning Director shall review the completed application and shall grant or deny approval based on the ability of the proposal to conform with the ESEE analysis for the site and the development standards set forth in Section 174.060. The applicant may be required to make such modifications in the development plan as are necessary to meet the requirements of the ESEE analysis and development standards. Approval may only be granted to sites which are inventoried 3A or 3C under Statewide Planning Goal 5 and the Comprehensive Plan.

**174.090. IMPACT AREA - USES AND STANDARDS.** Any permitted use or conditional use allowed in the underlying zone, except Sensitive Uses, may be allowed in the MA Impact Area subject to the underlying zone criteria and as otherwise authorized by the ESEE analysis.

- (A) No new Sensitive Use shall be located within the Impact Area determined through the ESEE analysis unless agreed upon in writing by the owner of the Sensitive Use and the owner or operator of the mining operation. This agreement shall be notarized and recorded on the property deed. However, in no case shall the Sensitive Use be allowed less than 100 feet from the MA Extraction Area boundary;
- (B) The owner of a proposed new Sensitive Use shall sign and record in the county Deed Records an Aggregate Operation Easement, Waiver of Remonstrance and Indemnity which shall state that if the owner (or successors) of the new noise sensitive use object to the allowed mineral and aggregate activities on the adjacent MA Extraction Area, the owner (or successors) of the new sensitive use shall indemnify the County and the resource owner and operator against all lost cost and expense including attorney's fees arising out of any remonstrance proceeding. The Aggregate Operation Easement, Waiver of Remonstrance and Indemnity shall run with the land, until such time as the operation ends and the site has been reclaimed in accordance with the approved reclamation plan. It shall be a requirement of the mineral and aggregate operator to release any restrictions, easements or waivers of remonstrance and indemnity;
- (C) The use will not interfere with or cause any adverse impact on a mineral and aggregate activity allowed under Section 174.050; and
- (D) The use will not prevent the adjacent mineral and aggregate activity from meeting the standards and conditions set forth in Section 174.060.

**174.100. DESIGNATION OF OVERLAY ZONE.** The Mineral and Aggregate Overlay Zone may be applied through the initial legislative planning process, the plan update process or through individual application for a comprehensive plan amendment and zone change. The boundary of the Overlay Zone shall be all property contained in the Mineral and Aggregate Extraction Area and Mineral and Aggregate Impact Area.

**174.110. DETERMINATION OF SIGNIFICANCE.** Only sites deemed significant shall be zoned Mineral and Aggregate (MA) Overlay. Mining and processing activities at sites not zoned MA may be allowed after conditional use approval under the criteria of Section 120.400. All sites which have not been evaluated for significance shall be classified "1-B" on the County inventory for purposes of Goal 5. All Polk County sites listed in the DOGAMI report dated October, 1981 (Open File Report 0-81-7) shall be incorporated into the County inventory and designated 1-B, pending case-by-case determinations of significance. The following criteria shall be used in determining significance:

- (A) Significant Aggregate Resources. An aggregate resource shall have at least 250,000 cubic yards of reserve and meet at least two of the following minimum requirements:
  - (1) Abrasion: Loss of not more than 35% by weight;
  - (2) Oregon Air Degradation: Loss of not more than 35% by weight;
  - (3) Sodium Sulphate Soundness: Not more than 17% by weight.
- (B) Other mineral resources. Significance of non-aggregate resources shall be determined on a case-by-case basis after consultation with DOGAMI.

**174.120. TERMINATION OF MA ZONE.** The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the zone change process when:

- (A) The owner of the Mineral and Aggregate resource site submits evidence showing a significant resource no longer exists on the site;
- (B) The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and
- (C) The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.

## CHAPTER 175

### MINERAL EXTRACTION (ME) ZONING DISTRICT

175.010.	Purpose
175.020.	Uses
175.030.	Standards

**175.010. PURPOSE.** The purpose and intent of the ME, Mineral Extraction Zone, is to identify natural mineral deposits, to provide for the extraction of these minerals, to insure the compatibility of the mining operations with adjoining uses, and to insure an adequate use and re-use of these lands.

**175.020. USES.** No building or structure or land shall be used, and no building or structure shall be erected, structurally altered, enlarged, or maintained, except for the following uses:

- (A) Extraction and processing of natural mineral deposits;
- (B) Timber raising and harvest;
- (C) Farm use;
- (D) Dwellings and accessory structures necessary to carry out the above activities.

**175.030. STANDARDS.** Within any ME Zone, the following minimum standards apply to the location of processing facilities and the mining operation;

- (A) The minimum set forth in Section 120.420 of this ordinance.
- (B) All processing facilities shall be set back at least 100 feet from any public road or zone boundary;
- (C) A plan for the re-use of the property shall be submitted to and approved by the Hearings Officer. This plan shall meet the standards of Section 120.445 of this Ordinance.

## **CHAPTER 177**

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

- 177.010. Purpose
- 177.020. Definitions
- 177.025. Authorized Uses and Development
- 177.030. Uses Permitted by Right
- 177.035. Uses Subject to Administrative Review
- 177.040. Conditional Uses
- 177.050. General Review Standards [OAR 660-006-0025 (5)]
- 177.060. Land Division Requirements [OAR 660-006-0026]
- 177.070. Standards for Dwellings
- 177.080. Authorization of location of Dwellings and Structures [OAR 660-006-0029]
- 177.090. Fire Siting Standards for Dwellings and Structures [OAR 660-006-0035]
- 177.120. Non-Remonstrance Deed Restriction
- 177.130. Prohibited Uses
- 177.140. Development Standards
- 177.150. Construction Financing
- 177.160. Nonconforming Uses
- 177.170. Height
- 177.180. Prohibited Uses
- 177.190. Development Standards
- 177.210. Period of Validity for Residential Uses
- 177.220. Period of Validity for non-Residential Uses

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

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

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

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



**177.025. AUTHORIZED USES AND DEVELOPMENT**

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

Key

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

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

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

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

- (A) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.
- (B) Farm use, as defined in ORS 215.203.
- (C) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.
- (D) Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.

- (E) Uses and activities to conserve soil, air, and water quality and to provide for and manage wildlife and fisheries resources, including, but not limited to creation, restoration, and enhancement of wetlands, fisheries, and wildlife habitat.
- (F) Additional local distribution lines within existing public rights-of-way (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g., electric distribution transformers, meter cabinets, terminal boxes, pedestals), and which provide service hookups, including water service hookups.
- (G) Temporary portable facility for the primary processing of forest products. The facility shall be removed at the conclusion of the forest operation requiring its use.
- (H) Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head as defined in ORS Chapters 517 and 520.
- (I) Exploration for mineral and aggregate resources as defined in ORS Chapter 517.
- (J) Towers and fire stations for forest fire protection.
- (K) Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- (L) Disposal site for solid waste that has been ordered established by the Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation. Such site designation shall require owner consent.
- (M) Temporary forest labor camps, without any permanent structures, limited to the duration of the forest operation requiring the use.
- (N) Uninhabitable structures accessory to fish and wildlife enhancement.
- (O) Private fee hunting or fee fishing operations without any accommodations.
- (P) Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans including public road and highway projects as described in ORS 215.213(1)(m) through (p) and ORS 215.283(1)(k) through (n).
- (Q) Destination resorts pursuant to ORS 197.435 to 197.465 and upon compliance with Statewide Planning Goal 8.
- (R) Caretaker residence for a public park or public fish hatchery.

**177.035. USES SUBJECT TO ADMINISTRATIVE REVIEW.** The following uses are permitted, subject to review and approval under the prescriptive standards specified herein and as may otherwise be indicated by federal, state and local permits or regulations. All authorized dwellings and permanent structures shall meet the standards listed in Sections 177.070 (Dwelling Standards), 177.080 (Siting Standards), 177.090 (Fire Siting Standards), and 177.100 (Setback Standards).

- (A) Single-family dwelling, as authorized under Section 177.070 of this ordinance and such accessory buildings and uses as are normally associated with a single-family dwelling.
- (B) One manufactured dwelling or the temporary residential use of an existing building in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. As used in this section, "hardship" means a medical hardship or hardships for the care of an aged or infirm person or persons. The application shall be subject to:
  - (1) The general review standards in Section 177.050,
  - (2) The hardship is certified by a licensed physician;
  - (3) The applicant agrees to renew the permit every two years.
  - (4) Conditions being imposed that require:

- (a) The manufactured dwelling or existing building converted to residential use is connected to the existing sewage disposal system, unless the Community Development Department finds the existing system to be inadequate and that it cannot be repaired or is not physically available. If the manufactured home will use a public sanitary system, such condition will not be required. Establishment of a separate sewage disposal system does not vest a right to retain the temporary dwelling after the conclusion of the hardship.
  - (b) Within 3 months of the end of the hardship, the manufactured dwelling or building converted to a temporary residential use, shall be removed, demolished, or converted to an approved nonresidential use.
  - (c) A temporary residence approved under this section is not eligible for replacement under Section 177.035 (C).
- (C) Alteration, restoration, or replacement of a lawfully established dwelling which has:
- (1) Intact exterior walls and roof structure;
  - (2) Interior plumbing, including kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  - (3) Interior wiring for interior lights;
  - (4) A heating system; and
  - (5) The dwelling to be replaced must be removed, demolished or converted to an approved non-residential use, within 3 months of the completion of the replacement dwelling.

**177.040. CONDITIONAL USES.** The following conditional uses may be allowed subject to the general review standards in Section 177.050 and subject to compliance with the procedures and criteria under Chapter 119. All authorized dwellings and permanent structures shall also meet the standards listed in Sections 177.050 (General Review Standards), 177.070 (Dwelling Standards), 177.080 (Siting Standards), 177.090 (Fire Siting Standards), and 177.100 (Setback Standards), as applicable.

- (A) Home occupations, subject to the general review standards under Section 177.050 and compliance with the following standards and conditions from ORS 215.448:
  - (1) The home occupation is operated by a resident of the property on which the business is located;
  - (2) No more than five full or part-time persons are employed by the business;
  - (3) The business is conducted within the dwelling or other buildings normally associated with the uses permitted in the zone in which the property is located;
  - (4) The business will not interfere with existing uses on nearby land or with other permitted uses.
- (B) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under 177.030 (H) (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.
- (C) Permanent facility for the primary processing of forest products.
- (D) Permanent logging equipment repair and storage.
- (E) Log scaling and weigh stations.
- (F) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation. Such site designation shall require owner consent.

- (G) Private Parks and campgrounds. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three (3) miles of an urban growth boundary unless an exception to Statewide Planning Goal 4 is approved, pursuant to ORS 197.732 and OAR Chapter 660, Division 4. For the purpose of this title, a campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site that is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. A camping site may be occupied by a tent, travel trailer, yurt, or recreational vehicle. Separate sewer, water, or electric service hookups shall not be provided to individual campsites, except that electrical service may be provided to yurts allowed by this subsection. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Campgrounds authorized by this title shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six (6) month period.)

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

- (H) Public parks including only those uses specified under OAR 660-034-0035, or OAR 660-034-0040, whichever is applicable.
- (I) Television, microwave and radio communication facilities and transmission towers, as provided in Section 112.135.
- (J) Fire stations for rural fire protection.
- (K) Power generating facilities. (Note: An exception to the statewide Forest Lands Planning Goal is required where development of the power generating facility removes more than 10 acres from use as a commercial forest operation.)
- (L) Aids to navigation and aviation.
- (M) Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
- (N) Reservoirs and water impoundments.
- (O) Firearms training facility.
- (P) Cemeteries.
- (Q) Private seasonal accommodations for fee hunting operations, subject to the following requirements:
- (1) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - (2) Only minor incidental and accessory retail sales are permitted;
  - (3) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
  - (4) Other conditions, as deemed appropriate.
- (R) New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 722.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width.
- (S) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.
- (T) Expansion of existing airports.

- (U) The following transportation improvements may be established:
- (1) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
  - (2) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
  - (3) Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
  - (4) Accessory transportation improvements for an authorized land use to provide safe and efficient access to the use. Such accessory transportation improvements are subject to the same requirements applicable to the land use to which they are accessory;
  - (5) Channelization;
  - (6) Realignment of roads;
  - (7) Replacement of an intersection with an interchange;
  - (8) Continuous median turn lane;
  - (9) New access roads or collectors consistent with OAR 660-012-0065(3)(g) (i.e., where the function of the road is to reduce local access to or local traffic on a state highway). These roads shall be limited to two travel lanes. Private access and intersections shall be limited to rural needs or provide adequate emergency access.
  - (10) Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road;
  - (11) Park and ride lots;
  - (12) Railroad mainlines and branchlines;
  - (13) Pipelines;
  - (14) Navigation channels;
  - (15) Replacement of docks and other facilities without significantly increasing the capacity of those facilities;
  - (16) Expansions or alterations of public use airports that do not permit service to a larger class of airplanes; and
  - (17) Transportation facilities, services and improvements other than those listed in this section that serve local travel needs. The travel capacity and level of service of facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the acknowledged comprehensive plan or to provide adequate emergency access.
- (V) Private accommodations for fishing occupied on a temporary basis, subject to the following requirements:
- (1) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - (2) Only minor incidental and accessory retail sales are permitted;
  - (3) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;
  - (4) Accommodations must be located within 1/4 mile of fish bearing Class I waters; and
  - (5) A governing body may impose other appropriate conditions.
- (W) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.
- (X) *Youth camp*. A youth camp may be established pursuant to the standards and limitations in OAR 660-006-0031. [Amended by Ordinance #01-10, dated November 14, 2001]

**177.050. GENERAL REVIEW STANDARDS [OAR 660-006-0025(5)].** The Planning Director or Hearings Officer shall determine that a use authorized by Section 177.035 (B) and Section 170.040 meet the following requirements:

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

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

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

and that the property is no longer subject to Oregon Statewide Planning Goal 4 (Forest Lands). The restrictive covenant shall also be irrevocable unless the land division is subsequently authorized by law or by change in Statewide Goal 4. The property owner shall also record a deed restriction in the office of the Polk County Clerk as required by Section 177.120.

- (D) *A land division to facilitate a forest practice* as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirement of subsection 177.060(A). The applicant shall provide evidence to demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum parcel size for the zone in order to conduct the forest practice. Parcels created pursuant to this subsection:
- (1) Shall not be eligible for siting a new dwelling;
  - (2) Shall not serve as the justification for the siting of a future dwelling on other parcels;
  - (3) Shall not result in a parcel of less than 35 acres, except:
    - (a) Where the purpose of the land division is to facilitate an exchange of lands involving a governmental agency, or
    - (b) Where the purpose of the land division is to allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forestland in Oregon; and
  - (4) If associated with the creation of a parcel where a dwelling is involved, shall not result in a parcel less than the minimum parcel size of the zone.
- (E) A partition plat shall be filed within two years from the effective date of preliminary approval for each parcel (Note: One year extensions may be requested prior to expiration of the approval).

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

- (A) Small Tract, Lot-of-Record Dwelling [OAR 660-06-027 (1) (a), (f), and (g)]. A dwelling may be authorized on a lot-of-record. To qualify as a lot-of-record, the parcel must meet the following criteria:
- (1) The parcel was lawfully created and was acquired and owned continuously by the present owner since prior to January 1, 1985. The owner may also qualify if the property was inherited by devise or intestate secession from a person that acquired and had owned continuously the lawfully created parcel since prior to January 1, 1985.
  - (2) Based on soil types, the tract is not capable of annually producing 5,000 cu. ft. of commercial tree species, as recognized under rules adopted under ORS 527.715 for commercial production.
  - (3) The tract is currently vacant;
  - (4) If the lot or parcel on which the dwelling will be sited was part of a tract existing on November 4, 1993 no dwelling exists on another lot or parcel that was part of that tract;
  - (5) The tract is located within 1,500 feet of a public road, as defined by ORS 368.001, that provides or will provide access to the subject tract.

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



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

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

- (B) Large Tract Forest Land Dwelling [OAR 660-006-0027(1)(c) and (6)]. A dwelling may be authorized on a tract that meets the following criteria:
- (1) The tract is at least 160 acres in size; or,
  - (2) The tract is part of one ownership, at least 200 acres in size, that may be composed of separate vacant tracts of designated forest land in Polk County or its adjacent counties. A deed restriction shall be filed for all tracts that are used to meet the acreage requirements of this subsection, pursuant to the following provisions:
    - (a) The applicant shall provide evidence that the covenants, conditions and restrictions form adopted as Exhibit "A" to OAR 660-06 has been recorded with the County Clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.
    - (b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
    - (c) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.
    - (d) Failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of the property which is subject to the covenants, conditions and restrictions required by this section.
    - (e) The Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the County deed records pursuant to this section and a map or other record depicting tracts which do not qualify for a siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this section shall be readily available to the public in the Planning Division office.
- (C) Small Tract "Template" Dwelling [OAR 660-006-0027(1)(d)]. A dwelling may be authorized on a tract that meets the following criteria:
- (1) The tract is less than 60 acres in size;
  - (2) The tract meets one of the following:
    - (a) The tract is composed of soils that are capable of annually producing more than 85 cu. ft. per acre of wood fiber if:

- (i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract (Note: If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible.); and
      - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
    - (b) The tract is composed of soils that are capable of annually producing 50 to 85 cu. ft. per acre of wood fiber if:
      - (i) All or part of at least seven (7) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract (Note: If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible.); and
      - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
    - (c) The tract is composed of soils that are capable of annually producing 0 to 49 cu. ft. per acre of wood fiber if:
      - (i) All or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract (Note: If the tract abuts a road that existed as of January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road to the maximum extent possible.); and
      - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
  - (3) The tract contains no dwellings on other lots or parcels that make up the tract.
  - (4) The tract is not subject to deed restrictions established under OAR 660-06-027 (6) and Section 177.070 (B)(2) of this Ordinance.
  - (5) Parcels 10 acres or less in size shall not be required to submit a stocking report prior to receiving a permit for the dwelling as authorized by this subsection.
  - (6) Lots or parcels within urban growth boundaries shall not be used to satisfy the eligibility requirements under subsections 177.070(C).
- (D) Large Tract "Template" Dwelling [OAR 660-006-0027(2)]. A dwelling may be authorized on a tract that meets the following criteria:
- (1) The tract is 60 acres or larger in size;
  - (2) The tract meets one of the following:
    - (a) The tract is composed of soils that are capable of annually producing more than 85 cu. ft. per acre of wood fiber if:
      - (i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and
      - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or

- (b) The tract is composed of soils that are capable of annually producing 50 to 85 cu. ft. per acre of wood fiber if:
  - (i) All or part of at least seven (7) other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and
  - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; or
- (c) The tract is composed of soils that are capable of annually producing 0 to 49 cu. ft. per acre of wood fiber if:
  - (i) All or part of at least three (3) other lots or parcels that existed on January 1, 1993, are within a 160 acre centered on the center of the subject tract. However, if the tract abuts a road or perennial stream, the measurement shall be made by creating a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and aligned with the road or stream to the maximum extent possible; and
  - (ii) At least three (3) dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels; and,
- (3) If the tract is situated such that the road or stream crosses the tract, at least one (1) of the three (3) required dwellings shall be on the same side of the road or stream as the proposed dwelling, and within the 160-acre rectangle or within 1/4 mile from the edge of the tract where the dwelling will be located, but not outside the length of the rectangle.
- (4) The tract contains no dwellings on other lots or parcels that make up the tract.
- (5) The tract is not subject to deed restrictions established under OAR 660-06-027 (6) and Section 177.070 (B)(2) of this Ordinance.
- (6) Lots or parcels within urban growth boundaries shall not be used to satisfy the eligibility requirements under subsections 177.070(C).

**177.080. AUTHORIZATION OF LOCATION OF DWELLINGS AND STRUCTURES**  
[OAR 660-006-0029].

- (A) All new dwellings and structures authorized under the provisions of this Ordinance are subject to the siting standards in this Section. Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify a the building site which:
  - (1) Has the least impact on nearby or adjacent lands zoned for forest or agricultural use;
  - (2) Ensures that forest operations and accepted farming practices will not be curtailed or impeded;
  - (3) Minimizes the amount of forest lands used for the building sites, road access and service corridors; and
  - (4) Consistent with the provisions of Section 177.090 minimizes the risk associated with wildfire.
  - (5) Is consistent with other requirements contained in the Comprehensive Plan or implementing ordinances, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat.

- (B) The applicant shall provide evidence consistent with OAR 660-006-0029 (A), that the domestic water supply, if any, is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class F stream as defined in the Forest Practices Rule (OAR 629-24-101(3)). If the water supply is unavailable from public sources or sources located entirely on the subject property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.
- (C) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
- (D) Approval of a dwelling on a parcel or tract which is larger than 10 acres in size shall be subject to the following requirements:
  - (1) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in the Department of Forestry administrative rules.
  - (2) The Planning Department shall notify the Polk County Assessor of the above condition at the time the dwelling is approved.
  - (3) The property owner shall submit a stocking survey report to the Polk County Assessor and the Assessor shall verify that the minimum stocking requirements have been met by the time required by the Department of Forestry Rules. The Assessor shall inform the Department of Forestry in cases where the property owner has not submitted a stocking survey or where the survey report indicates that minimum stocking requirements have not been met.
  - (4) Upon notification by the Assessor, the Department of Forestry shall determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department determines that the tract does not meet those requirements, the department shall notify the owner and the Assessor that the land is not being managed as forest land. The Assessor shall then remove the forest land designation pursuant to ORS 321.359 and impose additional tax pursuant to ORS 321.372.

**177.090. FIRE SITING STANDARDS FOR DWELLINGS AND STRUCTURES [OAR 660-06-035].** The following fire siting standards shall apply to all new dwellings or permanent structures:

- (A) If a water supply is available and suitable for fire protection, such as a swimming pool, pond, stream, or lake, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
- (B) Road access to the structure shall meet the County road design standards.
- (C) A primary fuel break shall be constructed on land surrounding the dwelling that is owned and controlled by the owner, no less than 30 feet wide. The primary fuel break could include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall also be removed.
- (D) A secondary fuel break shall also be constructed, on land surrounding the dwelling that is owned or controlled by the owner, of not less than 50 feet outside the primary fuel break.

- Dead fuels shall be removed from the fuel break area. It may be advisable to increase the secondary fuel break if the dwelling is located on a slope.
- (E) No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.
  - (F) The applicant shall obtain an address from the County, and shall display that number in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less than three inches in height, in a contrasting or visible color and shall comply with all other applicable standards for signs.
  - (G) The dwelling shall meet the following requirements:
    - (1) The dwelling has a fire retardant roof.
    - (2) The dwelling will not be sited on a slope of greater than 40 percent.
    - (3) Evidence is provided that the domestic water supply is from a source authorized by the Water Resources Department and not from a Class F stream as designated by the State Board of Forestry.
    - (4) The dwelling is located upon a parcel within a fire protection district or is provided with residential fire protection by contract.
    - (5) If the dwelling is not within a fire protection district, the applicant provides evidence that the applicant has asked to be included in the nearest such district.
    - (6) If the dwelling has a chimney or chimneys, each chimney has a spark arrester.
  - (H) If meeting the requirements of Section 177.090 (G) would be impracticable, alternative means for protecting the dwelling from fire hazards may be considered. The means selected may include a fire sprinkling system, on-site equipment and water storage or other methods that are reasonable, given the site conditions.

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

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

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

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

**177.160. NONCONFORMING USES.** The lawful use of any building, structure or land at the time of the enactment of this ordinance may be continued. Alteration of any such use shall be

permitted when necessary to comply with local, state or federal regulations pertaining to the use and development of land and the buildings and structures thereon. A nonconforming use is transferable, however, any significant change in, or replacement of, the nonconforming use may require permits under current building and land development codes.

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

**177.180. PROHIBITED USES.** It is unlawful to erect, alter or establish in the Timber Conservation Zoning District any building, structure or use not authorized and approved under the standards and procedures in this Ordinance.

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

**177.210. PERIOD OF VALIDITY FOR RESIDENTIAL USES.** A land use application authorizing a dwelling pursuant to the provisions of Polk County Zoning Ordinance Sections 177.035 (A), (B), and (C), and Section 177.070(A) – (D) shall be valid four (4) years from the effective date of the land use decision. The land use application authorizing such use to be established shall be void at the end of the validity period if development action is not initiated in that period. An extension request shall be submitted to the Planning Director on the form provided by the Planning Division. An extension shall be granted upon submission of a written request for an extension prior to the expiration of the approval period. An extension of the validity period shall be approved for two additional years. Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision. A land use decision granted herein does not vest (guarantee) the right of the property owner to use the property as authorized in the land use decision in perpetuity. The property owner is responsible for completing required conditions and establishing and continuing the use in order to retain a vested right. The property owner is advised to consult with an attorney to determine the appropriate actions necessary to obtain and retain rights of use authorized by a land use decision.

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

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

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

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

## **CHAPTER 178**

### **FLOODPLAIN OVERLAY ZONE**

178.005.	Statutory Authorization
178.010.	Purpose
178.015.	Definitions
178.020.	General Provisions
178.030.	Uses
178.040.	Prohibited Uses
178.050.	Development Permit Procedures and Requirements
178.060.	Conditional Use Permit Procedures and Requirements
178.070.	Provisions for Flood Hazard Reduction
178.080.	Variance Procedure
178.090.	Warning and Disclaimer
178.100.	Map Revisions and Amendments

**178.005. STATUTORY AUTHORIZATION.** The Legislature of the State of Oregon has in ORS 221.916 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners of Polk County, Oregon, does ordain as follows:

**178.010. PURPOSE.** It is the purpose of the Floodplain Overlay Zone to regulate the use of those areas subject to periodic flooding and to permit and encourage the retention of open land uses that are compatible and harmonious in nature. In advancing these principles and the general purposes of the Polk County Comprehensive Plan and Zoning Ordinance, the specific intent of this zone is:

- (A) To combine with present zoning requirements, certain restrictions made necessary for the known floodplains to promote the general health, welfare and safety of the County.
- (B) To minimize the impact due to the establishment of certain structures and land uses in areas unfit for human habitation because of danger of flooding, unsanitary conditions or other hazards.
- (C) To minimize danger to public health by protecting the water supply and promoting safe and sanitary drainage.
- (D) To reduce the financial burden imposed on the public and governmental units by frequent and periodic flooding.
- (E) To permit certain uses which can be strategically located in the floodplain as herein defined and which will not cause danger to life and property at, above or below their locations within the floodplain.
- (F) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (G) To ensure that potential buyers are notified that property is in the floodplain.
- (H) To ensure that those who occupy the areas within floodplains assume responsibility for their actions.
- (I) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains.

**178.015. DEFINITIONS.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"APPEAL" means a request for a review of the Planning Director's or Building Official's interpretation of any provisions of this ordinance or a request for a variance. Such an appeal shall be made to the Building Inspection Board of Appeals or to the Board of Commissioners.

"BASE FLOOD" means the flood having a one percent chance of being equaled or exceeded in any given year, referred to as the '100-year flood.' Designation on maps always includes the letters A or V.

"BASEMENT" means any area of the building having its floor subgrade (below ground level) on all sides.

"DEVELOPMENT" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within floodplains.

"FLOOD" or "FLOODING" means a general and temporary condition of partial or complete inundation of normally dry land areas from:



- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

"FLOOD INSURANCE RATE MAP (FIRM)" means the official map on which the Federal Insurance Administration has delineated floodplains (also known as Special Flood Hazard areas) applicable to the community.

"FLOOD INSURANCE STUDY" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

"FLOODPLAIN" means the land within a community subject to a one percent or greater chance of flooding in any given year. This area is referred to on the Flood Insurance Rate Map as the "Special Flood Hazard Areas". Designation on maps always includes the letters A or V.

"FLOODWAY" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Floodways are determined by FEMA using a numerical model. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles, along with an elevated erosion potential.

"LOWEST FLOOR" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 178.070 (B)(3).

"MANUFACTURED HOME" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

"MANUFACTURED HOME PARK OR SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"NEW CONSTRUCTION" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

"RECREATIONAL VEHICLE" means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"START OF CONSTRUCTION" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start

of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"STRUCTURE" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

"SUBSTANTIAL IMPROVEMENT" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, either:

- (1) before the improvement or repair is started, or
- (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"SUBSTANTIAL DAMAGE" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"VARIANCE" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

"WATERCOURSE" means any natural or artificial channel in which a flow of water occurs either continually or intermittently which is identified as having a floodplain on the Polk County Flood Insurance Rate map.

**178.020. GENERAL PROVISIONS.** The following regulations apply to all areas of special flood hazards within the jurisdiction of Polk County, Oregon. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Polk County, Oregon, and Incorporated Areas" dated December 19, 2006 and any revisions there to with accompanying Flood Insurance Rate Maps and any revisions there to are hereby adopted by reference and declared a part of this Ordinance. The issue of the map most recently adopted by Polk County shall apply. The Flood Insurance Rate Maps and Flood Insurance Study are on file at the Polk County Community Development Department, Polk County Courthouse, Dallas, Oregon.

Proposed revisions to any portion of the Polk County FIRM by the Federal Emergency Management Agency (FEMA) that would result in changes to the location of floodplain boundaries shall constitute the initiation of a zone change proceeding by a government body subject to the standards for such proceedings as described in the Polk County Zoning Ordinance (PCZO). A public hearing shall be held and notice of such hearing shall be given to all affected property owners as provided for by the PCZO. Notice of such public hearing shall be provided to FEMA.

As described in Section 178.100, the county or a private party may request that a map be revised through the issuance of a Letter of Map Revision (LOMR). LOMR requests which would result in a change to floodplain boundaries, but not floodway boundaries, and LOMR requests which would remove from floodplains individual structures or parcels elevated by the placement of fill,

shall constitute the initiation of a zone change proceeding subject to the standards for such proceedings as described in the PCZO. A public hearing shall be held and notice of such hearing shall be given to all affected property owners as provided for by the PCZO. Notice of such public hearing shall be provided to FEMA.

Proposed amendments to the Polk County FIRM which change floodway boundaries only, including both revisions proposed by FEMA and revisions initiated through the LOMR process, shall not be considered a zone change proceeding, however, a public hearing shall be held and notice of such hearing shall be given to all affected property owners. Notice of such public hearing shall be provided to FEMA.

When base flood elevation data is not available, the Planning Director shall have the authority to determine the location of the boundaries of the floodplain where there appears to be a conflict between a mapped boundary and the actual field conditions, provided a record is maintained of any such determination. In making such a determination, the Planning Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation to the Board of Commissioners as provided by the Zoning Ordinance.

**178.030. USES.** Within the Floodplain Overlay Zone, no uses or structures shall be established except as provided in the applicable underlying zone and in the provisions of this overlay zone. Except as provided herein, all uses and floodplain development shall be subject to the issuance of a development permit or a landuse permit as provided in Section 178.050 and Section 178.060.

The following uses are exempt from the requirements of Chapter 178 of the Polk County Zoning Ordinance. These activities may be conducted in a floodplain without obtaining a landuse permit or a development permit pursuant to Chapter 178 of the Zoning Ordinance. Such activities must, however, conform to all other applicable provisions of the Polk County Zoning Ordinance and the activities shall not fall under the definition of “development”:

- (A) The placing by a public agency of signs, markers, aids, etc. to serve the public;
- (B) Activities to protect, conserve, enhance and maintain public recreational, scenic, historical, and natural uses of public lands, except that a substantial increase in the level of development of existing public recreational, scenic, historical, or natural uses on public lands shall require review by the Planning Director;
- (C) Agriculture as defined in ORS 215.203 (2);
- (D) The propagation of timber or the cutting of timber;
- (E) Uses legally existing on the effective date of this Ordinance; any change or intensification of such use not otherwise permitted in this section, however, shall require review as provided by this Ordinance.

**178.040. PROHIBITED USES.** It shall be unlawful to erect, alter, maintain or establish in a floodplain overlay zone any building, use or occupancy not permitted or allowed in the foregoing provisions, except existing nonconforming uses, which may continue as provided by the Zoning Ordinance.

- (A) Subdivisions are not consistent with the purpose and intent of this zone and are hereby prohibited.
- (B) Storage of Materials and Equipment. Materials that are buoyant, flammable, obnoxious, toxic or otherwise injurious to persons or property if transported by flood waters are prohibited. Storage of materials and equipment not having these characteristics is permissible with a landuse permit, only if the materials and

equipment have low damage potential and are anchored or are readily removable from the area within the time available after forecasting and warning.

- (C) Residential (including the placement of manufactured homes) and nonresidential structures shall not be constructed within the adopted regulatory floodway, with the exception of:
  - (1) Accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure.
  - (2) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public sale or use.

Placement of such accessory structures or utility facilities in the floodway shall be subject to the landuse permit requirements of Section 178.060.

#### **178.050. DEVELOPMENT PERMIT PROCEDURES AND REQUIREMENTS.**

A development permit shall be obtained from the Polk County Building Department before construction or structural development begins within any floodplain shown on the Polk County Flood Insurance Rate Map, excluding areas designated as floodways. The development permit shall be for all structures, including manufactured homes, accessory buildings, and bridges for private use.

The Building Official is responsible for review and approval of all development permits issued for structural development within floodplains identified on the Polk County Flood Insurance Rate Map. Approval of the development permit shall be based upon:

- (A) Compliance with the standards for flood hazard reduction described in Section 178.070.
- (B) Completion of a National Flood Insurance Program Elevation Certificate. The Elevation Certificate must be completed by a land surveyor, engineer, or architect for all structural development in areas within floodplains where the base flood elevation has been established (zones AE and AH). The Building Official will complete the Elevation Certificate for all structural development in all areas within floodplains where no base flood elevation has been established (zone A).

A National Flood Insurance Program Floodproofing Certificate shall be completed by a registered professional engineer or architect for all nonresidential development as described in Section 178.070 (C)(3).

- (C) Review to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

#### **178.060. LANDUSE PERMIT PROCEDURES AND REQUIREMENTS.**

- (A) A landuse permit shall be obtained from the Polk County Community Development Department prior to commencement of the following types of development:
  - (1) Located within floodplains established in Section 178.020 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, construction of residential structures (including the placement of manufactured homes) and nonresidential structures shall not be permitted within the adopted regulatory floodway subject to compliance with 178.060 (B)(3), with the exception of:
    - (a) Accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure.
    - (b) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public sale or use.

- (c) The construction or substantial improvement of bridges, for public or private use.
    - (d) Addition or substantial improvement of an existing structure.
  - (2) Non-structural development within any floodplain identified on the Polk County Flood Insurance Rate Map requires a landuse permit. Non-structural development includes mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
  - (3) Alteration of a watercourse which is identified as having a floodplain as shown on the Polk County Flood Insurance Rate Map. (See Section 178.060 (B)(5)).
- (B) The Planning Director is responsible for review and approval of all landuse permit applications submitted for development and uses described in this section. The Planning Director shall determine that such development and uses meet the following requirements:
- (1) The necessary permits for the proposed development have been obtained from those federal, state or local governmental agencies from which prior approval is required.
  - (2) The proposed development will not adversely affect the flood carrying capacity of the floodplain. For purposes of this ordinance "adversely affect" means that the cumulative effects of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one (1) foot at any point.
  - (3) Development in the floodway requires compliance with the following provisions:
    - (a) Certification by a registered professional engineer or architect demonstrating that encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
    - (b) If the above section is satisfied, all new construction and substantial improvements as identified in Section 178.060 (A) shall comply with all applicable flood hazard reduction provisions of Section 178.070.
  - (4) Non-structural development within any floodplain identified on the Polk County Flood Insurance Rate Map. Non-structural development includes mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. Approval of the landuse permit shall be based on the following provisions:
    - (a) Such development shall be consistent with the need to minimize flood damage;
    - (b) Such development shall have adequate drainage provided to reduce exposure to flood damage; and,
    - (c) The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.

- (d) If located in the floodway, non-structural development shall meet the requirements of 178.060 (B)(3).
- (5) Alteration of a watercourse which is identified as a floodplain as shown on the Polk County Flood Insurance Rate Map requires a landuse permit. Prior to approving a landuse permit for the alteration of a watercourse, the Planning Director shall:
  - (a) Notify adjacent communities, adjoining property owners, and the Department of Land Conservation and Development prior to any alternation or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
  - (b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- (C) Notice upon an application for a landuse permit under Section 178.060 shall be provided as required by Chapter 111.
- (D) Notice of the decision of the Planning Director shall be given as provided in Section 111.270.
- (E) Decisions of the Planning Director on landuse applications under Section 178.060 shall be subject to the appeal provisions in Section 111.280 and the call of the Board of Commissioners as provided in Section 111.290.

**178.070. PROVISIONS FOR FLOOD HAZARD REDUCTION.**

**(A) GENERAL STANDARDS.**

In all floodplains the following standards are required:

- (1) Anchoring. All new construction and substantial improvements shall be anchored to prevent floatation, collapse, or lateral movement of the structure.
  - (a) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
- (2) Construction materials and methods.
  - (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
  - (c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (3) Utilities.
  - (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
  - (b) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

- (c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. As used in this subsection the term "contamination" has the meaning given to it in the administrative rules for on-site waste disposal systems adopted by the Oregon Environmental Quality Commission and Department of Environmental Quality.
- (4) Subdivision Proposals and other Proposed Development.
- (a) Shall be consistent with the need to minimize flood damage;
  - (b) Shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
  - (c) Shall have adequate drainage provided to reduce exposure to flood damage; and,
  - (d) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for other proposed development which contain at least 50 lots or 5 acres (whichever is less).
- (5) Elevation Certificates. For all structural development within floodplains where no base flood elevation has been established (zone A), the Building Official shall complete a National Flood Insurance Program Elevation Certificate as part of the final inspection for all structures pursuant to Section 178.050 (B). The Building Official will verify the height differential between the lowest floor of each structure and the existing grade at the building site prior to the start of construction. Failure to elevate the lowest habitable floor at least two feet above grade in these zones may result in higher flood insurance rates.
- (6) Crawlspace Construction. When crawlspaces are constructed in a flood hazard area, at-grade crawlspaces are the preferred method of construction. Below-grade crawlspaces are allowed, and not considered a basement, if all of the following standards are satisfied as found in Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*:
- (a) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Section (b) below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
  - (b) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
  - (c) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The

recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

- (d) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.
- (e) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.
- (f) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.
- (g) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.
- (h) The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

Note: Structures that have below-grade crawlspaces may have higher flood insurance premiums than structures that have the preferred crawlspace construction with the interior elevation at or above the lowest adjacent grade, even when the crawlspace meets the requirements of this section and FEMA Bulletin 11-01. If a below-grade crawlspace does not meet the requirements of this section and FEMA Bulletin 11-01, the structure may be rated as having a basement and would result in higher insurance premiums.

#### (B) DWELLINGS AND MANUFACTURED HOMES.

In all floodplains where base flood elevation data has been established (zones AE and AH) new construction and substantial improvement of any residential structure, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after the date of this ordinance shall comply with the following requirements:

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one (1) foot above the base flood elevation.
- (2) Manufactured homes shall be anchored in accordance with subsection 178.070 (A)(1)(a).
- (3) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:



- (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (b) The bottom of all openings shall be no higher than one foot above grade.
  - (c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) All manufactured homes to be placed or substantially improved within zones where the base flood elevation has been determined (AE and AH) shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of 178.070 (A)(1)(a).
  - (5) Crawlspace Construction. At-grade crawlspaces are the preferred method of construction within flood hazard areas. However, below-grade crawlspaces are allowed subject to the standards found in Section 178.070 (A)(6).

(C) Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement elevated one foot above the base flood elevation in zones AH and AE; or, together with attendant utility and sanitary facilities, shall:

- (1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - (3) A registered professional engineer or architect shall complete a National Flood Insurance Program Floodproofing Certificate showing that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. In zones AH and AE, this certificate shall include the specific elevation (in relation to mean sea level) to which structures are floodproofed. Such certifications shall be provided to the Building Official as set forth in Section 178.050 (B).
  - (4) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).
  - (5) Crawlspace Construction. At-grade crawlspaces are the preferred method of construction within flood hazard areas. However, below-grade crawlspaces are allowed subject to the standards found in Section 178.070 (A)(6).
- (D) Accessory Structures. Detached accessory structures such as sheds, small garages, garden buildings, etc., may be allowed within floodplains subject to approval of a development permit (or a landuse permit if located in a floodway). The criteria in Section 178.050 or Section 178.060 shall be used in considering approval of the permit. In addition, all the following standards must be met. Accessory structures:
- (1) shall not be used for human habitation;
  - (2) shall be designed to have low flood damage potential;

- (3) shall be constructed and placed on a building site so as to offer minimum resistance to the flow of floodwaters;
  - (4) shall be less than 300 square feet or \$3000 assessed value; and
  - (5) shall meet the general standards for anchoring, construction materials and methods, and utilities as set forth in Section 178.070 (A).
- (E) **Recreational Vehicles.** Recreational vehicles placed on sites within the floodplain must either:
- (1) be on the site for fewer than 180 consecutive days,
  - (2) be fully licensed and ready for highway use, or meet the requirements for a manufactured home.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

**178.080. VARIANCE PROCEDURE.** A variance may be granted for non-residential construction in very limited circumstances to allow a lesser degree of floodproofing than the requirements of Sections 178.070 (C). The general standards required in Section 178.070 (A) may not be waived. Consideration of a variance shall be in accordance with variance standards described in the current edition of the adopted Oregon Structural Specialty Code. The Building Official may permit and authorize a variance after considering if all of the following criteria are met:

- (A) **CONDITIONS FOR VARIANCES.**
  - (1) Variances shall not be issued within designated floodways;
  - (2) Variances shall only be issued for non-habitable structures;
  - (3) Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
  - (4) There are unnecessary, unreasonable hardship or practical difficulties, other than economic, which can be relieved only by modifying the literal requirements of the ordinance;
  - (5) There are no other locations where the structure could be located on the property which are not in the floodplain; and
  - (6) Granting the variance will not result in increased flood heights, additional threats to public health or safety, extraordinary public expense, or create nuisances to the public.
- (B) **NOTIFICATION TO APPLICANT.** The County shall notify the applicant in writing over the signature of the Building Official that issuance of a variance to construct a structure below the base flood elevation will result in increased flood insurance rates, and increased risks to life and property.
- (C) **RECORD-KEEPING.** The County shall report all floodplain variances to FEMA, and maintain a record of all variance actions, including justification for granting a variance and the notification to applicant required in (B) above.
- (D) **HISTORIC LANDMARKS.** A variance may be granted without regard for the requirements set forth in this section for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or State Inventory of Historic Places.
- (E) **LIMITING VARIANCES.** The Building Official may impose such limitations, conditions and safeguards as are deemed appropriate so that the intent of this

ordinance will be met, public safety and welfare secured, and substantial justice be done. If the variance is granted the applicant shall exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval by the Building Official. A violation of any such condition or limitation shall constitute a violation of this ordinance.

- (F) **VARIANCE RIGHT MUST BE EXERCISED TO BE EFFECTIVE.** Variance granted under this ordinance shall be effective only when the exercise of the right granted thereunder shall be commenced within one year after the effective date of that variance, unless a longer period be specified or thereafter allowed by the Building Official. In case such right has not been exercised, or extension obtained, the variance shall be void. A written request for an extension of time filed with the director at least 30 days prior to the expiration of the application shall extend the running of the one year period until the Building Official has acted on said request.

**178.090. WARNING AND DISCLAIMER.** The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Ordinance does not imply that lands outside floodplains or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create a liability on the part of Polk County, any officer, or employee thereof or the Federal Insurance Administration, for any flood damages that might result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

**178.100. MAP REVISIONS AND AMENDMENTS.** FEMA has developed a map revision process under which the county or a private party may request that a map be revised through the issuance of a Letter of Map Revision (LOMR). A LOMR may be issued for revisions that decrease the size of the floodplain including floodways. LOMRs may also be issued to remove from floodplains individual structures or parcels elevated by the placement of fill or to remove from regulatory floodways structures or parcels inadvertently included in such floodways. LOMRs cannot be used to increase the size of floodplains including floodways.

All LOMR requests must be submitted to the Planning Director for forwarding to FEMA. The Planning Director shall review the request and shall indicate to FEMA whether the request is supported by Polk County. Additional supporting materials must be submitted by the party requesting the LOMR. Information regarding the types of additional data required is available from the Polk County Community Development Department. LOMR requests which would result in a change to floodplain boundaries, but not floodway boundaries, and LOMR requests which would remove from floodplains individual structures or parcels elevated by the placement of fill, shall constitute the initiation of a zone change proceeding as described in Section 178.020.

Individual property owners or lessees may also request from FEMA a determination as to whether one or more structures on one or more lots or parcels are located within floodplain boundaries. If necessary, FEMA will issue a Letter of Map Amendment (LOMA) for structure(s) and/or lot(s) or parcel(s) found to be outside of floodplains. This process is applicable only to requests for determinations based on topographic conditions that existed on the effective date of the Polk County FIRM that shows the structure or parcel of land to be within a floodplain. All other requests for determinations shall be submitted as LOMRs. More information regarding floodplain determinations is available from the Polk County Community Development Department.

## **CHAPTER 179**

### **HOMESTEAD EXCEPTION**

179.010.	Purpose
179.020.	Exception Allowable in Certain Zones
179.030.	Size of Exception
179.035.	Lot Line Adjustment
179.040.	Circumstances for which Exception may be Granted
179.050.	Standards for Granting Exception
179.060.	Effect of Granting Exception
179.070.	Conditions; Tax Deferral Disqualification
179.080.	Application and Decision on Exception

**179.010. PURPOSE.** The purpose of the Homestead Exception is to allow county residents residing on operational farm units prior to the enactment of countywide zoning (July 1, 1973) to dispose of farm acreage while either retaining personal residences and surrounding homesites, or relocating on a portion of the farm acreage. Not more than one Homestead Exception shall be granted for any operational farm unit existing prior to July 1, 1973. No Homestead Exception shall be allowed for any operational farm unit established after July 1, 1973.

The Homestead Exception is intended to provide a means for modifying Special Exception requirements in cases where a strict adherence to them might cause unusual or undue hardship to a longtime property owner and contravene the goals of the Comprehensive Plan of Polk County. The Homestead Exception is not intended to authorize directly or indirectly speculative land division otherwise prohibited by zoning area requirements. Nothing in this chapter will be construed to require the granting of such a Homestead Exception. It is not the intent of this section to regulate or limit farm or agricultural use of land. [Amended by Ordinance #88-21, dated November 30, 1988.]

**179.020. EXCEPTION ALLOWABLE IN CERTAIN ZONES.** A Homestead Exception may be allowed only on land zoned EFU, TC or F/F and not for land in any other zone. [Amended by Ordinance #284, dated August 19, 1981.]

**179.030. SIZE OF EXCEPTION.** The maximum area to be retained by the applicant as a homesite shall be only that area necessary for a home, accessory structures, garden, and landscaped area. Homesites exceeding three acres in the area shall only be approved upon finding that:

- (A) An additional area is necessary for an adequate homesite; or
- (B) An exceptional circumstance pertains to the homesite which justifies a larger area.  
[Section 179.035 added by Ordinance #305, and adopted by the Polk County Board of Commissioners on November 23, 1983.]

**179.035. LOT LINE ADJUSTMENTS.** The area approved for a homesite shall not be altered in size or shape either by a lot line adjustment or by any other method without approval of the governing body or its representative or the Planning Commission. [Amended by Ordinance #305, dated November 23, 1983 and Ordinance #88-21, dated November 30, 1988.]

**179.040. CIRCUMSTANCES FOR WHICH EXCEPTION MAY BE GRANTED.** After holding a public hearing, the Planning Commission may grant a Homestead Exception to allow an applicant to:

- (A) Sell farm acreage while retaining a personal residence with immediately surrounding homesite; or
- (B) Sell farm acreage in conjunction with a personal residence and immediate surrounding homesite while relocating applicant's homesite on a portion of the farm acreage. [Amended by Ordinance #88-21, dated November 30, 1988.]

**179.050. STANDARDS FOR GRANTING EXCEPTION.** The Planning Commission may only grant a Homestead Exception upon considering all of the following:

- (A) Lack of suitable alternatives. A Homestead Exception shall be granted only in cases where the applicant's needs cannot be satisfied in a suitable manner under other procedures and provisions of the Polk County Zoning Ordinance, except for those dealing with zone changes.

- (B) Interference with adjacent agricultural activities. Each Homestead Exception shall be examined for possible interference with the usual and normal farm practices on adjacent agricultural lands.
- (C) Preservation of economic land units. A Homestead Exception shall further the preservation of economic farm units. Where a strict adherence to minimum area requirements would require the partitioning of large parcels or correspondingly greater fragmentation of the farm, a Homestead Exception permitting the smaller parcel may be appropriate in furthering such preservations.
- (D) Productivity. New homesites shall be located on land which is least suitable for the production of crops or livestock (considering terrain, adverse soil or land conditions, drainage and flooding, and vegetation).
- (E) Cumulative effects. While the granting of any single Homestead Exception is unlikely to cause significant detrimental effects upon any rural area, the cumulative effects of such an exception shall be analyzed carefully. The Planning Commission, therefore, shall evaluate area trends and patterns in division of land to ensure that the granting of a Homestead Exception will not initiate, accelerate, or otherwise cause the conversion of an area's agricultural lands to more intensive development and USES. [Amended by Ordinance #88-21, dated November 30, 1988.]

**179.060. EFFECT OF GRANTING EXCEPTION.** The granting of a Homestead Exception by the Planning Commission shall be considered only a waiver of special exception requirements. Such a granting does not constitute an approval to partition land, any applicant granted a Homestead Exception shall be required to conform to appropriate procedures and requirements for partitioning land. [Amended by Ordinance #88-21, dated November 30, 1988.]

**179.070. CONDITIONS; TAX DEFERRAL DISQUALIFICATION.**

- (A) In granting a Homestead Exception, the Hearings Officer may attach appropriate conditions as are necessary to meet the purpose and criteria of this chapter, the goals and policies of the Polk County Comprehensive Plan, and professionally accepted compliance with such conditions may be required.
- (B) Approval of a Homestead Exception disqualifies the entire homestead lot for valuation at true cash value for farm and forest use under ORS 215.236. The applicant shall file the appropriate forms with the Polk County Assessor to initiate the disqualification process not later than the 30th day after tentative homestead approval, and as a condition thereof. Approval shall not become final until disqualification has been effected. [Amended by Ordinance # 90-18, dated December 26, 1990.]

**179.080. APPLICATION AND DECISION ON EXCEPTION.** Application for Homestead Exception shall be made on forms provided by the Planning Division and submitted with the appropriate filing fee. The names and addresses of all property owners within 500' of the property from which the homesite is to be developed will be supplied with the application. Notice of the request to create the homestead will be mailed at least 10 days prior to the date on which the Hearings Officer will consider the application. The decision of the Hearings Officer shall be made on the basis of the application, written comments and staff investigation. The decision of the Hearings Officer will be effective 10 days from the date of mailing of notice of said decision. Decision, certification, effective date, cessation, transfer, appeal, resubmission and revocation shall be made in the same manner as is provided for variances in Section 122.060 through 122.140, except that a Homestead Exception shall be effective for one year. [Amended by Ordinance #88-21, dated November 30, 1988.]

## **CHAPTER 180**

### **AIRPORT DEVELOPMENT DISTRICT**

180.005.	Purpose
180.010.	Definitions
180.015.	Airport Zones
180.020.	Application of Airport Development District Provisions
180.030.	Permitted Uses
180.035.	Conditional Uses
180.040.	Procedure
180.045.	Limitations
180.050.	Non-conforming Uses
180.055.	Marking and Lighting
180.060.	Variances

**180.005. PURPOSE.** The Airport Development District is intended to accommodate the facilities necessary for general aviation purposes and to minimize potential dangers from, and conflicts with, the use of aircraft at the Independence State Airport.

**180.010. DEFINITIONS.**

- (A) AIRPORT means the Independence State Airport.
- (B) AIRPORT ELEVATION means the highest point of an airport's usable landing area measured in feet from sea level. This is 175 feet above mean sea level for the Independence Airport.
- (C) HAZARD TO AIR NAVIGATION means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable air space.
- (D) HEIGHT is for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the AIRPORT DEVELOPMENT DISTRICT map, the datum shall be mean sea level elevation, unless otherwise specified.
- (E) OBSTRUCTION is any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 180.030 of this Ordinance.
- (F) RUNWAY is a defined area on the airport prepared for landing and takeoff of aircraft along its length.
- (G) TREE means any object of natural growth.

**180.015. AIRPORT ZONES.** In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces and clear areas as they apply to Independence Airport. Such zones are shown on the Independence Airport Development District Map dated June, 1989, which is attached to this Ordinance and made a part hereof. The various zones are defined as follows:

- (A) AIRPORT APPROACH ZONE - The inner edge of this approach zone coincides with the width of the airport runway and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 4,000 feet from the airport runway. Its centerline is the continuation of the centerline of the runway.
- (B) CLEAR ZONE - Means the fan area beginning at the ends of the airport runway, extending out 1,000 feet, to a width of 312.5 feet, incorporated in the Airport Approach area.

**180.020. APPLICATION OF AIRPORT DEVELOPMENT DISTRICT PROVISIONS.** In any zoned area where an Airport Development District designation is combined with a primary zone, the following regulations shall apply. If any conflict in regulation or procedure occurs with zoning districts hereinbefore specified, the provisions of the Airport Development District shall govern.

**180.030. PERMITTED USES.** All structures and uses within the Airport Development District shall conform to the requirements of Federal Aviation Agency Regulation FAR-77 or successor, and to other Federal and State laws regulating structural height, smoke, steam or dust and other hazards to flight, air navigation or public health, safety and welfare.

- (A) Accessory building and uses whose immediate presence is necessary to the property's aviation function;
- (B) Aircraft runways and taxiways;
- (C) Aircraft hangars, storage and tiedown areas;
- (D) Aircraft sales, repair and service facilities;



- (E) Air control facilities;
- (F) Fuel storage facilities;
- (G) Parking facilities;
- (H) Open land for aviation clear zone;
- (I) Agriculture, excluding the commercial raising of animals which would be adversely affected by aircraft passing overhead.
- (J) Landscape nursery, cemetery, or recreation areas, which do not include buildings or structures;
- (K) Roadways, parking areas and storage yards located in such a manner that vehicle lights will not make it difficult for pilots to distinguish between landing lights and vehicle lights, or result in glare, or in any other way impair visibility in the vicinity of the land approach;
- (L) Water impoundment;
- (M) Game preserve or reservation;
- (N) Pipeline;
- (O) Underground utility wire.
- (P) Eating places and/ or drinking places where alcoholic beverages may or may not be served, accessory to a permitted non-residential use identified in this section. [Amended by Ordinance #02-02, dated July 3, 2002.]

**180.035. CONDITIONAL USES.**

- (A) A structure or building accessory to a permitted use.
- (B) A single-family dwelling, or commercial or industrial use if permitted in the primary zoning district;
- (C) Buildings and uses of a public works, public service or public utility nature.

**180.040. PROCEDURE.** An applicant seeking a conditional use permit shall follow procedures set forth in Chapter 119. Information accompanying the application shall include:

- (A) Property boundary lines as they relate to the airport approach and the end of the runway;
- (B) Location and height of all existing and proposed buildings, structures, utility lines, and roads; and,
- (C) A statement from the State of Oregon Aeronautics Division indicating that the proposed use will not interfere with the operation of the landing facility.
- (D) Notice upon an application for a conditional use permit under Section 180.040 shall be provided as required by Chapter 111. Notification shall also be provided to the Oregon Department of Transportation by Certified Mail, with return receipt requested.
- (E) Notice of the decision of the Planning Director or Hearings Officer shall be given as provided in Section 111.270.
- (F) Decisions of the Planning Director or Hearings Officer on conditional use applications under Section 180.040 shall be subject to the appeal provisions in Section 111.280 and the call of the Board of Commissioners as provided in Section 111.290.

**180.045. LIMITATIONS.**

- (A) No place of public assembly shall be permitted in an airport approach district.
- (B) The height of any structure shall be limited to requirements prescribed by the Hearings Officer, Planning Director, or by an other local ordinance or regulation.
- (C) Whenever there is a conflict in height limitations prescribed by this ordinance or another pertinent ordinance, the lowest height limitation fixed shall govern. Provided, however, that the height or other limitations and restrictions here imposed shall not apply to such structures or uses customarily employed for aeronautical purposes.
- (D) Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport. [Amended by Ordinance #88-21, dated November 30, 1988.]

**180.050. NONCONFORMING USES.** The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of nonconforming uses. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction of alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.

**180.055. MARKING AND LIGHTING.** Notwithstanding the provisions of Section 180.050, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by Oregon Department of Transportation to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Airport owner.

**180.060. VARIANCES.** Any person desiring to erect any structure, or permit the growth of any tree, or use property not in accordance with the regulations prescribed in this Ordinance, may apply to the Hearings Officer or Planning Director for a variance from such regulations following those procedures for variances set forth in Chapter 122. The application for a variance shall be accompanied by a determination from the Oregon Department of Transportation as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship, and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance. [Amended by Ordinance #88-21, dated November 30, 1988.]

## **CHAPTER 181**

### **AIRPORT ZONE HEIGHT LIMITATIONS**

181.005.	Purpose
181.010.	Special Definitions
181.015.	Application of Airport Zone Height Limitations Provisions
181.020.	Nonconforming Uses
181.025.	Variances

**181.005. PURPOSE.** The purpose of this Chapter is intended to prevent the establishment of space obstructions in air approaches through height restrictions.

**181.010. SPECIAL DEFINITIONS.**

- (A) AIRPORT APPROACH means a fan-shaped area beyond the end of a runway where special height regulations are established. The dimensions of this area are those defined for the Airport Approach Zone of the Airport Development District, Chapter 180.015.
- (B) AIRPORT HAZARD means any structure, tree, or use of land which unreasonably obstructs the air space required for the safe flight of aircraft in landing or taking off at Independence Airport, or is otherwise hazardous to such landing or taking off of aircraft.
- (C) AIRPORT HAZARD AREA means any area of land upon which an airport hazard might be established if not prevented.
- (D) CLEAR ZONE means a fan shaped area beginning at the end of a runway, incorporated in the "airport approach" area, that should be kept essentially clear. Wherever possible, this area should be free of any construction or obstacle. The dimensions of this area are those defined for the Clear Zone of the Airport Development District, Chapter 180.015.

**181.015. APPLICATION OF AIRPORT ZONE HEIGHT LIMITATIONS PROVISIONS.**

- (A) In any zoned area where an airport approach area is combined with a primary zone, the following regulations shall apply. If any conflict in regulation or procedure occurs with a primary zone herein before specified, the provisions of this Chapter shall govern.
- (B) The following standards shall be applied to the Airport Development District in establishing appropriate heights limitations for structure and objects of natural growth;
  - (1) The clear zones will be kept free of any height obstructions which might be hazardous to normal air navigation operations, as determined by the State of Oregon Aeronautics Division.
  - (2) Nothing in this Chapter shall be construed as prohibiting the construction or maintenance of any structure or growth of any tree to a height of up to 35 feet above the surface of the land, except for areas in the clear zones. Height limitations for the clear zone will be based upon the following ratio: slopes 20 feet outward for each foot upward beginning at the end of the paved runway and extending to a horizontal distance of 700 feet.
  - (3) Where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.
  - (4) Whenever the height controls provided by Federal Aviation Administration Regulations prescribes a lower height than permitted by the provisions of this ordinance in areas affected by aircraft operations in and around a State airport, then such lower height shall govern.

## **181.020. NONCONFORMING USES.**

- (A) **Regulations Not Retroactive.** The regulations prescribed by this Chapter shall not be construed to require the removal, lowering, or other change or alteration of structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance and is diligently prosecuted.
- (B) **Marking and Lighting.** Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the airport owner to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.
- (C) **Nonconforming Uses Abandoned or Destroyed.** Whenever it is determined that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

**181.025. VARIANCES.** Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, not in accordance with the regulations prescribed in this Chapter, may apply to the Hearings Officer or Planning Director for a variance from such regulations following those procedures for variances set forth in Chapter 122. The application for variance shall be accompanied by a determination from the Oregon Department of Transportation as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and, relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this Ordinance.

Additionally, no application for variance to the requirements of this Chapter may be considered by the Hearings Officer or Planning Director unless a copy of this application has been furnished to the airport owner for advice as to the aeronautical effects of the variance. If the airport owner does not respond to the application within 15 days after receipt, the Hearings Officer or Planning Director may act to grant or deny said application. [Amended by Ordinance #88-21, dated November 30, 1988.]

## **CHAPTER 182**

### **SIGNIFICANT RESOURCE AREAS OVERLAY ZONE**

- 182.010. Provisions
- 182.020. Purpose
- 182.030. Application
- 182.035. Definitions
- 182.040. Review Procedure and Management Plan Requirements
- 182.050. Specific Property Development Standards
- 182.060. State or Federal Threatened and Endangered Species
- 182.070. List of Conflicting Uses
- 182.080. State and Federal Managing Agencies

**182.010. PROVISIONS.** The provisions of this Chapter shall apply to significant (1-C) resources designated 3-A or 3-C in the following categories: A) Fish and Wildlife; B) Riparian areas and wetlands; and C) Ecologically and Scientifically Significant Natural Areas.

**182.020. PURPOSE.** The purpose of the Significant Resource Overlay is to conserve significant fish and wildlife habitat, riparian and natural areas identified on the Significant Resource Areas Map and to permit development where it can be shown that such development is compatible with the protection of these resources.

**182.030. APPLICATION.** The provisions of this Chapter shall apply to the establishment of conflicting uses (see Section 182.070) within a "Significant Resource Area" indicated on the Polk County Significant Resource Area (SRA) Map and within designated buffer areas pertaining to specific resources. Activities regulated under the Forest Practices Act (FPA) are excluded from the provisions of this Chapter.

**182.035. DEFINITIONS.**

"1-C": Refers to resources which, based on information regarding location, quality and quantity, are considered to be significant and identified on the County's Significant Resource Areas (SRA) Map.

"3-A": Resources so designated are considered to be of great significance and shall be preserved, notwithstanding affects of such preservation to identified conflicting uses.

"3-C": Resources so designated are considered to be significant and shall be protected by limiting conflicting uses.

Significant Resource Areas (SRA) Map: Official adopted Map which depicts all inventoried significant (1-C) resources in Polk County.

Inventory Sheets: Official adopted listings of all inventoried significant (1-C) resources in Polk County.

**182.040. REVIEW PROCEDURE AND MANAGEMENT PLAN REQUIREMENTS.**

(A) PERMITTED USES IDENTIFIED AS CONFLICTING USES.

If a permitted use in the underlying zone is listed as a conflicting use in Section 182.070, the applicant shall comply with the applicable review procedure and management plan requirements outlined in Section 182.040. This type of review is ministerial and shall be decided by the Planning Director. Appeals are made to the Board of County Commissioners.

(B) CONDITIONAL USES IDENTIFIED AS CONFLICTING USES.

- (1) If a conditionally permitted use in the underlying zone is listed as a conflicting use in Section 182.070, it shall be subject to the following:

- (a) Chapter 119 - Conditional Uses;
- (b) Review procedures and Management Plan requirements contained in Section 182.040; and
- (c) Other specifically applicable criteria (e.g., non-farm dwelling, etc.)

This type of review shall be quasi-judicial and decided by the Hearings Officer. Decisions of the Hearings Officer on conditional use applications under shall be subject to the appeal provisions in Section 111.280 and the call of the Board of Commissioners as provided in Section 111.290.

- (2) The Hearings Officer may limit changes in the natural grade of land, or the alteration, removal, or destruction of natural vegetation in order to prevent or minimize erosion, pollution, or degradation of a significant resource.

- (3) An application for a conditional use shall be denied if, in the opinion of the Hearings Officer, the proposed use would be detrimental to the identified resource.

(C) PROTECT THE RESOURCE DECISION (3-A).

- (1) The Management Plan: When a "3-A" decision has been made for a particular resource, as indicated on the Goal 5 inventory sheets, the applicant, in coordination with the County and State or federal managing agency (s), shall develop a management plan which comprises the following elements:
  - (a) A description of the type and extent of resources involved;
  - (b) A map showing the exact location of the resource;
  - (c) A print-out indicating ownership within designated buffer strips; and
  - (d) A written statement detailing a proposed strategy to protect the identified significant resources. Such strategy may include, but shall not be limited to the following:
    - (1) Restriction of conflicting activities during critical periods (e.g., sensitive nesting periods);
    - (2) Protecting the resource with buffer strips;
    - (3) A Monitoring Plan for the site, i.e., determine the long-range affects;
    - (4) Permanent or seasonal road closures to protect the resource site; and
    - (5) Conservation easements, tax incentives or land donations.

If the County and applicant concur on provisions of the management plan, and other applicable criteria are satisfied, approval of the administrative action or conditional use request shall be subject to fulfillment of the management plan objectives.

- (2) If the County and applicant cannot agree on a Management Plan which would allow for the proposed development, while protecting the resource, the County shall deny the land use request.

(D) ALLOW CONFLICTING USES DECISION (3-B).

- (1) When a "3-B" decision has been made for a particular resource (as indicated on the adopted Goal 5 inventory sheets), the request shall not be subject to the standards of this Chapter.

(E) LIMIT CONFLICTING USES (3-C).

- (1) The Management Plan: When a "3-C" decision has been made for a particular resource, as indicated on the Goal 5 inventory sheets, the applicant, in coordination with the County and State or federal managing agency (s), shall develop a Management Plan which comprises the following elements:
  - (a) A description of the type and extent of resources involved;
  - (b) A map showing the exact location of the resource;
  - (c) A print-out from the County Assessor's Office indicating ownership within designated buffer strips; and
  - (d) A written statement detailing a proposed strategy to protect the identified significant resources. Such strategy may include, but shall not be limited to the following:
    - (1) Restriction of conflicting activities during critical periods (e.g., sensitive nesting periods);



- (2) Protecting the resource with buffer strips
- (3) A Monitoring plan for the site, i.e., determine the long-range affects;
- (4) Permanent or seasonal road closures to protect the resource site; and
- (5) Conservation easements, tax incentives or land donations.

If the County and applicant concur on provisions of the Management Plan and other applicable criteria are satisfied, approval of the administrative action or conditional use request shall be subject to fulfillment of the management plan objectives.

(2) Alternative to the Management Plan: If the County and the applicant cannot agree on a management plan which would allow for both resource conservation and development, the applicant must make the following findings of fact:

- (a) The proposed development would not result in the loss of a rare, irretrievable, or irreplaceable natural feature or scientific opportunity, or the disturbance of a substantially unaltered natural feature or area in or adjacent to the proposed site;
- (b) There are no feasible alternative locations on the site where the development can occur without adverse impacts to the resource; and
- (c) In consultation with the Oregon Department of Fish and Wildlife and/or other managing agencies, a mitigation plan shall be developed that will minimize impacts to the maximum extent feasible. The process for developing the mitigation plan shall consist of the following steps:
  - (1) Identify wildlife uses and habitat categories to be affected by the proposed development action and identify potential impacts upon wildlife habitat;
  - (2) Identify habitat mitigation opportunities provided by environmental laws and regulatory processes specifically applicable to the proposed action;
  - (3) Identify evaluation species for the purposes of comparing pre and post-development wildlife habitat conditions; and
  - (4) Develop a habitat mitigation plan which considers alternatives to the proposed development action and includes standards for post-development monitoring of the effectiveness of the mitigation measures and will provide for future modification of mitigation as required to meet the goal of the plan.

The property owner is responsible for the expense of planning and implementing the wildlife habitat mitigation plan and for the expense of collecting and analyzing any information needed to develop or evaluate the plan described above.

- (3) If the County, State or federal managing agency (s) finds the resource is not located on the applicant's property, and the development proposal will not impact the resource, the standards in this Chapter shall not apply.

#### **SECTION 182.050. SPECIFIC PROPERTY DEVELOPMENT STANDARDS.**

The following specific development standards apply to the establishment of identified conflicting uses (see Section 182.070) within deer and elk winter range, riparian areas and significant wetlands identified on the Significant Resource Areas (SRA) Map.

- (A) Deer and Elk Winter Range - To minimize impacts to deer and elk populations, the following standards apply (Note: Properties within the Rural Community Centers and areas zoned AR-5, AR-10, AF-10, and F/F are exempted from these requirements):
- (1) Dwelling units are limited to a maximum of 1 unit per 40 acres;
  - (2) Dwelling units, roads, utility corridors and other development shall be sited on the least productive habitat land and away from sensitive slopes and soils;
  - (3) Development shall be clustered and located as close as possible to existing development and services, with only essential roads provided;
  - (4) Nonessential roads shall be closed and off-road vehicle use curtailed during the winter and spring. [Amended by Ordinance #04-01, dated January 21, 2004.]
- (B) Riparian and Wetland Setbacks - In order to protect, maintain and enhance the water quality and biological productivity of waterways and wetlands indicated on the Significant Resources Areas map, the following setback requirements shall apply:
- (1) Development, along streams and rivers with significant (1-C) riparian habitat as depicted on the Significant Resource Areas Map, shall be subject to a riparian setback. Within the riparian area, all structural development shall be prohibited. In addition, all trees and at least 50 percent of the understory shall be retained, with the following exceptions:
    - (a) Removal of dead, diseased or dying trees, or leaning trees which pose an erosion or safety hazard;
    - (b) The mowing, planting or maintenance of lawn and farm use, as defined in Section 110.223, existing on the effective date of this Ordinance, including the control of noxious weeds (this provision is not intended to restrict the selection of crop/commodity types in those existing farm use areas within the riparian setback);
    - (c) Vegetation removal necessary to provide direct access for water dependent use, or an otherwise approved use;
    - (d) Structural shoreline stabilization; and,
    - (e) Vegetation removal necessary in conjunction with an approved in-water project, such as a bridge.
  - (2) Determining the Setback Area: The riparian setback shall be measured from the banktop on a straight line perpendicular to the flow of the waterway. The following requirements apply to determining the width of various types of riparian management areas:
 

Streams identified on the SRA Map: The width of the riparian management area shall average three times the stream width, but shall not average less than 25 feet or more than 100 feet. Stream width is the average of the main channel width of the stream during its high water level flow.

Lakes and significant wetlands identified on the SRA Map: The width of the riparian management area for lakes and significant wetlands less than 1 acre in size shall average 25 feet; for lakes and wetlands between 1 and 5 acres in size, the width shall average 50 feet; for lakes and wetlands between 5 and 10 acres in size shall average 75 feet in width; and, for lakes and wetlands over 10 acres in size, the width shall average 100 feet.

Note: The provisions of subsection (1) above do not apply to forest activities regulated under the Forest Practices Act.

- (3) Septic drainfields are subject to a 100 foot riparian setback along all rivers and streams.
- (4) The riparian setback requirement may be reduced if the Planning Director or his designee finds, after consultation with the Oregon Department of Fish and Wildlife, the character and size of the proposed development and its potential for adverse impacts on the water resource, fish or wildlife habitat area, or other riparian values is minimal. However, the riparian buffer shall not be reduced below 25 feet, nor shall loss of vegetation exceed 25 percent.
- (5) Water dependent commercial and industrial uses and private boat docks, marinas and boat ramps, which are proposed in waters solely under County jurisdiction shall be subject to the approval of the Planning Director or his designee after consultation with the Oregon Department of Fish and Wildlife and other agencies with statutory jurisdiction who must concur that such a use will not negatively impact the resource.
- (6) Exceptions to Riparian Setback Requirements - The following are excepted from the strict application of the riparian setback provisions for development:
  - (a) Residential lots of record or approved subdivision lots granted an exception which have a lot depth which precludes compliance with the setback standards of this section. Such structures shall be setback the maximum practicable distance.
  - (b) Additions to existing non-conforming structures shall, at a minimum, meet the same setback of the existing structure.
  - (c) Public uses, such as bridges for public roads, shall be allowed within the setbacks set forth in this section provided that adverse impacts are mitigated as recommended by the Oregon Department of Fish and Wildlife.
  - (d) Structures necessary to make use of a water right.
  - (e) Approved erosion control - structural or nonstructural. Note: nonstructural solutions to erosion and flooding are preferred to structural solutions.

**182.060. STATE OR FEDERAL THREATENED AND ENDANGERED SPECIES.**

Development which may disturb species (plant or animal) listed by the State of Oregon or the U.S. Fish and Wildlife Service as threatened or endangered shall comply with appropriate State and Federal Laws and regulations. In addition, the review procedure and management plan requirements outlined in Section 182.040 shall apply.

**182.070. LIST OF CONFLICTING USES.**

- (A) FISH AND WILDLIFE AREAS AND HABITATS (Designated on the SRA Map)
  - (1) Fish Habitat
    - (a) Loss of streamside vegetation
    - (b) Road construction
    - (c) Development along lake/reservoir shorelines
    - (d) Dam construction
    - (e) Aggregate removal
  - (2) Black-tailed Deer and Roosevelt Elk Winter Habitat
    - (a) Residential development
    - (b) Roads

- (c) Landfills
- (d) Commercial feedlots
- (e) Airports
- (f) Open concrete canals
- (3) Sensitive Bird Sites
  - (a) Any activity which results in the destruction of Mineral Springs
  - (b) Development within 1/4 mile of an Osprey or Bald Eagle nest during critical nesting periods (specified by the ODFW or USFW)
  - (c) Development within 600 feet of a Great Blue Heron Rookery during critical nesting periods (specified by the ODFW)
  - (d) Harvest of trees utilized for nesting by Osprey or Bald Eagle
- (4) Upland Game and Waterfowl
  - (a) Riparian vegetation removal, except as provided under Section 182.050.
  - (b) Filling, diking and drainage of ponds and wetland areas
  - (c) Disturbance and destruction of mineral springs
  - (d) Development on or adjacent to sensitive waterfowl habitat
- (B) ECOLOGICALLY AND SCIENTIFICALLY SIGNIFICANT NATURAL AREAS.
  - (1) Encroachment of agricultural activities (including seasonal grazing) onto the resource site
  - (2) Timber harvest or tree planting on the resource site or within a designated buffer zone, excepting those operations conducted under provisions of the Forest Practices Act (FPA).
  - (3) Fill or removal at the resource site
  - (4) Stream alteration
  - (5) Mineral or aggregate extraction on the resource site
  - (6) Off-road vehicle use
  - (7) Residential, commercial or industrial development
  - (8) Road construction on the resource site (except by a managing public agency).
- (C) WATER AREAS, WETLANDS, WATERSHEDS AND GROUNDWATER RESOURCES.
  - (1) Riparian Areas
    - (a) Vegetation removal
    - (b) Road Construction
    - (c) Timber harvest (excepting those operations conducted under provisions of the FPA)

**182.080. STATE AND FEDERAL MANAGING AGENCIES.**

- (A) Fish and Wildlife Habitat Areas
  - (1) Oregon Department of Fish and Wildlife
  - (2) U.S. Department of Fish and Wildlife
- (B) Water Areas and Resources
  - (1) Oregon Department of Fish and Wildlife (ODFW)

- (2) Oregon Division of State Lands (DSL)
- (3) Oregon Water Resources Department (DWR)
- (4) Oregon Department of Environmental Quality (DEQ)

## **CHAPTER 183**

### **HISTORIC AND ARCHAEOLOGICAL RESOURCES**

- 183.010. Purpose
- 183.020. Application
- 183.030. Definitions
- 183.040. Designation of Historic Landmarks
- 183.045. Removal of a Resource from Inventory of Significant (1-C) Landmarks
- 183.050. Historic Landmarks
- 183.060. Archaeological Resources

**183.010. PURPOSE.** The purpose and intent of this Chapter is to promote the historic, educational, cultural, economic and general welfare of the public through the preservation, restoration and protection of buildings, structures and appurtenances, sites, places and elements of historic and archaeological value and interest within Polk County.

**183.020. APPLICATION.** The provisions of this Chapter shall apply to significant (1-C) historic landmarks and archaeologically sensitive areas designated 3-A or 3-C on the adopted inventory and identified on the Significant Resource Areas (SRA) Map.

**183.030. DEFINITIONS.**

"1-C": Refers to resources which, based on information regarding location, quality and quantity, are considered to be significant and identified on the County's Significant Resource Areas (SRA) Map.

"3-A": Resources so designated are considered to be of such significance that they should be preserved and all conflicting uses prohibited.

"3-C": Resources so designated are considered to be significant and should be protected by limiting conflicting uses.

Board: Polk County Board of Commissioners

Commission: The Polk County Landmarks Commission

Director: The Polk County Planning Director

Exterior Alterations: A material addition to, removal of, or remodeling of, any exterior portion of an historic landmark. Exterior alteration does not include painting, roofing, siding, routine exterior maintenance or other repair activities which do not adversely affect the historic integrity of the landmark.

Demolition: The demolition, removal or relocation, in its entirety, of an historic building.

Inventory: The inventory of historic sites identified in the Polk County Comprehensive Plan, and any subsequent

Landmark: Any historic site, object, building or structure designated by the Board under this Ordinance.

SHPO: State Historic Preservation Office

**183.040. DESIGNATION OF HISTORIC LANDMARKS.**

- (A) The process for designating a historic landmark for the purpose of administering this Ordinance, may be initiated by the Board of Commissioners, the Commission, or by any interested person who submits an application for designation to the director. Following the receipt of an application the Community Development Department shall provide the property owner of the proposed landmark with written information regarding the benefits and restrictions of such designation.
- (B) The following written information shall be required in an application:
  - (1) Names and addresses of applicant and owner(s);
  - (2) A written description and map indicating the location of the proposed historic landmark;

- (3) A statement explaining the following:
  - (a) Reasons why the proposed resource should, be designated significant, based on the criteria set forth under Section 183.040 (D).
  - (b) The potential impact, if any, which designation of the resource would have on the residents or other property owners in the area.
- (C) Within ten (10) days of receipt of a complete application, the Director shall forward the request to the Commission, the State Historic Preservation Office (SHPO), and all property owners within 500 feet of the parcel upon which the proposed historic landmark is located. The Commission shall hold a public hearing within 45 days of receipt of the application. The Commission shall make its recommendation in writing to the Board within 15 days following conclusion of the public hearing.
- (D) The Commission shall determine if the resource should be designated a significant (1-C) landmark, based on the following criteria:
  - (1) Is included in the National Register of Historic Places; or,
  - (2) Retains physical integrity in original design, condition and setting; and, is characterized by at least one of the following:
    - (a) Exemplifies or reflects special elements of the County's cultural, social, economic, political, architectural history;
    - (b) Is identified with persons or events significant in local, State or national history;
    - (c) Is among the best examples, within Polk County, of a style, type, period or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship;
    - (d) Is representative of the notable work of a builder, designer or architect.
  - (3) The Commission shall take into account the desires of the owners of property with respect to its designation as an historic landmark.

If the proposed landmark is determined by the Commission to be a significant (1-C) resource, the Commission shall further determine whether the resource merits a "3-A" (prohibit conflicting uses) or "3-C" (limit conflicting uses) designation for the purpose of administering this Ordinance.

- (E) Within 45 days of receipt of a Commission decision regarding a request for designation as a historic landmark, the Board of Commissioners shall hold a public hearing and:
  - (1) Designate the proposed resource by order;
  - (2) Deny the designation; or
  - (3) Return the matter to the Commission for consideration of additional specified information.
- (F) Board approval, denial, or remand of the request for designation as a historic landmark shall be in writing and supported by findings which address the criteria set forth under Section 183.040 (D) and other pertinent Goals, Policies and provisions of the Comprehensive Plan and Zoning Ordinance.



**183.045. REMOVAL OF A RESOURCE FROM INVENTORY OF SIGNIFICANT (1-C) LANDMARKS.**

- (A) The process for removing a historic landmark from the County inventory of significant (1-C) historic landmarks, may be initiated by the Board of Commissioners, the Commission, or by any interested person.
- (B) The following written information shall be required in an application:
  - (1) Names and addresses of applicant and owner(s);
  - (2) A written description and map indicating the location of the historic landmark;
  - (3) A statement explaining the following:
    - (a) Reasons why the proposed resource should not remain on the Inventory of Historic Landmarks, based on the criteria set forth under Section 183.045 (D).
    - (b) The potential impact, if any, removal of the resource from the inventory would have on the residents or other property owners in the area.
- (C) Within ten (10) days of receipt of a complete application, the Director shall forward the request to the Commission, the State Historic Preservation Office (SHPO), and all property owners within 500 feet of the parcel upon which the proposed historic landmark is located. The Commission shall hold a public hearing within 45 days of receipt of the application. The Commission shall make its recommendation in writing to the Board within 15 days following conclusion of the public hearing.
- (D) The Commission shall determine if the landmark should be removed from the inventory, based on the following criteria:
  - (1) The landmark is not included in the National Register of Historic Places; or,
  - (2) The landmark does not retain physical integrity in original design, condition and setting; and, is not characterized by any one of the following:
    - (a) Exemplifies or reflects special elements of the County's cultural, social, economic, political, architectural history;
    - (b) Is identified with persons or events significant in local, State or national history;
    - (c) Is among the best examples, within Polk County, of a style, type, period or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship;
    - (d) Is representative of the notable work of a builder, designer or architect.
- (E) Within 45 days of receipt of a Commission decision regarding a request for removal of a landmark from the Inventory of Historic Landmarks, the Board of Commissioners shall hold a public hearing and:
  - (1) Remove the landmark from the Inventory by a duly enacted County order;
  - (2) Deny the request for removal; or
  - (3) Return the matter to the Commission for consideration of additional specified information.

- (F) Board approval, denial, or return of the request for removal of the historic landmark from the Inventory shall be in writing and supported by findings which address the criteria set forth under Section 183.045 (D) and other pertinent Goals, Policies and provisions of the Comprehensive Plan and Zoning Ordinance.

### **183.050. HISTORIC LANDMARKS.**

#### **(A) EXTERIOR REMODELING OR ALTERATION OF HISTORIC BUILDINGS, SITES OR OBJECTS**

The building official shall submit to the Planning Director or designee all building permit requests for exterior alteration of a historic landmark. The Planning Director, within five (5) days, shall submit the request to the Commission for review under the criteria set out in Section 183.050 (B). Within 45 days of receipt of a complete application, the Commission shall hold a public hearing regarding the matter and prepare findings to support their action. At least 20 days prior to the hearing, the Director shall mail a written notice of the hearing and nature of the application to the property owner, all property owners within 500 feet of the parcel upon which the landmark is located and the State Historic Preservation Office (SHPO).

- (1) If the Commission finds the proposed alterations to be in compliance with Section 183.050 (B), they shall submit to the Polk County Building Official a "clearance for permit" which will indicate that the requirements of this Chapter have been satisfied by the request.
- (2) If the Commission finds the proposed alterations do not comply with standards under Section B, they must either: 1) approve the application subject to compliance with conditions which will bring the application into conformance with applicable standards listed in Section 183.050 (B) or, 2) deny the request. Decisions of the Commission shall be subject to the appeal provisions in Section 111.280.

#### **(B) STANDARDS FOR EXTERIOR ALTERATION OF AN HISTORIC BUILDING**

The Commission shall approve an application for exterior alteration of a historic landmark if the proposed change is determined to be harmonious and compatible with the appearance and character of the landmark and shall deny an application if the proposed alteration would adversely affect the architectural significance or the integrity of historical appearance of the building. In determining whether to approve or deny an application, the Commission shall apply the following standards:

- (1) Retention of Original Construction. So far as practicable, all original exterior materials and details shall be preserved.
- (2) Height. Additional stories may be added to historic buildings provided that:
  - (a) The additional height complies with requirements of the building and zoning codes;
  - (b) The additional height does not exceed that which was traditional for the style of the building;
  - (c) The additional height does not alter the traditional scale and proportions of the building style; and
  - (d) The additional height is compatible with adjacent historic buildings.
- (3) Bulk. Horizontal additions may be added to historic buildings provided that:

- (a) The bulk of the addition does not exceed that which was traditional for the building style;
  - (b) The addition maintains the traditional scale and proportion of the building style; and
  - (c) The addition is visually compatible with adjacent historic buildings.
- (4) Visual Integrity of Structure. The lines of columns, piers, spandrels and other primary structural elements shall be maintained so far as practicable.
  - (5) Scale and Proportion. The scale and proportion of altered or added building elements, the relationship of voids to solids (windows to wall) shall be visually compatible to the extent possible with the traditional architectural character of the historic building.
  - (6) Materials and Texture. The materials and textures used in the alteration of addition shall be visually compatible to the extent possible with the traditional architectural character of the historic building.
  - (7) Signs, Lighting and Other Appurtenances. Signs, exterior lighting, and other appurtenances, such as walls, fences, awnings and landscaping shall be visually compatible with the traditional architectural character of the historic building.

#### (C) DEMOLITION

The Building Official shall submit to the Planning Director or designee all building permit requests for demolition of a historic landmark. The Planning Director, within five (5) days, shall submit the request to the Commission for review under the criteria set out in Section 183.050 (C) (2). Within 45 days of receipt of the application, the Commission shall hold a public hearing regarding the matter and prepare findings to support their actions, based the criteria under Section 183.050 (C) (1).

- (1) All requests for demolition of a historic building or new development on historic sites shall be reviewed by the Commission. The Commission may approve, approve with conditions or deny the request, based on the following criteria:
  - (a) Is the building or structure of such interest or significance that it could be listed on the National Register of Historic Places?
  - (b) Is the building of such old and unusual or uncommon design, texture and/or material that it could not be reproduced or reproduced only with great difficulty and/or expense?
  - (c) Would retention of the building or structure help preserve and protect a historically significant place or area of the community?
  - (d) Is the building or portion thereof in such condition that it is unfeasible to preserve or restore it, taking into consideration the economic feasibility of alternatives to the proposal?
- (2) Postponement of Final Action. The Commission may postpone taking final action on a request for issuance of a demolition for a period fixed by the Commission as follows:
  - (a) No more than 60 days following the date of the public hearing. Further postponements may be made for a period not to exceed a total of 30 days, if the Commission makes the following findings:

- (1) There is a program or project underway that could result in public or private acquisition and subsequent preservation of the landmark; and
  - (2) There is reasonable grounds for believing the program or project may be successful.
- (b) During a period of postponement, the Commission may require the property owner to:
- (1) List the landmark for sale with a real estate agent. The real estate agent shall advertise the landmark in local and state newspapers of general circulation in the areas for a minimum of 10 days over a 5 week period.
  - (2) Give public notice by posting the hearing notice on-site in addition to a "For Sale" sign which shall read: **HISTORIC LANDMARK TO BE DEMOLISHED - FOR SALE**. Lettering on the sign shall be at least one (1) foot in height. The sign shall be provided by the applicant and posted in a prominent and conspicuous place within 10 feet of a public street abutting the premises on which the landmark is located. The applicant is responsible for assuring the sign is posted for the period during which the property is listed as provided under (1) above.
  - (3) Prepare and provide to the Director any information related to the history and sale of the property. The Director shall make available such information to all individuals, organizations and agencies who inquire.

If the Commission finds an owner has failed to substantially comply with required provisions under this subsection, the request for demolition shall be denied.

- (3) After granting a further postponement, the Commission shall order the Director, in writing, to issue the permit if it finds:
  - (a) All programs or projects to save the resource have been unsuccessful;
  - (b) The application for demolition has not been withdrawn; and
  - (c) The application otherwise complies with County ordinances and State law.
- (4) **Press Release.** Prior to issuance of a demolition permit, the Director shall issue a press release to local and state newspapers of general circulation in the County. The press release shall include, but not be limited to, a description of the significance of the resource, the reasons for the proposed demolition and possible options for preserving the resource. The demolition permit shall not be issued less than 30 days from the date on which the press release was submitted.
- (5) **Exception.** If the structure for which the demolition permit request has been filed has been damaged in excess of 70 percent of its assessed value due to fire, flood, wind or other natural or man-caused disaster, a demolition permit may be approved by the Building Official without processing the request as set forth in this Chapter.

- (6) Appeals. A decision by the Commission to approve, deny or postpone issuance of a demolition permit or to grant a further postponement may be appealed to the Board by any aggrieved party who appeared orally or in writing, in person or through an agent at the Commission hearing and presented or submitted testimony related to the request. An appeal shall be filed with the Director within 10 days from the date of the public hearing regarding the matter on forms provided by the Director. The Board of Commissioners will hold a public hearing on the appeal and render a decision as provided in Chapter 111.
- (7) Board Ordered Demolition. This Ordinance shall not be construed to make it unlawful for any person to comply with an order by the Board to remove or demolish any landmark determined by the Board to be dangerous to life, health or property.

**183.060. ARCHAEOLOGICAL RESOURCES.** When an application is submitted for a land use change or building permit within an archaeologically sensitive area indicated on the SRA Map, the Planning Director shall be notified. In the event that archaeological resources are unearthed or discovered during construction activities, the following standards apply:

- (A) Notification shall be made to the Planning Director, the State Historic Preservation Office and the Grand Ronde Indian Tribe and construction shall be halted, for a period of time not to exceed 30 days, until a determination is made as to the location, quantity, quality and significance of the resource per OAR 660-16-000.

## **CHAPTER 184**

### **LIMITED USE OVERLAY ZONE**

- 184.010. Purpose and Intent
- 184.020. Application
- 184.030. Allowable Uses
- 184.040. Procedures
- 184.050. Applicable Standards
- 184.100. Rickreall Interchange Management Area Overlay Zone

**184.010. PURPOSE AND INTENT.** The purpose of the Limited Use Overlay is to limit permitted uses activities in a specific location allowed in the underlying zone to only those uses which are justified in a required “reasons exception” to one or more of the Statewide Planning Goals. The Limited Use Overlay District is intended to carry out the administrative rule requirement for reasons exceptions pursuant to OAR 660-14-018 and ORS 197.732

**184.020. APPLICATION.** The Limited Use Overlay shall apply to that specific area for which a reasons exception has been taken.

**184.030. ALLOWABLE USES.**

- (A) When the Limited Use Overlay Zone is applied, the uses permitted in the underlying zone shall be limited to those specifically referenced and justified in the reasons exception and adopting ordinance.
- (B) Until the overlay has been removed or amended, the only permitted uses in an LU zone shall be those specifically referenced and justified in the reasons exception and adopting ordinance.

**184.040. PROCEDURES.**

- (A) The Limited Use Overlay Zone shall be applied through the Comprehensive Plan amendment and zone change process when the zone change requires adoption of a reasons exception by the County.
- (B) The Limited Use Overlay shall become effective upon adoption of the Comprehensive Plan amendment which adds the reasons exception findings.
- (C) The ordinance adopting the Comprehensive Plan amendment shall specify the application of the Limited Use Overlay and specifically identify those uses allowed in the overlay zone.
- (D) The Zoning Map shall be amended to note the area subject to application of the Limited Use Overlay.

**184.050. APPLICABLE STANDARDS.**

Uses allowed in the Limited Use Overlay Zone shall be subject to all specifications and standards of the underlying zone.

**184.100 – RICKREALL INTERCHANGE MANAGEMENT AREA OVERLAY ZONE**

**184.110 PURPOSE**

The purpose of the Rickreall Interchange Management Area Overlay Zone is to implement the Interchange Management Plan for the Rickreall Interchange by ensuring that non-farm land uses with high traffic volumes in the vicinity of the Rickreall Interchange will not cause the interchange to exceed the mobility standards of the Oregon Highway Plan.

**184.120 APPLICATION**

The Overlay Zone applies to properties zoned for Exclusive Farm Use in the vicinity of the Rickreall Interchange (see Exhibit A).

**184.130 PERMITTED USES**

All uses permitted under Chapter 136, except as provided in Section 184.140.

**184.140 PROHIBITED USES**

The following uses are prohibited in the Rickreall Interchange Management Area Overlay Zone:

- (A) Kennels
- (B) Golf courses;
- (C) Composting operations; and
- (D) Solid waste processing facilities.

## **CHAPTER 185**

### **GR/PA, GRAND RONDE: PUBLIC ASSEMBLY ZONE**

185.010	Permitted Uses
185.020	Conditional Uses
185.030	General Development Standards
185.040	Future Right-of-Way Lines
185.050	Off-Street Parking and Loading
185.060	Fences
185.070	Lot Area, Yard and Height Restrictions
185.080	Abandoning Use



**185.010. PERMITTED USES.** Within any GR/PA, Grand Ronde: Public Assembly Zone, no building, structure, or premises shall be used, arranged or designed to be used, erected, structurally altered, or enlarged except for one or more of the following uses:

- A. Any use providing for the public or private assembly of persons for religious, charitable, philanthropic, cultural, recreational, or educational purposes, including churches, youth centers, and social halls;
- B. Medical and Dental Clinics;
- C. Clubs or fraternal lodges;
- D. Cemetery;
- E. School, Elementary, Junior High or High;
- F. Kindergartens and Day-Nursery;
- G. Government Offices and Auditoriums;
- H. Public Parks and Playgrounds (non-commercial); and,
- I. Accessory Uses and Buildings.
- J. Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**185.020. CONDITIONAL USES.**

- A. Dwelling, Single Family. Not more than one dwelling in conjunction with a permitted use, shall be all allowed on any parcel. Dwellings shall conform to the provisions of dwellings located in a GR/LDR, Grand Ronde: Low Density Residential Zone [Chapter 130].
- B. Towers, Chimneys, electronic communication antennas and steeples exceeding 70 feet;
- C. Public Swimming Pool; and,
- D. Residential Schools.

**185.030. GENERAL DEVELOPMENT STANDARDS.** The general development standards in Sections 112.010 through 112.120 and 112.140 through 112.170 shall apply.

**185.040. FUTURE RIGHT-OF-WAY LINES.** Sections 112.180 through shall apply.

**185.050. OFF-STREET PARKING AND LOADING.** The off-street parking and loading requirements found in Sections 112.210 through 112.270 shall apply.

**185.060. FENCES.** Fences shall conform to the requirements found in Sections 112.350 through 112.370.

**185.070. LOT AREA, YARD, AND HEIGHT RESTRICTIONS.** The lot area, front yard, side yard, rear yard, and height requirements found in Section

112.420 shall apply. In addition the minimum setback for all signs shall be five (5) feet.

**185.080. ABANDONING USE.** Whenever the existing use of any Public Assembly Zone, or a part of any such zone, is abandoned or the property transferred for a use not permitted or conditionally permitted, the Planning Commission shall recommend to the Board of Commissioners appropriate rezoning for any such area.

## **CHAPTER 186**

### **GR/PW, GRAND RONDE: PUBLIC WORKS/SAFETY ZONE**

186.010	Permitted Uses
186.020	Conditional Uses
186.030	General Development Standards
186.040	Future Right-of-Way Lines
186.050	Off-Street Parking and Loading
186.060	Fences
186.070	Lot Area, Yard and Height Restrictions
186.080	Abandoning Use

**186.010. PERMITTED USES.** Within any GR/PW, Grand Ronde: Public Works/Safety Zone, no building, structure, or premises shall be used, arranged or designed to be used, erected, structurally altered, or enlarged except for one or more of the following uses:

- A. Utility facility, substation, transformer, gate station, pumping or lift station, telephone, radio, microwave, or television transmitter facilities of any kind, any storage facilities in conjunction with any of the above;
- B. Municipal water supply, treatment, storage, transmission and distribution facility;
- C. Municipal sewage collection, treatment and disposal system;
- D. Public works offices, yards, shops, bus barns, equipment and materials storage yards, and similar uses;
- E. Fire Stations; and,
- F. Accessory Uses and Buildings.
- G. Transportation Improvements [Amended by Ordinance #01-01, dated November 14, 2001.]

**186.020. CONDITIONAL USES.**

- A. Dwelling, Single Family. Not more than one dwelling in conjunction with a permitted use, shall be all allowed on any parcel. Dwellings shall conform to the provisions of dwellings located in a GR/LDR, Grand Ronde: Low Density Residential Zone [Chapter 130].
- B. Commercial utilities for the purpose of generating power for public use by sale;
- C. Towers, Chimneys, electronic communication antennas and steeples exceeding 70 feet; and,
- D. Public or private solid waste transfer facility.

**186.030. GENERAL DEVELOPMENT STANDARDS.** The general development standards in Sections 112.010 through 112.120 and 112.140 through 112.170 shall apply.

**186.040. FUTURE RIGHT-OF-WAY LINES.** Sections 112.180 through shall apply.

**186.050. OFF-STREET PARKING AND LOADING.** The off-street parking and loading requirements found in Sections 112.210 through 112.270 shall apply.

**186.060. FENCES.** Fences shall conform to the requirements found in Sections 112.350 through 112.370.

**186.070. LOT AREA, YARD, AND HEIGHT RESTRICTIONS.** The lot area, front yard, side yard, rear yard, and height requirements found in Section 112.420 shall apply. In addition the minimum setback for all signs shall be five (5) feet.

**186.080. ABANDONING USE.** Whenever the existing use of any Public Works/Safety Zone, or a part of any such zone, is abandoned or the property transferred for a use not permitted or conditionally permitted, the Planning Commission shall recommend to the Board of Commissioners appropriate rezoning for any such area.