

Article 3 – Exclusive Farm Use (EFU) Zone

ARTICLE 3 - EXCLUSIVE FARM USE ZONE (EFU)

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Section 3.01 Purpose & Right to Farm

- A. It is the policy of Hood River County to preserve and maintain the county's agricultural lands for agricultural uses, consistent with existing and future farm practices. To accomplish this policy, the Exclusive Farm Use (EFU) Zone is intended to designate, preserve, stabilize and enhance agricultural and farm use areas within the county for food, fiber and livestock production.

- B. It is the purpose of this zone to insure the orderly use of agricultural and farm land and protect it from inappropriate development. The zone is intended to meet the requirements of state law and regulations.

- C. The EFU Zone implements the Farm designation of the Comprehensive Plan. It should be read together with the County Background Report and the County Policy Document.

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D. The EFU Zone has two component parts. One is High Value Farmland (HVF), which was defined by the Legislature in 1993. HVF is made up of mostly Class I and II soils, and lands that were growing perennials (e.g. tree fruits, berries, etc.) as of a certain date. The Legislature felt the HVF designation would help protect the more productive resource land from the detrimental effects of uses not related to agriculture. In 1995, HVF composed approximately 80% of the total EFU Zone. The remaining component, about 20%, basically mirrors requirements of the pre-1993 County Zoning Ordinance for agricultural lands, although some other requirements have been added to comply with new laws.

E. Right to Farm

1. Farming and forest practices are critical to the economic welfare of the county. The expansion of non-resource uses on and near lands zoned for resource use may give rise to conflicts between resource and non-resource activities. Resource practices on lands zoned for resource use must be protected to some extent from claims of relief filed by persons not accepting conditions associated with living near resource operations, because such claims have an adverse effect on the full resource base of the county.
2. Spraying in compliance with state laws, and smoke, noise, dust and odors associated with a generally accepted, reasonable and prudent methods for the operation of a farm, are accepted farming practices. No farming or forest practice on land zoned for such use shall give rise to any private right of action or claim for relief based on nuisance or trespass, except for damage to a commercial farm product, or death or serious physical injury.

Section 3.02 Use Table

Table 3.02 identifies the uses permitted in the Exclusive Farm Use (EFU) zone. *This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require a Type I, II, or III review, unless otherwise specified on Table 3.02. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this Ordinance.*

A. **As used in Table 3.02:**

1. “A” means the use is allowed outright; uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this Ordinance and do not require land use review.
2. “P” means the use is prohibited.

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3. “C” means the use is a Conditional Use, approval of which is subject to *Section 3.05, Conditional Use Review* and other listed criteria.
 4. The “Subject To” column identifies certain provisions to which the use is subject.
 5. “HV” means High Value Farmland as defined in Section 3.03.
 6. “All Other” refers to EFU zoned lands not defined as HV Farmland.
 7. “Type I” uses (Ministerial Review) are permitted by-right, requiring only non-discretionary staff review to demonstrate compliance with the standards in this Ordinance. Type I permits are limited to actions that do not require interpretation or the exercise of policy or legal judgment.
 8. “Type II” uses (Administrative Action) involve permits, including both permitted uses *subject to standards* and *conditional uses*, for which the application of review criteria requires the exercise of discretion. These decisions require a notice of decision and opportunity for appeal and public hearing.
 9. “Type III” uses require a public hearing. Decisions are made by the hearings officer or planning commission, usually with an opportunity to appeal to the board of commissioners. Quasi-judicial decisions involve the exercise of discretion and judgment when applying applicable land use and development criteria, but implement established policy. Uses that require a Type III Permit may be allowed subject to findings of compliance with applicable approval criteria and development standards.
- B. Permitted Uses** – Permitted uses are subject to the applicable provisions of Subsection 3.15 *Dimensional and Site Development Standards* and other applicable *Articles* of the *Hood River County Zoning Ordinance*.
- C. Prohibited Uses** – Uses of structures, buildings and land use not specifically permitted are prohibited.

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Table 3.02 Use Table for Exclusive Farm Use (EFU) Zone

| Table 3.02: Use Table for EFU Zones I = Type I II = Type II III = Type III A= Allowed P = Prohibited | Review Type | | |
|---|--------------------|------------------|--|
| Use | HV | All Other | SUBJECT TO |
| Farm, Forest, & Natural Resource Uses | | | |
| Farm use as defined in ORS 215.203 | A | A | |
| Farm use, marijuana production | Type I | Type I | Article 53 |
| Marijuana processing | Type II | Type II | Article 53 |
| Marijuana wholesaling (off-site); marijuana retailing | P | P | |
| Propagation or harvesting of a forest product | A | A | |
| Other buildings customarily provided in conjunction with farm use (agricultural buildings and equine facilities) | TYPE I | TYPE I | Section 3.04.A Section 3.15 |
| Creation of, restoration of, or enhancement of wetlands | A | A | Coordination with DSL |
| Composting limited to accepted farming practice in conjunction with and auxiliary to farm use on the subject tract | A | A | |
| A facility for the processing of farm crops, biofuel or poultry | TYPE II | TYPE II | Section 3.04.B Section 3.15 |
| A facility for the primary processing of forest products | C (TYPE II) | C (TYPE II) | Section 3.04.C Section 3.15 |
| The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission | C (TYPE II) | C (TYPE II) | Section 3.05 |
| Conservation areas or structures for the retention of water, soil, open space, forest or wildlife resources | A | A | Coordination with resource agencies |
| Residential Uses | | | |
| Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists | TYPE I | TYPE I | Section 3.15 |
| Primary farm dwelling <i>Includes standards for: Large Tract, Farm Income Non-High Value, Farm Income High Value, and Commercial Dairy dwellings.</i> | TYPE II | TYPE II | Section 3.04.V Section 3.06 |
| Relative farm help dwelling | TYPE II | TYPE II | Section 3.04.D Section 3.04.V |
| Temporary hardship dwelling | C (TYPE II) | C (TYPE II) | Section 3.04.E Section 3.05 |
| Accessory farm dwelling | TYPE II | TYPE II | Section 3.04.V Section 3.07 |
| Lot of record dwelling | TYPE II | TYPE II | Section 3.04.V Section 3.08 |

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| Use | Review Type | | SUBJECT TO |
|---|-----------------|-----------------|--|
| | HV | All Other | |
| Table 3.02: Use Table for EFU Zones I = Type I II = Type II III = Type III A= Allowed P = Prohibited | | | |
| Non-farm dwelling | C (TYPE II) | C (TYPE II) | Section 3.04.V Section 3.05 Section 3.09.A |
| Replacement, alteration or restoration of lawfully established dwelling | TYPE I or II | TYPE I or II | Section 3.10 Section 3.10.D |
| Replacement dwelling for historic property | TYPE II | TYPE II | Section 3.04.V |
| Residential home as defined in ORS 197.660, in existing dwellings | C (TYPE III) | C (TYPE III) | Section 3.04.V Section 3.05 |
| Room and board arrangements (i.e., meals served) for a maximum of five unrelated persons in existing residences | P | P | |
| Commercial Uses | | | |
| Billboards | P | P | |
| Commercial activity carried on in conjunction with a marijuana crop | P | P | |
| Contractor’s Equipment Yards | P | P | |
| Winery or Cider Business | TYPE II | TYPE II | Section 3.11 |
| Agri-tourism single event (i.e., not to exceed 16 hrs and 50 attendees) | TYPE I | TYPE I | Section 3.12.A |
| Agri-tourism single event (i.e., not to exceed 72 hrs and 250 attendees) | C (TYPE II) | C (TYPE II) | Section 3.05 Section 3.12.B |
| Agri-tourism for up to 6 events or activities in a calendar year (i.e., not to exceed 72 hrs and 250 attendees) | C (TYPE II) | C (TYPE II) | Section 3.05 Section 3.12.C |
| Agri-tourism: Other more frequent or longer events on 80 acres | P | P | |
| Destination resort | P | P | |
| Parking of up to seven log trucks | C (TYPE II) | C (TYPE II) | Section 3.05 |
| Dog training classes or testing trials (conducted outdoors or in farm buildings that existed on January 1, 2013) | TYPE II | TYPE II | Section 3.04.F |
| Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under Section 3.04.F | P | C (TYPE III) | Section 3.05 |
| Farm stand | TYPE II | TYPE II | Section 3.04.G |
| Home occupation | C (TYPE II) | C (TYPE II) | Section 7.01.H Section 3.04.H Section 3.05 Article 53 |

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| Table 3.02: Use Table for EFU Zones I = Type I II = Type II III = Type III A= Allowed P = Prohibited | Review Type | | |
|---|--------------------|------------------|--|
| Use | HV | All Other | SUBJECT TO |
| Home occupation involving Bed & Breakfast (B&B) Facility in an existing dwelling | C (TYPE II) | C (TYPE II) | Section 3.04.H.2 Section 3.04.V Section 3.05 Article 56 |
| Home occupation involving short-term rentals | C (TYPE II) | C (TYPE II) | Section 3.05 Article 53 |
| Home occupation to host wedding and related events | C (TYPE II) | C (TYPE II) | Section 3.05 Article 73 |
| Aerial fireworks display business | P | P | |
| A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use. | C (TYPE II) | C (TYPE II) | Section 3.05 |
| Commercial activities in conjunction with an <u>on-premise</u> farm use, including the processing of farm crops into biofuel not permitted under Section 3.04.B, but excluding activities in conjunction with a marijuana crop. | C (TYPE II) | C (TYPE II) | Section 3.05 |
| Cold Storage Facility as a commercial activity in conjunction with farm use <i>(Cold storage facilities may be permitted as a Type I use; this is a separate application for those that are not.)</i> | C (Type II) | C (Type II) | Section 3.05 |
| Signs exceeding thirty-two square feet | P | P | Section 3.15.G |
| Wrecking and Junk Yards | P | P | |
| Mineral, Aggregate, Oil and Gas Uses | | | |
| Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b) | A | A | |
| Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b) | A | A | |
| Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted | C (TYPE II) | C (TYPE II) | Section 3.05 |
| Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement | C (TYPE II) | C (TYPE II) | Section 3.04.I Section 3.05 |
| Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources | C (TYPE II) | C (Type II) | Section 3.04.J Section 3.05 |
| Processing of other mineral resources and other subsurface resources | C (TYPE II) | C (TYPE II) | Section 3.05 |

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| Table 3.02: Use Table for EFU Zones I = Type I II = Type II III = Type III A= Allowed P = Prohibited | Review Type | | |
|--|-----------------|-----------------|--------------------------------|
| | HV | All Other | SUBJECT TO |
| Use | | | |
| Transportation Uses | | | |
| Climbing and passing lanes within the right of way existing as of July 1, 1987 | A | A | |
| Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result | A | A | |
| Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed | A | A | |
| 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 | A | A | |
| Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels | C (TYPE II) | C (TYPE II) | Section 3.05 Article 55.60 |
| 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 | C (TYPE II) | C (TYPE II) | Section 3.05 |
| 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 | C (TYPE II) | C (TYPE II) | Section 3.05 Article 55.60 |
| Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065 | C (TYPE II) | C (TYPE II) | Section 3.05 |
| Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities | C (TYPE III) | C (TYPE III) | Section 3.04.K Section 3.05 |
| Utility/Solid Waste Disposal Facilities | | | |
| Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505 | A | A | |
| Utility facility service / local distribution lines (e.g. electric, telephone, natural gas) and accessory equipment (e.g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups | A | A | |
| Solar energy system as an accessory use (non-commercial) | TYPE I | TYPE I | Section 3.15 |
| Wind energy power production systems as an accessory use (non-commercial) | TYPE I | TYPE I | Section 3.15 Article 74 |
| Rainwater collection systems as an accessory use (non-commercial) | TYPE I | TYPE I | Section 3.15 |
| Electric vehicle charging stations for residents and their non-paying guests | TYPE I | TYPE I | Section 3.15 |

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|--|-----------------------------|-----------------------------|--|
| | HV | All Other | SUBJECT TO |
| Use | | | |
| Land application of reclaimed water, agricultural or industrial process water or Biosolids, or the onsite treatment of septage prior to the land application of Biosolids | TYPE II | TYPE II | Section 3.04.L |
| Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200-feet in height. | TYPE II | TYPE II | Section 3.04.M Section 3.04.N |
| Collocation of antennas and wireless telecommunication facilities, including associated equipment (e.g., equipment shelters), on a previously approved wireless telecommunications facility | TYPE I | TYPE I | Section 3.04.O Section 3.15 Article 74 |
| Communication facilities and towers supporting wireless telecommunication facilities (< 200' in height) <i>¹ Section 3.05 shall not apply to a Tower with Concealment Technology, only a New Tower (not using concealment technology)</i> | C ¹ (TYPE II) | C ¹ (TYPE II) | Section 3.05 Article 74 |
| Transmission towers over 200-feet in height | C (TYPE II) | C (TYPE II) | Section 3.05 |
| Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities. | C (TYPE III) | C (TYPE III) | Section 3.05 Section 3.13.A |
| Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale | P | P | |
| Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale | C (TYPE III) | C (TYPE III) | Section 3.05 Section 3.13.B |
| A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation not on high value farmland | P | C (TYPE III) | Section 3.04.U Section 3.05 |
| Composting facilities on farms or for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060 | P | C (TYPE II) | Section 3.04.P Section 3.04.U Section 3.05 |
| Parks/Public/Quasi-public Uses | | | |
| Onsite filming and activities accessory to onsite filming for 45-days or less as provided for in ORS 215.306 | A | A | |
| Onsite filming and activities accessory to onsite filming for more than 45-days as provided for in ORS 215.306 | C (TYPE II) | C (TYPE II) | Section 3.05 |
| A site for the takeoff and landing of model aircraft. | TYPE II | TYPE II | Section 3.04.Q |
| Living history museum as defined in 3.03 | P | P | |
| Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community | P | P | |

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| Table 3.02: Use Table for EFU Zones I = Type I II = Type II III = Type III A= Allowed P = Prohibited | Review Type | | SUBJECT TO |
|--|-----------------|-----------------|--|
| | HV | All Other | |
| Use | | | |
| Fire service facilities providing rural fire protection services (including parking and staging areas for emergency vehicles) | TYPE I | TYPE I | Section 3.15 |
| Helipad for aircraft emergencies when applied for by public entities (including parking and staging areas for emergency vehicles) | TYPE I | TYPE I | Section 3.15 |
| Publicly owned parks, playgrounds, and campgrounds | P | C (TYPE II) | Section 3.04.R Section 3.05 |
| Non-motorized trails within the Hood River Corridor (i.e., Powerdale Corridor from the mouth of Hood River to Tucker Bridge) | C (Type III) | C (Type III) | Section 3.05 |
| Public parks or park uses in an adopted Master Plan <i>(There currently is no parks master plan adopted and acknowledged as part of the county's comprehensive plan.)</i> | C (TYPE II) | TYPE I | Section 3.04.R Section 3.05 |
| Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210 | C (TYPE II) | C (TYPE II) | Section 3.05 |
| Operations for the extraction and bottling of water | C (TYPE III) | C (TYPE III) | Section 3.05 |
| Churches and cemeteries in conjunction with churches, consistent with ORS 215.441 | P | C (TYPE II) | Section 3.04.U Section 3.05 Article 18 |
| Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located. | P | C (TYPE III) | Section 3.04.S Section 3.04.U Section 3.05 |
| Private parks, playgrounds, hunting and fishing preserves | P | P | |
| Private campgrounds | P | P | |
| Golf courses not on high-value farmland as defined in 0 and ORS 195.300 | P | C (TYPE III) | Section 3.04.T Section 3.04.U Section 3.05 |
| Outdoor Mass Gatherings | | | |
| An outdoor mass gathering of more than 3,000 persons that is expected to continue for more than 24 hours but less than 120 hours in any three-month period, as provided in ORS 433.735. | A | A | County Board of Commissioner Review |
| Any outdoor mass gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by a county planning commission under ORS 433.763 | P | P | |

Section 3.03 Definitions

Words used in the present tense include the future; the singular number includes the plural; and the word “shall” is mandatory and not directory. Whenever the term “this Ordinance” is used

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herewith, it shall be deemed to include all amendments thereto as may hereafter from time to time be adopted.

For the purpose of this Ordinance, unless otherwise specifically provided, certain words, terms, and phrases are defined as follows:

- A. Accepted Farming Practice: A mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use. As applied to composting operations on high-value farmland, “accepted farming practice” includes composting operations that either 1) compost only materials produced on the subject tract, or 2) compost materials brought from off-site and processed alone or in conjunction with materials generated on the subject tract, and use all on-site generated compost for on-farm production in conjunction with, and auxiliary to, the farm use on the subject tract.
- B. Agri-tourism: Means a commercial enterprise at a working farm or ranch that is incidental and subordinate to the existing farm use of the tract that promotes successful agriculture, generates supplemental income for the owner and complies with Oregon Statue and Rule. Any assembly of persons shall be for the purpose of taking part in agriculturally based operations or activities such as animal or crop care, picking fruits or vegetables, cooking or cleaning farm products, tasting farm products; or learning about farm or ranch operations. Agri-tourism does not include “commercial events or activities” such as celebratory gatherings, weddings, parties, or similar uses.
- C. Associated Transmission Lines: Transmission lines constructed to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.
- D. Cider Business: A facility used primarily for the commercial production, shipping and distribution, wholesale or retail sales, tasting, crushing, making, blending, storage, bottling, administrative functions of warehousing of cider.
- E. Farm or Ranch Operation: All lots or parcels of land in the same ownership that are used by the farm or ranch operator for farm use as defined in ORS 215.203.
- F. High Value Farmland (HVF) is defined as:
 - 1. Land in a tract composed predominantly of soils that are irrigated and classified prime, unique, Class I or Class II; or not irrigated, and classified prime, unique, Class I or Class II; or growing specific perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the article 7 – Exclusive Farm Use Page 4 United States Department of

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Agriculture taken prior to November 4, 1993, or as demonstrated by aerial photography of the Western Aerial Corporation taken on May 28, 1995.

2. Small blocks of land surrounded or nearly surrounded by HVF that are designated during the mapping of HVF.
 3. All EFU zoned property meeting the above definition / criteria was mapped by the county via Ordinance # 223.
- G. Irrigated: Agricultural land watered by an artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider. For the purposes of this Ordinance, an area or tract within a water or irrigation district that was once irrigated shall continue to be considered "irrigated" even if the irrigation water was removed or transferred to another tract.
- H. Living History Museum: 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.
- I. Local Historical Society: A local historical society recognized by the county governing body and organized under ORS Chapter 65 (Nonprofit Corporations).
- J. Mining, Aggregate: For purposes of this Article, "mining" includes 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. "Mining" does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner 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, logging or cemetery operations, on-site road construction or other on-site construction or non-surface impacts of underground mines.
- K. Personal Use Airport: 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.
- L. Winery: An establishment where wine is produced commercially.
- M. Vineyard: Fields where grapes are grown, typically used for winemaking.

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Section 3.04 Use Standards

Farm, Forest and Natural Resource Uses

A. Agricultural Buildings and Equine Facilities, shall be permitted with an approved land use permit subject to the following standards:

1. Located and used subject to the definition of “agricultural building” in Article 1 of this Ordinance.
2. An “agricultural building” shall not be approved for use as: (1) a dwelling; (2) a structure used for a purpose, other than growing plants, in which 10 or more persons are present at any one time; (3) a structure regulated by the State Fire Marshal pursuant to ORS chapter 476; (4) a structure used by the public; or (5) a structure subject to Sections 4001 to 4127, title 42, United States Code (*the National Flood Insurance Act of 1968*) as amended, and regulations promulgated thereunder.
3. Pursuant to the provisions of Oregon Revised Statutes, Chapter 455.315(2)(d), an “equine facility” shall be located on a farm, pursuant to Subsection (5)(a) and (b) below, and used by the farm owner or the public for stabling or training equines or providing riding lessons and training clinics. (*Note that, unlike agricultural buildings that are required to be used as part of the business of the farm, equine facilities may simply be used for the pleasure of the owner when all other standards are met.*)
4. An “equine facility” shall not be approved for use as: (1) a dwelling; (2) a structure in which more than 10 persons are present at any one time; (3) a structure regulated by the State Fire Marshal pursuant to ORS chapter 476; or (4) a structure subject to Sections 4001 to 4127, title 42, United States Code (*the National Flood Insurance Act of 1968*) as amended, and regulations promulgated thereunder.
5. Before an application for an agricultural building or equine facility is approved, except for a greenhouse, an applicant shall demonstrate that the lot or parcel on which the agricultural building or equine facility is proposed contains a farm, as defined below:
 - a. A farm includes a lot or parcel that is currently employed for the primary purpose of obtaining a profit in money by (a) Raising, harvesting and selling crops; (b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees or the produce thereof; (c) Dairying and selling dairy products; (d) Stabling or training equines, including but not limited to providing riding lessons,

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training clinics and schooling shows; (e) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission; (f) Preparing, storing or disposing of, by marketing or otherwise, the products or by-products raised for human or animal use on land described in this section; or (g) Using land described in this section for any other agricultural or horticultural use or animal husbandry or any combination thereof; and

- b. The lot or parcel is receiving farm tax deferral from the county; or the property owner provides proof of gross income generated from the onsite farm pursuant to ORS 308.A.071(2)(a) for at least the last year.
 - c. No agricultural building or equine facility shall be constructed within the boundaries of a floodplain without an approved building permit. Where applicable, an agricultural building or equine facility within the boundaries of a floodplain shall also be subject to requirements of Article 44 (*Floodplain Zone*) of this Ordinance.
 - d. Nothing in this section is intended to authorize the application of a state structural specialty code to any agricultural building or equine facility; such structures are not exempt from electrical, plumbing, or mechanical permits when applicable.
 - e. As part of an application for an agricultural building or equine facility, the owner(s) of the property shall sign a statement acknowledging the limitations of how the building can be used. By signing this statement, the owner(s) must also agree to obtain a building permit should the use of the building be converted to non-agricultural use and to ensure that future owners are made aware of these limitations.
 - f. Any approved agricultural building or equine facility that is no longer located on a farm or used exclusively for agricultural purposes may be subject to enforcement action pursuant to Article 1 of this Ordinance.
 - g. Any agricultural building or equine facility, unable to meet the above guidelines, may be approved as an accessory buildings when applicable criteria are met and subject to a building permit.
- B. A farm on which a processing facility is located must provide at least one-quarter of the farm crops processed at the facility. A farm may also be used for an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is established or used as a processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm

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use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment. A county may not approve any division of a lot or parcel that separates a processing facility or establishment from the farm operation on which it is located.

- C. Facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses defined. Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.

Residential Uses

- D. Relative farm help dwelling, subject to the following standards:

1. The relative farm help dwelling shall be located on the same lot or parcel as the principal farm dwelling and must be on real property used for farm use.
2. The relative farm help dwelling shall be occupied by a relative(s) of the farm operator or by a relative(s) of the farm operator's spouse who will be principally engaged in the existing commercial farming operation and whose assistance in the management of the farm, such as planting, harvesting, marketing or caring for livestock, is required by the farm operator. Farming of a marijuana crop may not be used to demonstrate compliance with the approval criteria for a relative farm help dwelling.
3. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm from the principal farm dwelling, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.
4. For the purposes of this Subsection D "relative" means a child, parent, stepparent, grandchild, grandparent, step-grandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator's spouse.

- E. Temporary hardship dwelling for dependent relative, subject to the following standards:

1. One manufactured dwelling, recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a

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temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:

- a. The temporary hardship dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the temporary hardship dwelling will use a public sanitary sewer system, such condition will not be required;
 - b. The applicant shall renew the permit every two-years for it to remain valid. Upon renewal, the applicant shall provide a statement confirming that the residence remains necessary for the relative named in the permit and pay the required renewal fee;
 - c. Within three-months of the end of the hardship, the temporary hardship dwelling shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed non-residential use.
 - d. The applicant shall submit written confirmation from a medical doctor that care is necessary for an aged or infirm person.
 - e. Justification that the relative with the hardship is not employed full-time off the site and is dependent upon medical care by either a relative; or a person medically certified to care for such a person on a full-time basis; and
 - f. The relative with the hardship, relative providing care, or medically certified person shall be the primary full-time resident.
2. A temporary residence approved under this section is not eligible for replacement. Department of Environmental Quality review and removal requirements also apply.
 3. As used in this section “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons.
 4. A property line adjustment of a lot or parcel in a manner that separates a temporary hardship dwelling or home occupation from the parcel on which the primary residential use exists may not be approved.

Commercial Uses

- F. Dog training classes or testing trials conducted outdoors, or in farm buildings (i.e., agricultural building) that existed on January 1, 2013, are limited as follows:

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1. The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and
2. The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.

G. Farm stand, subject to the following standards:

1. The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25-percent of the total annual sales of the farm stand (*At the request of the county, the farm stand shall submit to the county a written statement that is prepared by a certified public accountant and certifies the compliance of the farm stand with this subsection for the previous tax year.*); and
2. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.
3. As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this Subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items. As used in this section, "local agricultural area" includes Oregon or an adjacent county in Washington.
4. Adequate off-street parking will be provided subject to provisions of Article 51 (Off Street Parking and Loading).
5. Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.
6. All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways.
7. No farm stand building or parking is permitted within the right-of-way.

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8. Approval is required from the County Public Works Department or State Highway Division regarding adequate egress and access. All egress and access points shall be clearly marked.
9. Visual clearance areas shall be provided and maintained as defined in Article 3 (Definitions).
10. Signs are not permitted within the right-of-way, unless approved by either the County Public Works Department or the State Highway Division.
11. Only four (4) signs (including both on and off premise signs) are permitted not to exceed a cumulative size of 32 square feet. The sign(s) shall be located in such a manner as to protect the public's health, safety, and welfare. Off premise signs shall be approved by affected property owners.
12. All outdoor light fixtures shall be directed downward, and have full cutoff and full shielding to preserve views of the night sky and to minimize excessive light-spillover onto adjacent properties, roads and highways.
13. Permit approval is subject to compliance with the County Sanitarian or Department of Agriculture requirements, and County Building Official/applicable building permits.
14. A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.

H. Home occupations, subject to the following:

1. Located and used subject to the definition of “Home Occupation” in Article 3 and meet the Home Occupation Standards in Article 53 of this Ordinance.
2. When a bed and breakfast facility is sited as a home occupation on the same tract as a winery or cider business established under Table 3.02 and is operated in association with the winery or cider business:
 - a. The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility;
 - b. The meals may be served at the bed and breakfast facility or at the winery or cider business; and
 - c. Weddings and related events shall meet the requirements of Article 73.

Mineral, Aggregate, Oil and Gas Uses

- I. Facilities that batch and blend mineral and aggregate into asphalt cement may not be

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authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40-acres or more that are planted as of the date the application for batching and blending is filed.

- J. Mining, crushing or stockpiling of aggregate and other mineral and subsurface resources may be approved, subject to the following:
1. A land use permit is required for mining more than one thousand (1,000) cubic yards of martial or excavation preparatory to mining of a surface area of more than one-acre.
 2. A land use permit for mining of aggregate shall be issued only for a site included on the mineral and aggregate inventory in the Hood River Comprehensive Plan.

Transportation Uses

- K. Personal-use airport, as used in this section, prohibits aircraft other than those owned or controlled by the owner of the airstrip. Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.

Helipads for emergency use are not personal-use airports under this section and may be allowed when applied for by public entities.

Utility/Solid Waste Disposal Facilities

- L. Land Application of Reclaimed or Process Water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an EFU zone is subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251.

Onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.

- M. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

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1. A public right-of-way;
2. Land immediately adjacent to a public right-of-way, provided the written consent of all adjacent property owners has been obtained; or
3. The property to be served by the utility.

N. Utility facility that is necessary for public service.

1. A utility facility is necessary for public service if the facility must be sited in the EFU 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 EFU 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 (1) above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.
3. The owner of a utility facility approved under Subsection (1) above shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

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4. The county shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.
5. Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under the EFU Zone or other statute or rule when project construction is complete. Off-site facilities allowed under this subsection are subject to Section 3.05 - Conditional Use Review Criteria. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.
6. In addition to the provisions of Subsections (1) through (4) above , the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) shall be subject to the provisions of 660-011-0060.
7. The provisions of Subsection (1) above do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
8. An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of (a) or (b) below:
 - a. An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:
 - i. The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;
 - ii. The associated transmission line is co-located with an existing transmission line;
 - iii. The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or
 - iv. The associated transmission line is located within an existing right-of-way for a linear facility, such as a transmission line, road or railroad that is located above the surface of the ground.

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- b. After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to Subsections (c) and (d) below, two or more of the following criteria:
 - i. Technical and engineering feasibility;
 - ii. The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
 - iii. Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;
 - iv. Public health and safety; or
 - i. Other requirements of state or federal agencies.
 - c. As pertains to Subsection (b) above, the applicant shall demonstrate how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.
 - d. The county may consider costs associated with any of the factors listed in Subsection (b) above, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.
- O. Communication towers and facilities (i.e., cell towers), subject to Article 74.
- P. Composting operations and facilities shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle. This use is not permitted on high value farmland, except that existing facilities on high value farmland may be expanded subject to Section 3.04.W, and as allowed as an accepted farming practice as defined.

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Parks/Public/Quasi-Public

Q. Buildings and facilities associated with a site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this section. An owner of property used for the purpose authorized in this section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

R. Publicly owned parks may include:

1. All outdoor recreation uses allowed under ORS 215.283;
2. The following uses, unless otherwise allowed as part of an adopted park master plan:
 - a. Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;
 - b. Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;
 - c. Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;
 - d. Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pump-out stations;
 - e. Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1,500 square feet of floor area;
 - f. Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;

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- g. Park Maintenance and Management Facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging; and
 - h. Natural and cultural resource interpretative, educational and informational facilities in state parks: interpretative centers, information/orientation centers, self-supporting interpretative and informational kiosks, natural history or cultural resource museums, natural history or cultural educational facilities, reconstructed historic structures for cultural resource interpretation, retail stores not exceeding 1,500 square feet for sale of books and other materials that support park resource interpretation and education.
- S. Schools as formerly allowed pursuant to ORS 215.283(1)(a) that were established on or before January 1, 2009, may be expanded if:
- 1. The Conditional Use Review Criteria in Section 3.05 are met; and
 - 2. The expansion occurs on the tax lot on which the use was established on or before January 1, 2009 or a tax lot that is contiguous to the tax lot and that was owned by the applicant on January 1, 2009.
- T. An existing golf course may be expanded consistent with the requirements of Table 3.02 and Section 3.05. Accessory uses provided as part of a golf course shall be limited consistent with the following standards:
- 1. An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;
 - 2. Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and

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3. Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

General Standards

U. Three-mile setback. For uses subject to this subsection:

1. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.
2. Any enclosed structures or group of enclosed structures described in Subsection (1) within a tract must be separated by at least one-half mile. For purposes of this subsection, “tract” means a tract that is in existence as of June 17, 2010.
3. Existing facilities wholly within the farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. Enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this Ordinance.

V. Single-family dwelling deeds. The landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

W. Expansion & Non-conforming use standards. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to Table 3.02, Article 65, and other requirements of law.

Section 3.05 Conditional Use Review Criteria

An applicant for a conditional use identified in Table 3.02 must demonstrate compliance with the following criteria:

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- A. The 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 use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- C. The proposed use will be compatible with vicinity uses, and satisfies all relevant requirements of this Ordinance and the following general criteria:
 - 1. The use is consistent with those goals and policies of the Comprehensive Plan which apply to the proposed use;
 - 2. The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features;
 - 3. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district;
 - 4. The proposed use is appropriate, considering the adequacy of public facilities and services existing or planned for the area affected by the use (e.g., water, sewer and access); and
 - 5. The use is or can be made compatible with existing uses and other allowable uses in the area and does not negatively affect the health or safety of surrounding uses or residents.

Section 3.06 Dwellings Customarily Provided in Conjunction with Farm Use

- A. Primary Farm Dwelling - Large Tract Standards. On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
 - 1. The parcel on which the dwelling will be located is at least 160-acres.
 - 2. The subject tract is currently employed for farm use.
 - 3. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the subject tract, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.
 - 4. Except for seasonal farm worker housing approved prior to 2001, there is no other dwelling on the subject tract.

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

1. The subject tract is currently employed for the farm use on which, in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned at least \$60,000 in gross annual income from the sale of farm products;
2. Except for seasonal farm worker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 owned by the farm or ranch operator or on the farm or ranch operation;
3. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Subsection (1); and
4. In determining the gross income required by Subsection (1):
 - a. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
 - b. Only gross income from land owned, not leased or rented, shall be counted; and
 - c. Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

C. Primary Farm Dwelling - Farm Income Standards (high-value). On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

1. The subject tract is currently employed for the farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years; and
2. Except for seasonal farm worker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 owned by the farm or ranch operator or on the farm or ranch operation; and
3. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Subsection (1);
4. In determining the gross income required by Subsection (1):

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- a. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
 - b. Only gross income from land owned, not leased or rented, shall be counted; and
 - c. Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
5. Farming of a marijuana crop, and the grow sales derived from selling a marijuana crop, may not be used to demonstrate compliance with the approval criteria for a primary farm dwelling.

D. Additional Farm Income Standards.

1. For the purpose of Subsections (B) or (C), noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements.
2. Prior to the final approval for a dwelling authorized by Subsections (B) and (C) that requires one or more contiguous or non-contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form (available at the county planning department) adopted as "Exhibit A" to OAR chapter 660, division 33 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:
 - a. All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and
 - b. The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
3. 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;
4. 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;

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5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the covenants, conditions and restrictions required by this section;
 6. The planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.
- E. Primary Farm Dwelling - Commercial Dairy Farm Standards. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm if:
1. The subject tract will be employed as a commercial dairy as defined in Subsection (7);
 2. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;
 3. Except for an accessory farm dwelling, there is no other dwelling on the subject tract;
 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;
 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 468B.200 to 468B.230; and
 - b. A Producer License for the sale of dairy products under ORS 621.072.
 7. As used in this section, "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by Subsections (B) or (C), whichever is applicable, from the sale of fluid milk.

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- F. Relocated Farm Operations. A dwelling may be considered customarily provided in conjunction with farm use if:
1. Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by Subsection (B) or (C), whichever is applicable;
 2. The subject lot or parcel on which the dwelling will be located is:
 - a. Currently employed for the farm use that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by Subsection (B) or (C), whichever is applicable; and
 - b. At least 80-acres in size;
 3. Except for an accessory farm dwelling, there is no other dwelling on the subject farm or ranch operation;
 4. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Subsection (1); and
 5. In determining the gross income required by Subsections (1) and (2)(a):
 - 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.

Section 3.07 Accessory Farm Dwellings (Farm worker housing)

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

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- ii. On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract;
 - iii. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the County Department of Records and Assessment and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party, unless it is reapproved under these provisions;
 - iv. On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subsection to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. “Farmworker housing” shall have the meaning set forth in ORS 215.278 and not the meaning in 315.163; or
 - v. 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 80-acres in size and the lot or parcel complies with the gross farm income requirements in Section 3.06 (B) or (C); and
- c. There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.
2. In addition to the requirements in Subsection (1), 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 meets the requirements of Section 3.06.B.
 - b. On land identified as high-value farmland, the primary farm dwelling meets the requirements of Section 3.06.C
 - c. It is located on a commercial dairy farm as defined in Section 3.06.E.7 and meets the requirements of Section 3.06.F.5.

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3. No division of a lot or parcel for an accessory farm dwelling shall be approved pursuant to this subsection. If it is determined that an accessory farm dwelling satisfies the requirements of this Ordinance, a parcel may be created consistent with the minimum parcel size requirements in Section 3.15.D.
 4. 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 per Section 3.09.
 5. For purposes of this subsection, "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.
 6. No accessory farm dwelling unit may be occupied by a relative of the owner or operator of the farm. "Relative" means a spouse of the owner or operator or an ancestor, lineal descendant or whole or half sibling of the owner or operator.
- B. Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria for an accessory farm dwelling.

Section 3.08 Lot of Record Dwellings

A. Lot of Record Dwelling

1. A dwelling may be approved on a pre-existing lot or parcel if:
 - a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in Subsection (5):
 - i. Since prior to January 1, 1985; or
 - ii. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
 - b. The tract on which the dwelling will be sited does not include a dwelling;
 - c. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;
 - d. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;

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- e. The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in Subsections (3) or (4); and
 - f. When the lot or parcel on which the dwelling will be sited lies within an area designated in the Comprehensive Plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.
2. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;
 3. Notwithstanding the requirements of Subsection (1)(e) above, a single-family dwelling may be sited on high-value farmland if it meets the requirements below or in the subsequent Subsection (4):
 - a. It meets the other requirements of Subsections (1) and (2);
 - b. The lot or parcel is protected as high-value farmland as defined in OAR 660-033-0020(8)(a);
 - c. The planning director or hearings officer of a county determines that:
 - i. The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity.
 - (i) For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrates that a lot of parcel cannot be practicably managed for farm use.
 - (ii) 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.

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- (iii) 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.
- d. The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in Section 3.09.A.3
- 4. Notwithstanding the requirements of Subsection (1)(e) above, a single-family dwelling may be sited on high-value farmland if it meets the requirements below or in the preceding Subsection (3) above:
 - a. It meets the other requirements of Subsections (1) and (2);
 - b. The tract on which the dwelling will be sited is:
 - i. Not high-value farmland defined in Section 3.03; and
 - ii. Twenty-one acres or less in size; and
 - c. The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21-acres, and at least two such tracts had dwellings on January 1, 1993; or
 - d. The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21-acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or
 - e. The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21-acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:
 - i. “Flaglot” means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
 - ii. “Geographic center of the flaglot” means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest

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side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

5. For purposes of Subsection (1), “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;
6. The County Department of Records and Assessment shall be notified that the governing body intends to allow the dwelling.
7. An approved single-family dwelling under this section may be transferred by a person who has qualified under this section to any other person after the effective date of the land use decision.
8. The county shall provide notice of all applications for lot of record dwellings on high-value farmland to the State Department of Agriculture. Notice shall be provided in accordance with land use regulations and shall be mailed at least 20 calendar days prior to the decision.
9. The dwelling will be consistent with density limitations that protect Goal 5 – big game wildlife habitat.
10. The dwelling is subject to Section 3.15, and Article 50 – Buffer Requirements including a deed notification, and with other applicable requirements of the Comprehensive Plan.

Section 3.09 Dwellings Not in Conjunction with Farm Use

- A. Non-farm dwelling. A non-farm dwelling sited on a parcel is subject to the following requirements:
 1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
 2. The following applies to non-farm dwellings:
 - a. The dwelling, including essential or accessory improvements or structure, is situated upon a new parcel, or, in the case of an existing lot or parcel, upon a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and

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size of the tract. A lot or new parcel or portion of an existing parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

- b. A new parcel or portion of an existing lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then it is not "generally unsuitable". A new parcel or portion of an existing lot or parcel is presumed to be suitable if composed predominately of Class I-IV soils. Just because a new parcel or portion of an existing lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or
 - c. If the lot or parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;
3. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in OAR 660-033-0130(4)(a)(D). If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in OAR 660-033-0130(4)(a)(D); and
 4. If a single-family dwelling is established on a lot or parcel as set forth in 3.08 (Lot of Record Dwelling) no additional dwelling may later be sited under the provisions of this section.

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Section 3.10 Replacement, Alteration or Restoration of a Lawfully-Established Dwelling

- A. Any lawfully established permanent dwelling may be replaced, altered or restored if, at the time when an application for a permit is submitted, the permitting authority finds to its satisfaction, based on substantial evidence that:
1. The dwelling to be altered, restored or replaced has, or formerly had:
 - a. Intact exterior walls and roof structure;
 - b. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - c. Interior wiring for interior lights;
 - d. A heating system; and
 - e. The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time.
 2. Notwithstanding Subsection (1)(e) above, if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:
 - a. The destruction (i.e., by fire or natural hazard), or demolition in the case of restoration, of the dwelling; or
 - b. The applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner. “Improperly removed” means that the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the county stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.
- B. For replacement of a lawfully established dwelling:
1. The dwelling to be replaced must be removed, demolished or permanently converted to an allowable non-residential use:
 - a. Before the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or

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- b. Unless otherwise allowed by the Planning Director due to special circumstances, a written agreement stating the existing dwellings shall be removed, demolished, or permanently converted into a non-residential use within 90 days or less of the new dwelling being occupied; or
 - c. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.
2. The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been converted to a non-residential use and will not be re-established or re-occupied as a residence in the future, unless otherwise authorized by law and approved through a separate application.
 3. As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, section 2 and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
 4. As a condition of approval, it is stated the dwelling to be replaced will continue to comply with any conditions imposed as part of the original or the most recent approval.
- C. A replacement dwelling must comply with applicable building, plumbing, electric and sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
1. The siting standards of Subsection (2) below apply when a dwelling qualifies for replacement because the dwelling:
 - a. Formerly had the features described in Subsection A(1) above;
 - b. Was removed from the tax roll as described in Subsection A(2) above; or
 - c. Had a permit that expired as described under Subsection D(3) below.
 2. The replacement dwelling must be sited on the same lot or parcel:

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- a. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and
 - b. If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.
3. Replacement dwellings that currently have the features described in Subsection A(1) above and that have been on the tax roll as described in Subsection A(2) above may be sited on any part of the same lot or parcel.
- D. A lawfully established accessory farm dwelling, including but not necessarily limited to a farmworker cabin, bunkhouse, or other similar dwelling that does not comply with the requirements of Section 3.10(A)(1) above, may be replaced with a similar type dwelling, subject to the following:
1. The replacement dwelling is designed for occupancy by an employee(s) of an existing onsite commercial farm operation.
 2. The replacement dwelling shall be occupied by a person(s) who is actively employed to work on the onsite farm, including their immediate family.
 3. The replacement dwelling shall be sized to accommodate a similar number of farmworkers as the existing farm dwelling, unless otherwise allowed as part of a new application based on the requirements of Section 3.07.
 4. The subject tract is currently employed for farm use and is able to meet the income requirements provided in Sections 3.06(C)(1) and (4).
 5. If the replacement dwelling is no longer required for use by an employee(s) of the onsite farm, it shall either be removed, demolished, or converted into an allowable non-residential use.
- E. Replacement of seasonal farmworker housing:
1. Shall be used in the same manner as an accessory farm dwelling and for the same purposes.
 2. May be larger than the original structures.
 3. May continue to use shared cooking, toilet and bathing facilities connected to a sanitary waste disposal system.

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- F. Upon request from an application, deferred replacement may be authorized, allowing the replacement dwelling to be constructed or placed at any time in the future. The deferred replacement allows a property owner to remove a dwelling meeting the criteria from Section 3.10 (A)(1) above, with the guarantee that the removed dwelling can be replaced at any time in the future, subject to the following:
1. The dwelling to be replaced shall be removed or demolished within three months after the deferred replacement permit is issued.
 2. The replacement dwelling shall comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting that are in effect at the time of construction.
 3. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
- G. A replacement dwelling permit that is issued (Type II review if):
1. Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:
 - a. Formerly had the features described in Subsection A(1) above; or
 - b. Was removed from the tax roll as described in Subsection A(2) above;
 2. Is not subject to the time to act limits of ORS 215.417; and
 3. If expired before January 1, 2014, shall be deemed to be valid and effective if, before January 1, 2015, the holder of the permit:
 - a. Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and
 - b. Causes to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

Section 3.11 Wineries or Cider Businesses

- A. A winery or cider business may be established as a permitted use if the proposed winery or cider business will produce wine or cider with a maximum annual production of:
1. Winery - Less than 50,000 gallons and the winery operator:
 - a. Owns an on-site vineyard of at least 15-acres;
 - b. Owns a contiguous vineyard of at least 15-acres;

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- c. Has a long-term contract for the purchase of all of the grapes from at least 15-acres of a vineyard contiguous to the winery; or
 - d. Obtains grapes from any combination of Subsection (1)(a), (b) or (c); or
2. At least 50,000 gallons and the winery operator:
 - a. Owns an on-site vineyard of at least 40-acres;
 - b. Owns a contiguous vineyard of at least 40-acres;
 - c. 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;
 - d. Owns an on-site vineyard of at least 15-acres on a tract of at least 40-acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or
 - e. Obtains grapes from any combination of Subsection (2)(a), (b), (c) or (d).
3. Cider Business - Less than 100,000 gallons of cider annually and the cider business:
 - a. Owns an on-site orchard of at least 15 acres;
 - b. Owns a contiguous orchard of at least 15 acres;
 - c. Has a long-term contract for the purchase of all of the apples or pears from at least 15 acres of an orchard contiguous to the cider business; or
 - d. Obtains apples or pears from any combination of Subsection (a),(b) or (c) of this paragraph; or
4. At least 100,000 gallons of cider annually and the cider business:
 - a. Owns an on-site orchard of at least 40 acres;
 - b. Owns a contiguous orchard of at least 40 acres;
 - c. Has a long-term contract for the purchase of all of the apples or pears from at least 40 acres of an orchard contiguous to the cider business;
 - d. Owns an on-site orchard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of orchards in Oregon that are located within 15 miles of the cider business site; or

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- e. Obtains apples or pears from any combination of Subsection (a), (b), (c) or (c) of this paragraph.
- B. In addition to producing and distributing wine or cider, a winery or cider buinsses established under this section may:
1. Market and sell wine or cider produced in conjunction with the winery or cider business.
 2. Conduct operations that are directly related to the sale or marketing of wine or cider produced in conjunction with the winery or cider business, including:
 - a. Wine or cider tastings in a tasting room or other location on the premises occupied by the winery or cider business;
 - b. Wine or cider club activities;
 - c. Winemaker or cidemaker luncheons and dinners;
 - d. Winery or cider business associated tours of vineyard or orchard;
 - e. Meetings or business activities with winery or cider business suppliers, distributors, wholesale customers and wine or cider industry members;
 - f. Winery or cider business staff activities;
 - g. Open house promotions of wine or cider produced in conjunction with the winery or cider business; and
 - h. Similar activities conducted for the primary purpose of promoting wine or cider produced in conjunction with the winery or cider business.
 3. Market and sell items directly related to the sale or promotion of wine or cider produced in conjunction with the winery or cider business, the marketing and sale of which is incidental to on-site retail sale of wine or cider, including food and beverages:
 - a. Required to be made available in conjunction with the consumption of wine or cider on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - b. Served in conjunction with an activity authorized by Subsections B(2), (4) or (5).
 4. Carry out agri-tourism or other commercial events on the tract occupied by the winery or cider business subject to Subsection E.

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5. Host charitable activities for which the winery or cider business does not charge a facility rental fee.
- C. A winery or cider business may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in Subsection B(3). Food and beverage services authorized under Subsection B(3) may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.
 - D. The gross income of the winery or cider business from the sale of incidental items or services provided pursuant to Subsection B(3) to (5) may not exceed 25 percent of the gross income from the on-site retail sale of wine or cider produced in conjunction with the winery or cider business. The gross income of a winery or cider business does not include income received by third parties unaffiliated with the winery or cider business. At the request of the county, the winery or cider business shall submit to the county a written statement that is prepared by a certified public accountant and certifies the compliance of the winery or cider business with this subsection for the previous tax year.
 - E. A winery or cider business may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery or cider business. If a winery or cider business conducts agri-tourism or other commercial events authorized under this Section, the winery or cider business may not conduct agri-tourism or other commercial events or activities authorized by Section 3.12.A to C.
 - F. A winery or cider business operating under this section shall provide parking for all activities or uses of the lot, parcel or tract on which the winery or cider business is established.
 - G. Prior to the issuance of a permit to establish a winery or cider business under Subsection A, the applicant shall show that vineyards or orchards described in Subsection A have been planted or that the contract has been executed, as applicable.
 - H. Standards imposed on the siting of a winery or cider business shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:
 1. Establishment of a setback of at least 100-feet from all property lines for the winery or cider business and all public gathering places unless the local government grants an adjustment or variance allowing a setback of less than 100-feet; and
 2. Provision of direct road access and internal circulation.

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- I. In addition to a winery permitted in Subsections A to H, a winery may be sited on a tract of 80-acres or more where the requirements of OAR 215.453 are met (*not applicable to cider business*).

Section 3.12 Agri-tourism Events or Activities

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

- A. In the alternative to 3.12 Subsections (B) and (C) below, the county may authorize, through an expedited, single-event license, a single agri-tourism event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of a county or its designee must determine that the proposed agri-tourism event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:
 1. Must be incidental and subordinate to existing farm use on the tract;
 2. May not begin before 6 a.m. or end after 10 p.m.;
 3. May not involve more than 50 attendees or 25 vehicles;
 4. May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;
 5. May not require or involve the construction or use of any new permanent structure in connection with the agri-tourism event or activity;
 6. Must be located on a tract of at least 10-acres unless the owners or residents of adjoining properties consent, in writing, to the location; and
 7. Must comply with applicable health and fire and life safety requirements.
- B. A single agri-tourism event or activity on a tract in a calendar year that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply, and:
 1. The agri-tourism event or activity is incidental and subordinate to existing farm use on the tract;

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2. The duration of the agri-tourism event or activity does not exceed 72 consecutive hours;
 3. The maximum attendance at the agri-tourism event or activity does not exceed 250 people;
 4. The maximum number of motor vehicles parked at the site of the agri-tourism event or activity does not exceed 125 vehicles;
 5. The agri-tourism event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements;
 6. Must comply with the Conditional Use Review Standards described in Section 3.05; and
 7. The agri-tourism event or activity complies with conditions established for:
 - a. Planned hours of operation;
 - b. Access, egress and parking;
 - c. A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads; and
 - d. Sanitation and solid waste.
 8. Must be located on a tract of at least 10-acres unless the owners or residents of adjoining properties consent, in writing, to the location; and
 9. A permit authorized by this subsection shall be valid for one-calendar year. When considering an application for renewal, the county shall ensure compliance with the provisions of Subsection (B), any local standards that apply and conditions that apply to the permit or to the agri-tourism events or activities authorized by the permit.
- C. In the alternative to Subsections (A) and (B), the county may authorize up to six agri-tourism events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism events or activities must meet any local standards that apply, and the agri-tourism events or activities:
1. Must be incidental and subordinate to existing farm use on the tract;
 2. May not, individually, exceed a duration of 72 consecutive hours, exceed 250 attendees and 125 vehicles;

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3. May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism events or activities;
 4. Must comply with the Conditional Use Review Standards described in Section 3.05;
 5. May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and
 6. Must comply with conditions established for:
 - a. The types of agri-tourism events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism events and activities, the anticipated daily attendance and the hours of operation;
 - b. The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism events or activities;
 - c. The location of access and egress and parking facilities to be used in connection with the agri-tourism events or activities;
 - d. Traffic management, including the projected number of vehicles and any anticipated use of public roads; and
 - e. Sanitation and solid waste.
 7. Must be located on a tract of at least 10-acres unless the owners or residents of adjoining properties consent, in writing, to the location; and
 8. A permit authorized by this subsection shall be valid for one-calendar year. When considering an application for renewal, the county shall ensure compliance with the provisions of Subsection (C), any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.
- D. Temporary structures established in connection with agri-tourism events or activities may be permitted. The temporary structures must be removed at the end of the agri-tourism event or activity. Alteration to the land in connection with an agri-tourism event or activity including, but not limited to, grading, filling or paving, are not permitted.
- E. The authorizations provided by this section are in addition to other authorizations that may be provided by law, except that “outdoor mass gathering” and “other gathering,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism events and activities.

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Section 3.13 Commercial Facilities for Generating Power

A. Commercial Power Generating Facility.

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

B. Photovoltaic Solar Power Generation Facility. A proposal to site a photovoltaic solar power generation facility shall be subject to the definitions and provisions provided for in OAR 660-033-0130 (38).

Section 3.14 Land Divisions

- A. Minimum Parcel Size. The minimum size for creation of a new parcel shall be 80-acres.
- B. A division of land to accommodate a use permitted in Table 3.02, except a residential use, smaller than the minimum parcel size provided in Subsection (A) above may be approved if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.
- C. A division of land to create up to two new parcels smaller than the minimum size established under Subsection (A) above, each to contain a dwelling not provided in conjunction with farm use, may be permitted if the provisions of ORS 215.263(4)(a) can be met.
- D. A land division of a lot or parcel created before January 1, 1993, on which a nonfarm dwelling was approved pursuant to ORS 215.284(1) may not be approved.

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- E. A division of land to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use, may be permitted if the provisions of ORS 215.263(4)(b) can be met.
- F. This section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.
- G. This section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.
- H. This section does not allow division of a lot or parcel described in Section 3.04.D (relative farm help dwelling) and Section 3.04.E (temporary hardship dwelling).
- I. This section does not allow division of a lot or parcel that separates a processing facility from the farm operation specified in Table 3.02.
- J. A division of land may be approved provided:
 - 1. The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and
 - 2. A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
 - 3. 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 except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
 - d. May not be smaller than 25-acres unless the purpose of the land division is to facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan or to allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000-acres of open space or park property.

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4. A division of land smaller than the minimum lot or parcel size in Subsection (A) above may be approved provided for the purpose of establishing a church or rural fire station, pursuant to ORS 215.263.
- K. A division of a lawfully established unit of land may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for agricultural uses and is smaller than the minimum parcel size, provided that:
 1. If the parcel contains a dwelling, the parcel must be large enough to support continued residential use.
 2. If the parcel does not contain a dwelling, it:
 - (i) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - (ii) May not be considered in approving or denying an application for any other dwelling; and
 - (iii) May not be considered in approving a redesignation or rezoning of agricultural lands, except to allow a public park, open space or other natural resource area.

Section 3.15 Dimensional & Site Development Standards

The following standards are the minimum applicable to all new dwellings / buildings and replacement dwellings / buildings located on a completely different site, unless required by other provisions of this article:

- A. Article 50: Buffer requirements shall apply to all proposed dwellings, except dwellings located on and directly associated with farm uses, hardship dwellings in conjunction with a pre-existing non-conforming dwelling, and certain replacement dwellings, as described below. The more restrictive provisions in Article 50 or this section shall apply.

In the case of a replacement dwelling, the buffer requirements do not apply unless the dwelling is located on a completely different site. The new dwelling cannot protrude any further into the buffer unless an alternate buffer, such as a vegetative screen, berm, or sight obscuring fence is provided in compliance with Article 50 requirements.

The more restrictive provisions in Article 50 or this section shall apply.

- B. Maximum height: 35-feet.
- C. Setbacks, minimum:

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1. Front: 60-feet from the centerline of any arterial street, or 50-feet from the centerline of any local or collector street, or 20-feet from the right-of-way, whichever is greater.
 2. Rear: 20-feet; agricultural building and equine facilities buildings: 10-feet.
 3. Side: Interior parcel: 10-feet; Exterior or corner parcel: 50-feet from the centerline of any street.
 4. Streams: New buildings shall be setback 100-feet from ordinary high water line unless in conjunction with a water-related or water dependent use.
- D. Minimum lot or parcel size: 80-acres
- E. Minimum lot frontage: 50-feet
- F. Minimum vision clearance: 35-feet
- G. Signs exceeding 32 square feet are prohibited in the EFU zone, with the following exceptions:
1. Oregon State Highway Division signs;
 2. Sponsor signs if:
 - a. The sign is part of a wall or fence surrounding an outdoor sports facility;
 - b. The sign does not exceed a maximum height of eight-feet and total area does not exceed 64 square feet;
 - c. The sign is on the interior of the wall/fence;
 - d. The structure shall comply with Section 3.15 C and F regarding setback and vision clearance.
 3. Signs approved under Subsection G are required to obtain a building permit, unless otherwise allowed by the County Building Official.
 4. With the exception of farm stands and the requirements of Section 3.04.G no more than one sign is allowed per parcel.

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Section 3.16 Approval Period & Time Extensions¹

- A. Except as provided for in Section B. below and for land divisions, a decision approving a development or use on EFU zoned land shall be valid two-years from the date of the final decision. In the case of an appealed decision, the approval period shall begin on the date a final appellate decision is issued, unless the decision is remanded to the County, in which case the approval period shall begin on the date the County issues its final decision on remand.
1. An initial extension period of up to one year shall be granted if:
 - a. The applicant makes a written request for the extension prior to the expiration date;
 - b. The applicant states reasons that prevented them from beginning or continuing development within the approval period; and
 - c. The County determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
 2. Up to two additional one-year extensions may be authorized where the criteria from Section (A)(1) above are met and applicable criteria for the decision have not changed.
 3. Pursuant to OAR 660-033-0140(3), approval of an extension granted under this Section is a ministerial decision, is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision.
- B. Pursuant to ORS 215.417, when a permit is approved for a proposed residential development (*except for primary farm dwellings, accessory farm dwellings, and relative farm help dwellings*) on EFU zoned land, the permit shall be valid for four-years from the date of the final decision. In the case of an appealed decision, the approval period shall begin on the date a final appellate decision is issued, unless the decision is remanded to the County, in which case the approval period shall begin on the date the County issues its final decision on remand.
1. An extension of a residential development permit shall be valid for two-years, when an applicant submits to the County a written request for an extension of the development approval period, along with the appropriate fee, prior to the expiration date.
 2. Up to two additional one-year extensions may be authorized where applicable criteria for the decision have not changed if:

¹ Section 3.16(A) and (B) were amended via Ordinance #372 on June 21, 2021

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- a. The applicant makes a written request for the additional extension prior to the expiration date;
 - b. The applicable residential development statute has not been amended following the approval of the permit, except the amendments to ORS 215.750 by section 1, chapter 433, Oregon Laws 2019; and
 - c. An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the County, which may require that the applicant comply with the amended rule or land use regulation.
3. Pursuant to ORS 215.417(3), approval of an extension granted under this Section is a ministerial decision, is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision.