



COMMUNITY DEVELOPMENT

DESCHUTES COUNTY PLANNING COMMISSION

5:30 PM, THURSDAY, JUNE 12, 2025

Barnes Sawyer Rooms - Deschutes Services Bldg - 1300 NW Wall St – Bend

(541) 388-6575 | www.deschutes.org

AGENDA

MEETING FORMAT

The Planning Commission will conduct this meeting in person, electronically, and by phone.

Members of the public may view the Planning Commission meeting in real time via the Public Meeting Portal at www.deschutes.org/meetings.

Members of the public may listen, view, and/or participate in this meeting using Zoom. Using Zoom is free of charge. To login to the electronic meeting online using your computer, copy this link:

<https://bit.ly/dcpczoom>

Passcode: 764609

Using this option may require you to download the Zoom app to your device.

Members of the public can access the meeting via telephone, dial: 1-312-626-6799. When prompted, enter the following Webinar ID: 824 8646 7893 and Passcode: 764609. Written comments can also be provided for the public comment section to planningcommission@deschutes.org by 5:00 p.m. on June 12. They will be entered into the record.

I. CALL TO ORDER

II. APPROVAL OF MINUTES - May 8

III. PUBLIC COMMENT

IV. ACTION ITEMS

1. Work Session: Farm and Forest Housekeeping Text Amendments (*Nicole Mardell, Senior Planner*)

V. PLANNING COMMISSION AND STAFF COMMENTS

VI. ADJOURN



Deschutes County encourages persons with disabilities to participate in all programs and activities. This event/location is accessible to people with disabilities. If you need accommodations to make participation possible, please call (541) 617-4747.



COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Deschutes County Planning Commission

FROM: Nicole Mardell, AICP, Senior Planner
Will Groves, Planning Manager

DATE: June 4, 2025

SUBJECT: Work Session: Farm and Forest Housekeeping Text Amendments

The Deschutes County Planning Commission (Commission) will conduct a work session on June 12, 2025, to consider amendments to the Deschutes County Code (DCC) (file no. 247-25-000297-TA). The housekeeping amendments will integrate changes to state rule, resulting from the state's Farm and Forest Modernization Project, into local code.

This work session is in preparation for a public hearing scheduled for June 26, 2025. Attached to this memorandum are the proposed text amendments (Attachment A) and findings (Attachment B) summarizing the changes. Within the proposed amendments, added language is shown underlined and deleted shown as ~~striketrough~~.

All record materials can be found on the project website:
<https://bit.ly/farmforesthhousekeeping>

I. BACKGROUND

Oregon's zoning-based farm and forest land conservation programs have been in place since 1973. Over the past 10 years, interested parties, the courts, and the Department of Land Conservation and Development (DLCD) have identified a number of issues needing review. In 2024, the Land Conservation and Development Commission (LCDC) initiated the Farm and Forest Modernization Project, which included rulemaking and the appointment of a rules advisory committee (RAC). Rulemaking was intended to improve the clarity and consistency of implementing Oregon's farm and forest program across the state. DLCD directed the RAC to consider:

- Codifying identified case law standards;
- Other EFU rule amendments;
- Conforming rule changes; and

- Providing additional clarity to counties and potential applicants with the intent of reducing unnecessary appeals.

LCDC ultimately adopted new Oregon Administrative Rules (OARs) developed by the RAC on December 6, 2024. They became effective on January 1, 2025. Staff provided a briefing to the Board on February 3, 2025 - the memo from that briefing (Attachment C) provides additional background on the state rulemaking process and intent of the amendments.

This housekeeping text amendment will incorporate changes to the OAR and ORS from rulemaking into the Deschutes County Code (DCC), in addition to some minor housekeeping changes from previous rulemaking or legislative changes that have not yet been captured locally.

II. OVERVIEW OF AMENDMENTS

To comply with this rulemaking package, staff is proposing the following amendments:

- Amend 18.16.040(A) to apply farm impacts test through reference to Oregon Revised Statute (ORS) and OAR.
- Amend 18.16.042(A) 'incidental and subordinate' definition for agri-tourism.
- Amend 18.16.030(Y) to include ORS and OAR references for rural transportation facilities in Exclusive Farm Use zone.
- Add rural transportation facilities as 18.36.030(AE) and 18.40.030(AG) in forest zones and include ORS and OAR references.
- Amend 18.16.031(D), 18.36.030(G), and 18.40.030(H) to reference ORS and OAR definition for private parks.
- Amend 18.16.020(J), 18.36.020(M), and 18.040.020(M) to reference ORS and OAR standards for replacement dwellings. Removed sections 18.16.023, 18.36.025, and 18.40.025 as they were duplicative.
- Amend 18.04 to reference ORS and OAR for definition of "farm use".
- Amend 18.16.050(A)(3)(f), 18.16.050(B)(8), and 18.16.050(C)(5) to reflect new requirements for verification of income associated with farmworker and primary farm dwellings.
- Amend 18.16.038(C) to reference ORS and OAR standards for farm stands.
- Amend 18.16.030(M), 18.36.030(R), and 18.40.030(S) to reference ORS and OAR standards for home occupations.
- Amend 18.36.050(D)(1)(d)(1) and 18.40.050(D)(1)(d)(1) to remove a temporary provision for template dwellings that has sunset.
- Amended 18.16.031(D), 18.16.030(G), 18.36.030(G), and 18.40.030(H) to directly reference requirements for campgrounds in OAR and ORS. Removed 18.16.050(L) as no longer needed.
- Amended 18.04 to amend the definition for a processing facility for farm crops to include rabbit products.
- Amended 18.16.033(C) as it is duplicative and superseded by 18.120.010(B), pertaining to expansion of nonconforming schools.

Staff included only housekeeping style amendments resulting from rulemaking in this particular text amendment package. Additional discretionary amendments related to childcare, temporary storage sites, and natural disaster event allowances may be pursued in future amendment processes.

III. AGENCY AND PUBLIC COMMENTS

No agency or public comments have been received to date.

IV. NEXT STEPS

The Planning Commission will recommend action to the Board of County Commissioners. It may approve, revise, or deny the proposed amendments. A public hearing with the Planning Commission is scheduled for June 26, 2025.

Attachments

- A. Proposed Findings
- B. Text Amendments
- C. February 3, 2025 Briefing Memo to the BOCC

Exhibit A to Ordinance 2025-xxx

CHAPTER 18.04 TITLE, PURPOSE AND DEFINITIONS

[18.04.010 Title](#)

[18.04.020 Purpose](#)

[18.04.030 Definitions](#)

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18.04.030 Definitions

As used in DCC Title 18, the following words and phrases shall mean as set forth in DCC 18.04.030, or, where such words and phrases are defined in applicable Oregon Revised Statutes (ORS) and/or Oregon Administrative Rules (OAR), as defined therein. If there is any conflict between the definitions set forth in DCC 18.04.030 and the definitions of the same words and phrases in applicable ORS and/or OAR, the definitions in ORS and/or OAR shall prevail.

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"Facility for the processing of farm products" means a facility for:

- A. Processing farm crops, including the production of biofuel as defined in ORS 315.141, if at least one-quarter of the farm crops come from the farm operation containing the facility; or
- B. Slaughtering, processing or selling poultry, ~~or poultry products,~~ rabbits, or rabbit products from the farm operation containing the facility and consistent with the licensing exemption for a person under ORS 603.038(2).

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~~"Farm use" has the meaning given in ORS 215.203 and OAR 660-033-0020. means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm Use" also includes the current employment of the land for the primary purpose of obtaining a profit in money by stabling or training equines, including but not limited to, providing riding lessons, training clinics and schooling shows. "Farm use" also~~

~~includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described above. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3). Current employment of the land for farm use also includes those uses listed under ORS 215.203(2)(b).~~

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(Ord. Chapter 18.04 35 (04/2015); Ord. 88-050 §3, 1988)

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [82-013](#) §1 on 5/25/1982

Amended by Ord. [83-037](#) §2 on 6/1/1983

Amended by Ord. [83-033](#) §1 on 6/15/1983

Amended by Ord. [84-023](#) §1 on 8/1/1984

Amended by Ord. [85-002](#) §2 on 2/13/1985

Amended by Ord. [86-032](#) §1 on 4/2/1986

Amended by Ord. [86-018](#) §1 on 6/30/1986

Amended by Ord. [86-054](#) §1 on 6/30/1986

Amended by Ord. [86-056](#) §2 on 6/30/1986

Amended by Ord. [87-015](#) §1 on 6/10/1987

Amended by Ord. [88-009](#) §1 on 3/30/1988

Amended by Ord. [88-030](#) §3 on 8/17/1988

Amended by Ord. [89-004](#) §1 on 3/24/1989

Amended by Ord. [89-009](#) §2 on 11/29/1989

Amended by Ord. [90-014](#) §2 on 7/12/1990

Amended by Ord. [91-002](#) §11 on 2/6/1991

Amended by Ord. [91-005](#) §1 on 3/4/1991

Amended by Ord. [92-025](#) §1 on 4/15/1991

Amended by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [91-038](#) §§3 and 4 on 9/30/1991

Amended by Ord. [92-004](#) §§1 and 2 on 2/7/1992

Amended by Ord. [92-034](#) §1 on 4/8/1992

Amended by Ord. [92-065](#) §§1 and 2 on 11/25/1992

Amended by Ord. [92-066](#) §1 on 11/25/1992

Amended by Ord. [93-002](#) §§1, 2 and 3 on 2/3/1993
Amended by Ord. [93-005](#) §§1 and 2 on 4/21/1993
Amended by Ord. [93-038](#) §1 on 7/28/1993
Amended by Ord. [93-043](#) §§1, 1A and 1B on 8/25/1993
Amended by Ord. [94-001](#) §§1, 2, and 3 on 3/16/1994
Amended by Ord. [94-008](#) §§1, 2, 3, 4, 5, 6, 7 and 8 on 6/8/1994
Amended by Ord. [94-041](#) §§2 and 3 on 9/14/1994
Amended by Ord. [94-038](#) §3 on 10/5/1994
Amended by Ord. [94-053](#) §1 on 12/7/1994
Amended by Ord. [95-007](#) §1 on 3/1/1995
Amended by Ord. [95-001](#) §1 on 3/29/1995
Amended by Ord. [95-075](#) §1 on 11/29/1995
Amended by Ord. [95-077](#) §2 on 12/20/1995
Amended by Ord. [96-003](#) §2 on 3/27/1996
Amended by Ord. [96-082](#) §1 on 11/13/1996
Amended by Ord. [97-017](#) §1 on 3/12/1997
Amended by Ord. [97-003](#) §1 on 6/4/1997
Amended by Ord. [97-078](#) §5 on 12/31/1997
Amended by Ord. [2001-037](#) §1 on 9/26/2001
Amended by Ord. [2001-044](#) §2 on 10/10/2001
Amended by Ord. [2001-033](#) §2 on 10/10/2001
Amended by Ord. [2001-048](#) §1 on 12/10/2001
Amended by Ord. [2003-028](#) §1 on 9/24/2003
Amended by Ord. [2004-001](#) §1 on 7/14/2004
Amended by Ord. [2004-024](#) §1 on 12/20/2004
Amended by Ord. [2005-041](#) §1 on 8/24/2005
Amended by Ord. [2006-008](#) §1 on 8/29/2006
Amended by Ord. [2007-019](#) §1 on 9/28/2007
Amended by Ord. [2007-020](#) §1 on 2/6/2008
Amended by Ord. [2007-005](#) §1 on 2/28/2008
Amended by Ord. [2008-015](#) §1 on 6/30/2008
Amended by Ord. [2008-007](#) §1 on 8/18/2008
Amended by Ord. [2010-018](#) §3 on 6/28/2010
Amended by Ord. [2010-022](#) §1 on 7/19/2010
Amended by Ord. [2011-009](#) §1 on 10/17/2011
Amended by Ord. [2012-004](#) §1 on 4/16/2012
Amended by Ord. [2012-007](#) §1 on 5/2/2012
Amended by Ord. [2013-008](#) §1 on 7/5/2013

Amended by Ord. [2014-009](#) §1 on 8/6/2014
Amended by Ord. [2015-004](#) §1 on 4/22/2015
Amended by Ord. [2016-015](#) §1 on 7/1/2016
Amended by Ord. [2016-026](#) §1 on 11/9/2016
Amended by Ord. [2016-006](#) §1 on 2/27/2017
Amended by Ord. [2017-015](#) §1 on 11/1/2017
Repealed by Ord. [2018-005](#) §8 on 10/10/2018
Amended by Ord. [2018-006](#) §4 on 11/20/2018
Amended by Ord. [2019-010](#) §1 on 5/8/2019
Amended by Ord. [2019-016](#) §1 on 2/24/2020
Amended by Ord. [2020-001](#) §1 on 4/21/2020
Amended by Ord. [2020-010](#) §1 on 7/3/2020
Amended by Ord. [2020-007](#) §7 on 10/27/2020
Amended by Ord. [2021-013](#) §3 on 4/5/2022
Amended by Ord. [2022-014](#) §1 on 4/4/2023
Amended by Ord. [2023-001](#) §2 on 5/30/2023
Amended by Ord. [2024-008](#) §2 on 1/7/2025
Amended by Ord. [2025-002](#) §1 on 3/28/2025
Amended by Ord. [xxxx-xxx](#) §x on x/xx/xxxx

Exhibit B to Ordinance 2025-xxx

CHAPTER 18.16 EXCLUSIVE FARM USE ZONES[18.16.010 Purpose](#)[18.16.020 Uses Permitted Outright](#)~~[18.16.023 Lawfully Established Dwelling Replacement](#)~~[18.16.025 Uses Permitted Subject To The Special Provisions Under DCC Section 18.16.038 Or DCC Section 18.16.042 And A Review Under DCC Chapter 18.124 Where Applicable](#)[18.16.030 Conditional Uses Permitted; High Value And Non-High Value Farmland](#)[18.16.031 Conditional Uses On Non-High Value Farmland Only](#)[18.16.033 Conditional Uses On High Value Farmland Only](#)[18.16.035 Destination Resorts](#)[18.16.037 Guest Ranch](#)[18.16.038 Special Conditions For Certain Uses Listed Under DCC 18.16.025](#)[18.16.040 Limitations On Conditional Uses](#)[18.16.042 Agri-Tourism And Other Commercial Events Or Activities Limited Use Permit](#)[18.16.043 Single Permit](#)[18.16.050 Standards For Dwellings In The EFU Zones](#)[18.16.055 Land Divisions](#)[18.16.060 Dimensional Standards](#)[18.16.065 Subzones](#)[18.16.067 Farm Management Plans](#)[18.16.070 Setbacks](#)[18.16.080 Ordinary High Water Mark Setbacks](#)[18.16.090 Rimrock Setback](#)

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18.16.020 Uses Permitted Outright

The following uses and their accessory uses are permitted outright:

- A. Farm use ~~has the meaning given in ORS 215.203 and OAR 660-033-0020. as defined in DCC Title 18.~~
- B. Propagation or harvesting of a forest product.
- C. Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(2)(a) or (b).

- D. Accessory buildings customarily provided in conjunction with farm use.
- E. Climbing and passing lanes within the right of way existing as of July 1, 1987.
- F. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land lots or parcels result.
- G. Temporary public road and highway detours that will be abandoned and restored to original condition or use when no longer needed.
- H. Minor betterment of existing public road and highway-related facilities such as maintenance yards, weigh stations, and rest areas, within a right of way existing as of July 1, 1987, and contiguous public owned property utilized to support the operation and maintenance of public roads and highways.
- I. Creation, restoration, or enhancement of wetlands.
- J. A lawfully established dwelling may be altered, restored, or replaced as allowed by and subject to the requirements of ORS 215.291 and OAR 660-033-130.~~subject to DCC 18.16.023.~~
 - 1. The replacement dwelling is subject to OAR 660-033-0130(30) and the County shall require as a condition of approval of a single-family replacement dwelling that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 to 30.937.
- K. A replacement dwelling to be used in conjunction with farm use if the existing dwelling is listed on the National Register of Historic Places and on the County inventory as a historic property as defined in ORS 358.480, and subject to 18.16.020(J)(1)above.
- L. Operation, maintenance, and piping of existing irrigation systems operated by an Irrigation District except as provided in DCC 18.120.050.
- M. Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

1. A public right of way;
 2. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
 3. The property to be served by the utility.
- N. The land application of reclaimed water, agricultural process or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone, subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246 to 215.251. For the purposes of this section, 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.
- O. Fire service facilities providing rural fire protection services.
- P. Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(2)(a) or (b).
- Q. Outdoor mass gathering described in ORS 197.015(10)(d), and subject to DCC Chapter 8.16.
- R. Composting operations that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract as allowed under OAR 660-033-0130(29).

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [81-001](#) §1 on 3/5/1981

Amended by Ord. [81-025](#) §1 on 7/15/1981

Amended by Ord. [86-007](#) §1 on 1/29/1986

Amended by Ord. [91-002](#) §3 on 2/6/1991

Amended by Ord. [91-005](#) §4 on 3/4/1991

Amended by Ord. [91-020](#) §1 on 5/29/1991
 Amended by Ord. [91-024](#) §1 on 6/26/1991
 Amended by Ord. [91-038](#) §§1 and 2 on 9/30/1991
 Amended by Ord. [92-065](#) §3 on 11/25/1992
 Amended by Ord. [95-007](#) §10 on 3/1/1995
 Amended by Ord. [98-030](#) §1 on 5/13/1998
 Amended by Ord. [2001-016](#) §2 on 3/28/2001
 Amended by Ord. [2001-039](#) §1 on 12/12/2001
 Amended by Ord. [2004-001](#) §2 on 7/14/2004
 Amended by Ord. [2008-001](#) §2 on 5/6/2008
 Amended by Ord. [2009-014](#) §1 on 6/22/2009
 Amended by Ord. [2010-022](#) §2 on 7/19/2010
 Amended by Ord. [2012-007](#) §2 on 5/2/2012
 Amended by Ord. [2014-010](#) §1 on 4/28/2014
 Amended by Ord. [2016-015](#) §2 on 7/1/2016
 Amended by Ord. [2018-006](#) §5 on 11/20/2018
 Amended by Ord. [2021-004](#) §1 on 5/27/2021
 Amended by Ord. [2025-002](#) §4 on 3/28/2025
 Amended by Ord 2025-xxx §x on x/xx/xxxx

18.16.023 Lawfully Established Dwelling Replacement

~~A lawfully established dwelling may be altered, restored, or replaced under DCC 18.16.020(J) above if:~~

~~A.—The dwelling to be altered, restored, or replaced:~~

~~1.—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; and~~

~~d.—A heating system; and~~

~~B.—Unless the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of:~~

- ~~1.—Five years before the date of the application; or~~
 - ~~2.—The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment; or~~
 - ~~3.—If the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:

 - ~~a.—Five years before the date of the destruction or demolition; or~~
 - ~~b.—The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.~~~~
- ~~C.—For replacement of a lawfully established dwelling under this section:~~
- ~~1.—The dwelling to be replaced must be removed, demolished, or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055.~~
 - ~~2.—The replacement dwelling:

 - ~~a.—May be sited on any part of the same lot or parcel.~~
 - ~~b.—Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.~~
 - ~~c.—Must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:

 - ~~1.—The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or~~
 - ~~2.—No statewide map of wildfire risk has been adopted.~~~~~~
- ~~D.—As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and either ORS~~

~~215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.~~

~~E.—If an applicant is granted a deferred replacement permit under this section:~~

~~1.—The deferred replacement permit:~~

~~a.—Does not expire but the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and~~

~~b.—May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.~~

~~2.—The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes, and other requirements relating to health and safety or to siting at the time of construction.~~

~~F.—An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed under subsection (A)(1) of this section.~~

~~G.—Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.~~

HISTORY

Adopted by Ord. [2014-010](#) §1 on 4/28/2014

Amended by Ord. [2021-013](#) §4 on 4/5/2022

Amended by Ord. [2024-008](#) §3 on 1/7/2025

Amended by Ord. [2025-002](#) §4 on 3/28/2025

~~Repeal by Ord 2025-xxx §x on x/xx/xxxx~~

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18.16.030 Conditional Uses Permitted; High Value And Non-High Value Farmland

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

A. Nonfarm dwelling.

- B. Lot of record dwelling.
- C. Subject to the standards of ORS 215.296, residential home in existing dwellings.
- D. A hardship dwelling, as described in DCC 18.16.050(H).
- E. Commercial activities that are in conjunction with farm use, but not including the processing of farm crops as described in DCC 18.16.025.
- F. Operations conducted for: Mining and processing of geothermal resources as defined by ORS 522.005, and Mining and processing of natural gas or oil as defined by ORS 520.005, not otherwise permitted under DCC 18.16.020.
- G. Expansion of an existing private park, playground, hunting and fishing preserve and campground on the same tract as the existing use, subject to ORS 215.283 and OAR 660-033-0130.
- H. Public park and playground consistent with the provisions of ORS 195.120, and including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.
- I. Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.
 - 1. A community center authorized under this section may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006.
 - 2. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.
- J. Transmission towers over 200 feet in height.
- K. Commercial utility facility, including a hydroelectric facility (in accordance with DCC 18.116.130 and 18.128.260, and OAR 660-033-0130), for the purpose of generating power for public use by sale, not including wind power generation facilities.
- L. Personal use airport for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal use airport as used in DCC 18.16.030 means an airstrip restricted, except for aircraft emergencies, to use by the owner,

and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations.

- M. Home Occupation ~~as allowed by and~~, subject to the requirements of ORS 215.448, OAR 660-033-0130, and DCC 18.116.280.

~~1.—The home occupation shall:~~

- ~~a.—be operated substantially in the dwelling or other buildings normally associated with uses permitted in the EFU zone;~~
- ~~b.—be operated by a resident or employee of a resident of the property on which the business is located; and~~
- ~~c.—employ on the site no more than five full-time or part-time persons.~~
- ~~d.—The home occupation shall not unreasonably interfere with other uses permitted in the EFU zone.~~

- N. A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 213.203(2).

1. The primary processing of a forest product, as used in DCC 18.16.030, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market.
2. Forest products, as used in DCC 18.16.030, means timber grown upon a lot or parcel of land or contiguous land where the primary processing facility is located.

- O. Construction of additional passing and travel lanes requiring the acquisition of right of way, but not resulting in the creation of new land lots or parcels.
- P. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings, but not resulting in the creation of new land lots or parcels.
- Q. 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 lots or parcels.
- R. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species.

1. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture.
 2. The county shall provide notice of all applications under this section to the State Department of Agriculture.
 3. Notice shall be provided in accordance with DCC Title 22, but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.
- S. Room and board arrangements for a maximum of five unrelated persons in an existing residence. If approved, this use is subject to the recording of the statement listed in DCC 18.16.020(J)(1).
- T. Fill or removal within the bed and banks of a stream or river or in a wetland.
- U. Roads, highways and other transportation facilities, and improvements not otherwise allowed under DCC 18.16, if an exception to Goal 3, Agricultural Lands, and to any other applicable goal is first granted under state law. Transportation uses and improvements may be authorized under conditions and standards as set forth in OAR 660-012-0035 and 660-012-0065.
- V. Surface mining of mineral and aggregate resources in conjunction with the operation and maintenance of irrigation systems operated by an Irrigation District, including the excavation and mining for facilities, ponds, reservoirs, and the off-site use, storage, and sale of excavated material.
- W. A living history museum.
- X. Operations for the extraction and bottling of water.
- Y. Transportation improvements on rural lands allowed by and subject to the requirements of ORS 215.283(3) and OAR 660-012-0065.
- Z. Expansion of existing county fairgrounds and activities relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.
- AA. Extended outdoor mass gatherings, subject to DCC 8.16.
- AB. 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.

AC. Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130.

AD. Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale, subject to OAR 660-033-0130. On high-value farmland only, photovoltaic solar power generation facilities are subject to the provisions in ORS 215.447.

AE. Commercial dog boarding kennel, or dog training classes or testing trials that exceed the standards under DCC 18.16.025(K), subject to DCC 18.16.040(A)(1 and 2).

AF. Equine and equine-affiliated therapeutic and counseling activities, provided:

1. The activities are conducted in existing buildings that were lawfully constructed on the property before the effective date of January 1, 2019 or in new buildings that are accessory, incidental, and subordinate to the farm use on the tract; and
2. All individuals conducting therapeutic or counseling activities are acting within the proper scope of any licenses required by the state.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [83-028](#) §1 on 6/1/1983

Amended by Ord. [86-018](#) §3 on 6/30/1986

Amended by Ord. [87-013](#) §1 on 6/10/1987

Amended by Ord. [90-018](#) §1 on 5/16/1990

Amended by Ord. [90-014](#) §§23 and 31 on 7/12/1990

Amended by Ord. [91-005](#) §5 on 3/4/1991

Amended by Ord. [91-014](#) §1 on 3/13/1991

Amended by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [91-038](#) §2 on 9/30/1991

Amended by Ord. [92-065](#) §3 on 11/25/1992

Amended by Ord. [94-008](#) §9 on 6/8/1994

Amended by Ord. [95-007](#) §11 on 3/1/1995

Amended by Ord. [95-025](#) §1 on 3/3/1995

Amended by Ord. [98-030](#) §1 on 5/13/1998

Amended by Ord. [2001-016](#) §2 on 3/28/2001

Amended by Ord. [2001-039](#) §1 on 12/12/2001

Amended by Ord. [2004-001](#) §2 on 7/14/2004

Amended by Ord. [2008-001](#) §2 on 5/6/2008

Amended by Ord. [2009-014](#) §1 on 6/22/2009

Amended by Ord. [2012-007](#) §2 on 5/2/2012

Amended by Ord. [2014-010](#) §1 on 4/28/2014

Amended by Ord. [2018-006](#) §5 on 11/20/2018

Amended by Ord. [2021-013](#) §4 on 4/5/2022

Amended by Ord. [2024-008](#) §3 on 1/7/2025

Amended by Ord. [2025-002](#) §4 on 3/28/2025

Amended by Ord 2025-xxx §x on x/xx/xxxx

18.16.031 Conditional Uses On Non-High Value Farmland Only

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

- A. A disposal site which includes a land disposal site approved by the governing body of a city or County or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.
- B. Golf course and accessory golf course uses as defined in DCC Title 18 on land determined not to be high value farmland, as defined in ORS 195.300.
- C. Except for those composting facilities that are a farm use as allowed under DCC 18.16.020, composting operations and facilities for which a permit has been granted by the Oregon Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060.
 - 1. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.
 - 2. On-site sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.
 - 3. A composting facility use shall be subject to DCC 18.16.040(~~MN~~).
- D. Private parks, playgrounds, hunting and fishing preserves and campgrounds as allowed by and subject to the requirements of ~~home~~ORS 215.283 and OAR 660-033-0130.

- E. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located, subject to the applicable Oregon Administrative Rules.

HISTORY

Adopted by Ord. [95-007](#) §12 on 3/1/1995

Amended by Ord. [2004-001](#) §2 on 7/14/2004

Amended by Ord. [2009-014](#) §1 on 6/22/2009

Amended by Ord. [2010-022](#) §2 on 7/19/2010

Amended by Ord. [2012-007](#) §2 on 5/2/2012

Amended by Ord. [2014-010](#) §1 on 4/28/2014

Amended by Ord. [2020-007](#) §9 on 10/27/2020

~~Amended by Ord. 2025-xxx §x on x/xx/xxxx~~

18.16.033 Conditional Uses On High Value Farmland Only

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

- A. Maintenance, enhancement or expansion of a site for the disposal of solid waste approved by the County for which a permit has been granted under ORS 459.245 by the Oregon Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation, subject to other requirements of law. New such sites are prohibited.
- B. Maintenance, enhancement or expansion of golf course and accessory golf course uses as defined in DCC Title 18 existing as of March 1, 1994, subject to other requirements of law. New such uses are prohibited. Expanded courses may not exceed 36 holes total.

~~C. Additions or expansions to existing public or private schools on high value farmland, for kindergarten through grade 12, including all buildings essential to the operation of a school, subject to the applicable Oregon Administrative Rules.~~

HISTORY

Adopted by Ord. [95-007](#) §13 on 3/1/1995

Amended by Ord. [2004-001](#) §2 on 7/14/2004

Amended by Ord. [2009-014](#) §1 on 6/22/2009

Amended by Ord. [2010-022](#) §2 on 7/19/2010

Amended by Ord. [2014-010](#) §1 on 4/28/2014

~~Amended by Ord. 2025-xxx §x on x/xx/xxxx~~

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18.16.038 Special Conditions For Certain Uses Listed Under DCC 18.16.025

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

9. In addition to the provisions of 1-6 above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of OAR 660-011-0060.
10. The provisions above do not apply to interstate gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
11. The County shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use, in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.
12. Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Off-site facilities allowed under this provision are subject to OAR 660-033-0130(5). Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

B. Wineries are subject to the following:

1. A winery, authorized under DCC 18.16.025 is a facility that produces wine with a maximum annual production of:
 - a. Less than 50,000 gallons and:
 1. Owns an on-site vineyard of at least 15 acres;
 2. Owns a contiguous vineyard of at least 15 acres;
 3. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
 4. Obtains grapes from any combination of i, ii, or iii of this subsection; or
 - b. At least 50,000 gallons and the winery:

1. Owns an on-site vineyard of at least 40 acres;
 2. Owns a contiguous vineyard of at least 40 acres;
 3. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;
 4. Owns an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or
 5. Obtains grapes from any combination of i, ii, iii, or iv of this subsection.
2. In addition to producing and distributing wine, a winery established under this section may:
- a. Market and sell wine produced in conjunction with the winery.
 - b. Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
 1. Wine tastings in a tasting room or other location on the premises occupied by the winery;
 2. Wine club activities;
 3. Winemaker luncheons and dinners;
 4. Winery and vineyard tours;
 5. Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;
 6. Winery staff activities;
 7. Open house promotions of wine produced in conjunction with the winery; and
 8. Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.
 - c. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of

which is incidental to on-site retail sale of wine, including food and beverages:

1. Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
2. Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this subsection.
- d. Carry out agri-tourism or other commercial events on the tract occupied by the winery subject to subsections of this section.
- e. Host charitable activities for which the winery does not charge a facility rental fee.
3. On-site kitchen.
 - a. A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (2)(c) of this section.
 - b. Food and beverage services authorized under subsection (2)(c) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.
4. The gross income of the winery from the sale of incidental items or services provided pursuant to subsection (2)(c) to (e) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.
 - a. The gross income of the winery does not include income received by third parties unaffiliated with the winery.
 - b. At the request of the County, who has land use jurisdiction over the site of a winery, the winery shall submit to the County a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.
5. A winery may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery.

6. If a winery approved under DCC 18.16.038(B)(5) conducts agri-tourism or other commercial events, the winery may not conduct agri-tourism or other commercial events or activities authorized under Deschutes County Code 18.16.042.
7. Gross Income.
 - a. The gross income of the winery from any activity other than the production or sale of wine may not exceed 25 percent of the gross income from the on-site retail of wine produced in conjunction with the winery.
 - b. The gross income of the winery does not include income received by third parties unaffiliated with the winery.
 - c. The winery shall submit to the Deschutes County Community Development Department a written statement, prepared by a certified public accountant that certifies compliance with this section for the previous tax year by April 15 of each year in which private events are held.
8. A winery operating under this section shall provide parking for all activities or uses on the lot, parcel, or tract on which the winery is established.
9. Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards described in subsections (B)(1) of this section have been planted or that the contract for the purchase of grapes has been executed, as applicable.
10. The siting of a winery shall be subject to the following standards:
 - a. Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places, unless the County grants an adjustment or variance allowing a setback of less than 100 feet.
 - b. Shall comply with DCC Chapter 18.80, Airport Safety Combining Zone, and DCC 18.116.180, Building Setbacks for the Protection of Solar Access.
11. As used in this section, “private events” includes, but is not limited to, facility rentals and celebratory gatherings.
12. The winery shall have direct road access and internal circulation.

13. A winery is subject to the following public health and safety standards:

- a. Sanitation facilities shall include, at a minimum, portable restroom facilities and stand-alone hand washing stations.
- b. No event, gathering or activity may begin before 7:00 a.m. or end after 10:00 p.m., including set-up and take-down of temporary structures.
- c. Noise control.
 1. All noise, including the use of a sound producing device such as, but not limited to, loud speakers and public address systems, musical instruments that are amplified or unamplified, shall be in compliance with applicable state regulations.
 2. A standard sound level meter or equivalent, in good condition, that provides a weighted sound pressure level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA shall be available on-site at all times during private events.
- d. Adequate traffic control must be provided by the property owner to address the following:
 1. There shall be one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time.
 2. All traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.
- e. Structures.
 1. All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of the Deschutes County Building Safety Division and the Environmental Soils Division and any other applicable federal, state and local laws.
 2. Compliance with the requirements of the Deschutes County Building Safety Division shall include meeting all building

occupancy classification requirements of the State of Oregon adopted building code.

- f. Inspection of event premises authorization. The applicant shall provide in writing a consent to allow law enforcement, public health, and fire control officers to come upon the premises for which the Limited Use Permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and DCC Chapter 18.16 Exclusive Farm Use Zone and DCC Chapter 8.08 Noise Control, and any other applicable laws or ordinances.

C. Farm stands ~~as allowed and re~~ subject to the requirements of ORS 215.283 and OAR 660-033-130 the following:

- ~~1.—The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand, if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and~~
- ~~2.—The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops or livestock, and does not include structures for banquets, public gatherings or public entertainment.~~
- ~~3.—As used in this section, “farm crops or livestock” includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.~~
- ~~4.—As used in this subsection, “processed crops and livestock” includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.~~
- ~~5.—As used in this section, “local agricultural area” includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.~~

D. A site for the takeoff and landing of model aircraft is subject to the following:

1. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building of facility preexisted the use approved under this section.
 - a. The site shall not include an aggregate surface or hard surface area, unless the surface preexisted the use approved under this section.
 - b. An owner of property used for the purpose authorized in this section may charge a person operating the use on the property rent for the property.
 - c. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities.
 - d. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.
- E. An associated transmission line is necessary for public service if an applicant for approval under DCC 18.16.025 demonstrates that the line meets either the requirements of 1 or 2 below.
 1. The entire route of the associated transmission line meets at least one of the following requirements:
 - a. The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;
 - b. The associated transmission line is co-located with an existing transmission line;
 - c. The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or
 - d. 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.
 2. After an evaluation of reasonable alternatives, the entire route of the associated transmission line meets, subject to DCC 18.16.038(E)(3) and (4) below, two or more of the following factors:

- a. Technical and engineering feasibility;
 - b. 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;
 - c. 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;
 - d. Public health and safety, or
 - e. Other requirements of state or federal agencies.
3. As pertains to DCC 18.16.038(E)(2), the applicant shall present findings to the County on 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.
 4. The County may consider costs associated with any of the factors listed in DCC 18.16.038(E)(2) above, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.

HISTORY

Adopted by Ord. [2004-001](#) §2 on 7/14/2004

Amended by Ord. [2008-001](#) §2 on 5/6/2008

Amended by Ord. [2009-014](#) §1 on 6/22/2009

Amended by Ord. [2010-022](#) §2 on 7/19/2010

Amended by Ord. [2012-004](#) §2 on 4/16/2012

Amended by Ord. [2012-007](#) §2 on 5/2/2012

Amended by Ord. [2014-010](#) §1 on 4/28/2014

Amended by Ord. [2025-002](#) §4 on 3/28/2025

[Amended by Ord 2025-xxx §x on x/xx/xxxx](#)

[18.16.040 Limitations On Conditional Uses](#)

- A. Conditional uses permitted by DCC 18.16.030, 18.16.031, and 18.16.033 may be established subject to ORS 215.296, OAR 660-033-0130(5), applicable provisions in DCC 18.128, and upon a finding by the Planning Director or Hearings Body: ~~that the proposed use:~~
- ~~1. Will not force a significant change in accepted farm or forest practices as defined in ORS 215.203(2)(c) on surrounding lands devoted to farm or forest uses; and~~
 - ~~2. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and~~
 - ~~3.1. _____~~ That the actual site on which the use is to be located is the least suitable for the production of farm crops or livestock.
- B. A commercial activity allowed under DCC 18.16.030(E) shall be associated with a farm use occurring on the lot or parcel where the commercial use is proposed. The commercial activity may use, process, store, or market farm products produced outside of Deschutes County.
- C. A power generation facility that is part of a commercial utility facility for the purpose of generating power for public use by sale identified in DCC 18.16.030(K) and:
1. That is located on high-value farmland, the permanent features of which shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and Oregon Administrative Rules 660, Division 004.
 2. That is located on non-high-value farmland, the permanent features of which shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and Oregon Administrative Rules 660, Division 4.
 3. A power generation facility may include on-site and off-site facilities for temporary workforce housing as allowed under OAR 660-033-0130(17) and (22).
- D. A wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings,

temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to OAR 660-033-0130(5) and shall have no effect on the original approval. A proposal for a wind power generation facility shall be subject to the following provisions:

1. For high value farmland soils described in ORS 195.300(10), that all of the following are satisfied:
 - a. Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:
 1. Technical and engineering feasibility;
 2. Availability of existing rights of way; and
 3. The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under OAR 660-033-0130(37)(a)(B);
 - b. The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any component thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;
 - c. Costs associated with any of the factors listed in OAR 660-033-0130(37)(a)(A) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;

- d. The owner of a wind power generation facility approved under OAR 660-033-0130(37)(a) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and
 - e. The criteria of OAR 660-033-0130(37)(b) are satisfied.
- 2. For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designated must find that:
 - a. The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;
 - b. The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
 - c. Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, show unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other

appropriate practices. The approved plan shall be attached to the decision as a condition of approval;

- d. Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.
3. For nonarable lands, meaning lands that are not suitable for cultivation, the governing body or its designate must find that the requirements of OAR 660-033-0130(37)(b)(D) are satisfied.
 4. In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in OAR 660-033-0130(37)(b) and (c) the approval criteria of OAR 660-033-0130(37)(b) shall apply to the entire project.
- E. No aircraft may be based on a personal-use airport identified in DCC 18.16.030(L) other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.
 - F. The facility for the primary processing of forest products identified in DCC 18.16.030 is intended to be portable or temporary in nature. Such a facility may be approved for a one-year period which is renewable.
 - G. Batching and blending mineral and aggregate into asphaltic cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date of the application for bat
 - H. Accessory uses for golf courses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings. Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service

facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to service only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

- I. An expansion of an existing golf course as allowed under DCC 18.16.033(C) shall comply with the definition of "golf course" set forth in DCC Title 18 and the provisions of DCC 18.16.040(A).
- J. An applicant for a nonfarm conditional use may demonstrate that the standards for approval will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.
- K. For purposes of approving a conditional use permit for a lot of record dwelling under DCC 18.16.030, the soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner:
 1. Submits a statement of agreement from the Natural Resources Conservation Service of the United States Department of Agriculture that the soil class, soil rating or other soil designation should be adjusted based on new information; or
 2. Submits a report from a soils scientist whose credentials are acceptable to the Oregon Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and
 3. Submits a statement from the Oregon Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in 2 above and finds the analysis in the report to be soundly and scientifically based.
 4. The soil classes, soil ratings or other soil designations used in or made pursuant to this definition are those of the NRCS in its most recent publication for that class, rating or designation before November 4, 1993, except for changes made pursuant to subsections 1-3 above.
 5. For the purposes of approving a land use application under OAR 660-033-0090, 660-033-0120, 660-033-0130 and 660-033-0135, soil classes, soil ratings or other soil designations used in or made pursuant to this definition are those of the NRCS in its most recent publication for that class, rating or designation.

~~L.—Except on a lot or parcel contiguous to a lake or reservoir, a private campground shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 004.~~

- ~~1.—A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.~~
- ~~2.—The yurt shall be located on the ground or on a wood floor with no permanent foundation.~~
- ~~3.—As used in this paragraph, “yurt” means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.~~
- ~~4.—A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.~~

~~M.L.~~ _____ A living history museum shall be related to resource based activities and be owned and operated by a governmental agency or a local historical society.

1. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities, or if the museum administration buildings and parking lot are located within one-quarter mile of an urban growth boundary.
2. As used in this paragraph, a “living history museum” means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and “local historical society” means the local historic society recognized by the County and organized under ORS Chapter 65.

~~N.M.~~ _____ Pre-Application Conference

1. Before an applicant may submit an application under DCC Chapter 22.08 and DCC 18.16.031(C), for land use approval to establish or modify a

disposal site for composting that requires a permit issued by the Oregon Department of Environmental Quality, the applicant shall:

- a. Request and attend a pre-application conference described in DCC 18.16.040(MN)(3);
 - b. Hold a pre-application community meeting described in DCC 18.16.040(MN)(6).
2. DCC 18.16.040(MN)(1)(a) and (b) apply to an application to:
 - a. Establish a disposal site for composting that sells, or offers for sale, resulting product; or
 - b. Allow an existing disposal site for composting that sells, or offers for sale, resulting product to:
 1. Accept as feedstock non-vegetative materials, including dead animals, meat, dairy products and mixed food waste; or
 2. Increase the permitted annual tonnage of feedstock used by the disposal site by an amount that requires a new land use approval.
3. During the pre-application conference:
 - a. The applicant shall provide information about the proposed disposal site for composting and proposed operations for composting and respond to questions about the site and operations;
 - b. The County and other representatives described in DCC 18.16.040(MN)(5) shall inform the applicant of permitting requirements to establish and operate the proposed disposal site for composting and provide all application materials to the applicant.
4. The applicant shall submit a written request to the County to request a pre-application conference.
5. A representative of the Planning Division and a representative of the Oregon Department of Environmental Quality shall attend the conference along with representatives, as determined necessary by the County, of the following entities:

- a. Any other state agency or local government that has authority to approve or deny a permit, license or other certification required to establish or operate the proposed disposal site for composting;
 - b. A state agency, a local government or a private entity that provides or would provide one or more of the following to the proposed disposal site for composting:
 - 1. Water systems;
 - 2. Wastewater collection and treatment systems, including storm drainage systems.
 - 3. Transportation systems or transit services;
 - c. A city or county with territory within its boundaries that may be affected by the proposed disposal site for composting;
 - d. The Department of Land Conservation and Development;
 - e. The State Department of Agriculture;
6. The County shall:
- a. Provide notice of the pre-application conference to entities described in DCC 18.16.040(MN)(5) by mail and, as appropriate, in any other manner that ensures adequate notice and opportunity to participate;
 - b. Hold the pre-application conference at least 20 days and not more than 40 days after receipt of the applicant's written request; and
 - c. Provide pre-application notes to each attendee of the conference and other entities described above for which a representative does not attend the pre-application conference.
7. After the pre-application conference and before submitting the application for land use approval, the applicant shall:
- a. Hold a community meeting within 60 days after the pre-application conference:
 - 1. In a public location in the county with land use jurisdiction; and
 - 2. On a business day, or Saturday, that is not a holiday, with a start time between the hours of 6:00 p.m. and 8 p.m.

b. Provide notice of the community meeting to:

1. The owners of record, on the most recent property tax assessment roll, of real property located within one-half mile of the real property on which the proposed disposal site for composting would be located;
 2. The resident or occupant that receives mail at the mailing address of the real property described above, if the mailing address of the owner of record is not the mailing address of the real property;
 3. Neighborhood and community organizations recognized by the governing body of the County if a boundary of the organization is within one-half mile of the proposed disposal site for composting;
 4. A newspaper that meets the requirements of ORS 193.020 for publication;
 5. Local media in a press release; and
 6. The entities described in 18.16.040(~~MN~~)(5) above.
8. During the community meeting, the applicant shall provide information about the proposed disposal site for composting and proposed operations for composting and respond to questions about the site and operations.
9. The applicant's notice provided under DCC 18.16.040(~~MN~~)(6)(b) above must include:
- a. A brief description of the proposed disposal site for composting;
 - b. The address and the location of the community meeting; and
 - c. The date and time of the community meeting.

(Ord. 91-011 §1, 1991)

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Repealed & Reenacted by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [91-038](#) §§1 and 2 on 9/30/1991

Amended by Ord. [92-065](#) §3 on 11/25/1992

Amended by Ord. [95-007](#) §14 on 3/1/1995

Amended by Ord. [95-075](#) §1 on 11/29/1995

Amended by Ord. [98-030](#) §1 on 5/13/1998

Amended by Ord. [2004-001](#) §2 on 7/14/2004

Amended by Ord. [2006-008](#) §3 on 8/29/2006

Amended by Ord. [2008-001](#) §2 on 5/6/2008

Amended by Ord. [2009-014](#) §1 on 6/22/2009

Amended by Ord. [2012-007](#) §2 on 5/2/2012

Amended by Ord. [2014-010](#) §1 on 4/28/2014

Amended by Ord. [2015-016](#) §2 on 3/28/2016

Amended by Ord. [2018-006](#) §5 on 11/20/2018

Amended by Ord. [2020-007](#) §9 on 10/27/2020

Amended by Ord. [2025-002](#) §4 on 3/28/2025

[Amended by Ord. 2025-xxx §x on x/xx/xxxx](#)

18.16.042 Agri-Tourism And Other Commercial Events Or Activities Limited Use Permit

- A. Agri-tourism and other commercial events or activities ~~necessary to support related to and supportive of~~ agriculture may be approved in an area zoned for exclusive farm use only if the standards and criteria in this section are met.

1. A determination under DCC 18.16.042 that an event or activity is ‘incidental and subordinate’ requires consideration of any relevant circumstances, including the nature, intensity, and economic value of the respective farm and event uses that bear on whether the existing farm use remains the predominant use of the tract.

4-2. A determination under DCC 18.16.042 that an event or activity is ‘necessary to support’ either the commercial farm uses or commercial agricultural enterprises in the area means that the events are essential to maintain the existence of either the commercial farm or the commercial agricultural enterprises in the area.

- B. Application. The application shall include the following.

1. The General Provisions information required in DCC 22.08.010.
2. A written description of:
 - a. The proposal.
 - b. The types of agri-tourism and other commercial events or activities that are proposed to be conducted, including the number and duration of the agri-tourism and other commercial events and activities, the anticipated maximum daily attendance and the hours of

operation, and how the agri-tourism and other commercial events or activities will be related to and supportive of are necessary to support agriculture and incidental and subordinate to the existing farm use of the tract.

- c. The types and locations of all permanent and temporary structures, access and egress, parking facilities, and sanitation and solid waste to be used in connection with the agri-tourism or other commercial events or activities.
3. A traffic management plan that:
- a. Identifies the projected number of vehicles and any anticipated use of public roads;
 - b. Provides an assurance that one traffic control person shall be provided for each 250 persons expected or reasonably expected to be in attendance at any time during the agri-tourism and other commercial event or activity. The traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.
 - c. Demonstrates that the parcel, lot, or tract has direct access such that the lot, parcel, or tract on which commercial events will occur:
 - 1. Fronts on a public road; or
 - 2. Is accessed by an access easement or private road, and all underlying property owners and property owners taking access between the subject property and the public road consent in writing to the use of the road for agri-tourism and other commercial events or activities at the time of initial application.
4. Inspection of Event Premises Authorization. The applicant shall provide in writing a consent to allow law enforcement, public health, and fire control officers and code enforcement staff to come upon the premises for which the Limited Use Permit has been granted for the purposes of inspection and enforcement of the terms and conditions of the permit and DCC Chapter 18.16 Exclusive Farm Use Zone and DCC Chapter 8.08 Noise Control, and any other applicable laws or ordinances.

C. Approval Criteria.

- 1. Type 1. Up to six (6) agri-tourism events in a calendar year on a tract may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, if in compliance with:

- a. Criteria set forth in 18.16.042(C)(2)(d-j).
 - b. May not, individually, exceed one calendar day.
 - c. Commercial events or activities are not permitted.
 - d. Minimum lot area: 5 acres.
 - e. Comply with DCC Chapter 8.08 Noise Control at all times. Sound amplification and sound producing devices are prohibited.
 - f. The maximum attendance is 30 at any one time for all non-residents of the tract.
 - g. Where there is a conflict between this section and DCC 18.16.042(C)(4-12), the more restrictive criteria shall apply.
2. Type 2. Up to six (6) agri-tourism and other commercial events or activities in a calendar year on a tract may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, if in compliance with:
- a. Minimum lot area: 10 acres.
 - b. Agri-tourism events may not, individually, exceed a duration of 72 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 72 consecutive hours.
 - c. Commercial events or activities may not, individually, exceed a duration of 30 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 30 consecutive hours.
 - d. Must be incidental and subordinate to existing farm use of the tract, and ~~shall be related to and supportive of necessary to support~~ agriculture.
 - e. Set-up and take down of all temporary structures and facilities shall occur up to one business day prior to the agri-tourism and other commercial events or activities and one business day after the agri-tourism and other commercial events or activities between 7:00 a.m. and 10:00 p.m.

- f. May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities.
 - g. May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area.
 - h. Must comply with ORS 215.296.
 - i. Limited Use Permits approved under this section expire two years from the date of approval.
 - j. Limited Permits may be renewed for an additional two years subject to:
 - 1. An application for renewal; and
 - 2. Demonstration of compliance with conditions that apply to the limited use permit and applicable provisions in this section, DCC Chapter 18.16.042.
2. Type 3. Agri-tourism or other commercial events or activities may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, more frequently or for a longer period than allowed under 18.16.042(C)(1) and (2) if the agri-tourism or other commercial events or activities is in compliance with:
- a. Criteria set forth in 18.16.042(C)(2)(d)(e)(f)(g) and (h).
 - b. Must be incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area.
 - c. Minimum lot area: 160 acres.
 - d. Do not exceed 18 commercial events or activities in a calendar year.
 - e. Commercial events or activities may not, individually, exceed a duration of 24 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 24 consecutive hours.
 - f. Agri-tourism events may not, individually, exceed a duration of 72 consecutive hours, excluding set-up and take down of all temporary

structures and facilities. The limitation on the hours of operations is included within the duration of 72 consecutive hours.

- g. No more than two commercial events or activities may occur in one month.
 - h. Limited Use Permits approved under this section expire four years from the date of approval.
 - i. Limited Use Permits may be renewed at four year intervals subject to:
 - 1. An application for renewal;
 - 2. Public notice and public comment as part of the review process.
 - 3. Demonstration of compliance with conditions that apply to the limited use permit and applicable provisions in this section, DCC Chapter 18.16.042.
3. The area in which the agri-tourism or other commercial events or activities are located shall be setback at least 100 feet from the property line.
4. Notification of agri-tourism and other commercial events or activities.
- a. The property owner shall submit in writing the list of calendar days scheduled for all agri-tourism and other commercial events or activities by April 1 of the subject calendar year or within 30 days of new or renewed limited use permits, if after April 1, to Deschutes County's Community Development Department and Sheriff's Office, and all property owners within 500 feet of the subject property.
 - b. The list of calendar dates for all agri-tourism, commercial events and activities may be amended by submitting the amended list to the same entities at least 72 hours prior to any date change.
 - c. If such notice is not provided, the property owner shall provide notice by Registered Mail to the same list above at least 10 days prior to each agri-tourism and other commercial event or activity.
 - d. The notification shall include a contact person or persons for each agri-tourism and other commercial event or activity who shall be easily accessible and who shall remain on site at all times, including the person(s) contact information.

5. Sanitation facilities shall include, at a minimum, portable restroom facilities and stand-alone hand washing stations.
6. Hours of Operation. No agri-tourism and other commercial event or activity may begin before 7:00 a.m. or end after 10:00 p.m.
7. Overnight camping is not allowed.
8. Noise Control
 - a. All noise, including the use of a sound producing device such as, but not limited to, loud speakers and public address systems, musical instruments that are amplified or unamplified, shall be in compliance with applicable state regulations.
 - b. A standard sound level meter or equivalent, in good condition, that provides a weighted sound pressure level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA shall be available on-site at all times during agri-tourism and other commercial events or activities.
9. Transportation Management.
 - a. Roadways, driveway aprons, driveways, and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.
 - b. Driveways extending from paved roads shall have a paved apron, requiring review and approval by the County Road Department.
 - c. The parcel, lot, or tract has direct access as defined in DCC Chapter 18.16.042(B)(3)(c).
 - d. Adequate traffic control must be provided by the property owner to address the following:
 1. There shall be one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time.
 2. All traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.

10. Health and Safety Compliance

- a. All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of the Deschutes County Building Safety Division and the Environmental Soils Division and any other applicable federal, state and local laws.
 - b. Compliance with the requirements of the Deschutes County Building Safety Division shall include meeting all building occupancy classification requirements of the State of Oregon adopted building code.
11. The maximum number of people shall not exceed 500 per calendar day.
12. Agri-Tourism and other Commercial Events or Activities shall not be allowed:
- a. Within the County adopted big game winter ranges during the months of December through March.
 - b. Within the County adopted big game migration corridors during the month of April and during the months of October and November.
 - c. Within the County adopted sensitive bird and mammal habitat areas as defined in DCC 18.90.020, unless a site has had no nesting attempt or the nest has failed, as determined by a professional wildlife biologist in May of the calendar year in which the application is approved unless a site has had no nesting attempt or the nest has failed which could be determined in May by a professional wildlife biologist.

HISTORY

Adopted by Ord. [2012-004](#) §2 on 4/16/2012

Amended by Ord. [2025-002](#) §4 on 3/28/2025

[Amended by Ord. 2025-xxx §x on x/xx/xxxx](#)

...

[18.16.050 Standards For Dwellings In The EFU Zones](#)

Dwellings listed in DCC 18.16.025 and 18.16.030 may be allowed under the conditions set forth below for each kind of dwelling, and all dwellings are subject to the landowner for the property upon which the dwelling is placed, signing and recording in the deed records for the County, a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury

from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

- A. Farm-related dwellings on non-high value farmland. A dwelling customarily provided in conjunction with farm use, as listed in DCC 18.16.025(A), may be approved if it satisfies any of the alternative tests set forth below:

1. Acreage test.

- a. On land not identified as high-value farmland, a dwelling, including a manufactured dwelling in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:
1. The lot or parcel on which the dwelling will be located is at least:
 - A. One hundred sixty acres and not in the Horse Ridge East subzone; or
 - B. Three hundred twenty acres in the Horse Ridge East subzone;
 2. The subject tract is currently employed for farm use, as defined in DCC 18.04.030, and which is evidenced by a farm management plan;
 3. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale;
 4. There is no other dwelling on the subject tract, except as allowed under DCC 18.16.020(K) and except for seasonal farmworker housing approved prior to 2001;

2. Median acreage/gross sales test.

- a. On land not identified as high-value farmland, a dwelling, including a manufactured dwelling in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:
1. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study

area that includes all tracts wholly or partially within one mile of the perimeter of the subject tract;

2. The subject tract is capable of producing at least the median level of annual gross sales of County indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in DCC 18.16.050(A)(2)(a)(1);
 3. The subject tract is currently employed for farm use, as defined in DCC 18.04.030, and which is evidenced by a farm management plan, at a level capable of producing the annual gross sales required in DCC 18.16.050(A)(2)(a)(2). If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to establishment of the farm use capable of meeting the median income test.
 4. The subject lot or parcel on which the dwelling is proposed is at least 20 acres in size;
 5. There is no other dwelling on the subject tract(1), except as allowed under DCC 18.16.020(K) and except for seasonal farmworker housing approved prior to 2001; and
 6. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.
- b. For the purpose of calculating appropriate tract sizes and gross incomes to satisfy DCC 18.16.050(A)(2)(a)(1) and (2), the County will utilize the methodology contained in Oregon Administrative Rules 660-33-135(3) using data on gross sales per acre tabulated by LCDC pursuant to Oregon Administrative Rules 660-33-135(4).
3. Gross annual income test.
 - a. On land not identified as high-value farmland, a dwelling, including a manufactured dwelling in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:
 1. The subject tract is currently employed for a farm use, and that the farm operator earned \$40,000 in gross annual revenue in

the last two years, three of the last five years, or based on the average farm revenue earned on the tract in the highest three of the last five years.

2. There is no other dwelling on the subject tract, except as allowed under 18.16.020(K) and except for seasonal farmworker housing approved prior to 2001;
 3. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in DCC 18.16.050(A)(3)(a)(1); and
- b. In determining gross revenue, the cost of purchased livestock shall be deducted from the total gross revenue attributed to the tract.
 - c. Noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross revenue requirements.
 - d. Only gross revenue from land owned, not leased or rented, shall be counted; and gross farm revenue earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
 - e. Prior to a dwelling being approved under this section that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross farm revenue requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form attached to Chapter 18.16, has been recorded with the county clerk or counties where the property subject to the covenants, conditions and restrictions is located.
 1. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for primary farm dwelling and shall preclude:
 - A. All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed under ORS Chapter 215; and

- B. The use of any gross farm revenue earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling;
- C. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;
- D. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.

f. The applicant shall submit an IRS tax return transcript and any other information the county may require that demonstrates compliance with the gross farm income requirement.

- B. Farm related dwellings on high value farmland. On land identified as high-value farmland, a dwelling, including a manufactured dwelling in accordance with DCC 18.116.070, may be considered customarily provided in conjunction with farm use if:
 - 1. The subject lot or parcel is currently employed for the farm use as defined in DCC 18.04.030, and that the farm operator earned at least \$80,000 in gross annual revenue from the sale of farm products in the last two years, three of the last five years, or based on the average farm revenue earned by the farm operator in the best three of the last five years. In determining gross revenue, the cost of purchased livestock shall be deducted from the total gross revenue attributed to the tract;
 - 2. There is no other dwelling on the subject tract, except as allowed under 18.16.020(K) and except for seasonal farmworker housing approved prior to 2001;
 - 3. The dwelling will be occupied by a person or persons who produced the commodities which grossed the revenue under DCC 18.16.050(B)(1);
 - 4. Noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross revenue requirements.

5. When a farm or ranch operation has lots or parcels in both “western” and “eastern” Oregon as defined in OAR 660-033-0020, lots or parcels in eastern or western Oregon may not be used to qualify a dwelling in the other part of the state.
 6. Only gross revenue from lots or parcels owned, not leased or rented, shall be counted; and gross farm revenue earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
 7. Prior to a dwelling being approved under this section that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross farm revenue requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form attached to Chapter 18.16 has been recorded with the county clerk. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for primary farm dwelling and shall preclude:
 - a. All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and
 - b. The use of any gross farm revenue earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
 8. The applicant shall submit an IRS tax return transcript and any other information the county may require that demonstrates compliance with the gross farm income requirement.
- C. Accessory dwelling. A dwelling, including a manufactured dwelling in accordance with DCC 18.116.070, is considered to be an accessory farm dwelling customarily provided in conjunction with farm use when:
1. The accessory dwelling meets the following criteria:
 - a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator; and
 - b. The accessory farm dwelling will be located:

1. On the same lot or parcel as the primary farm dwelling; or
 2. 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 lot or parcel with all other contiguous lots and parcels in the tract; or
 3. 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 and a deed restriction substantially in compliance with the form set forth in [Exhibit A](#) to DCC 18.16 is filed with the County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under DCC 18.16.050; or
 4. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under DCC 18.16.065 and the lot or parcel complies with the gross farm income requirements in DCC 18.16.050(A)(3) or (B)(1), whichever is applicable; and
- c. There is no other dwelling on land zoned EFU owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and
2. The primary farm dwelling to which the proposed dwelling would be accessory meets one of the following:
 - a. On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed in farm use and produced \$40,000 in gross annual sales in the last two years, three of the last five years, or based on the average farm revenue earned on the tract in the highest three of the last five years. In determining gross revenue, the cost of purchased livestock shall be deducted from the total gross revenue attributed to the tract; or

- b. On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, and produced at least \$80,000 in gross annual revenue from the sale of farm products in the last two years, three of the last five years, or based on the average farm revenue earned on the tract in the highest three of the last five years. Gross revenue shall be calculated by deducting the cost of purchased livestock from the total gross revenue attributed to the tract; and
- 3. A lot or parcel approved for an accessory farm dwelling under DCC 18.16.050 shall not be approved for a division of land except as provided for in DCC 18.16.055(B).
- 4. An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a nonfarm dwelling pursuant to DCC 18.16.050(G).
- 4.5. The applicant shall submit an IRS tax return transcript and any other information the county may require that demonstrates compliance with the gross farm income requirement in DCC 18.16.050(C)(2)(a) or (b), whichever is applicable.

D. Relative farm help dwelling.

- 1. A dwelling listed in DCC 18.16.025(B) is allowed when:
 - a. The subject tract is a commercial farming operation.
 - b. The dwelling is a manufactured dwelling and is sited in accordance with DCC 18.116.070, or is a site-built dwelling;
 - c. The dwelling is located on the same lot or parcel as the dwelling of the farm operator, and is occupied by a relative of the farm operator or farm operator's spouse, including a grandparent, step-grandparent, grandchild, parent, step-parent, child, sibling, step-sibling, niece, nephew, or first cousin of either, if the farm operator does, or will, require the assistance of the relative in the management of the farm use.
 - 1. Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this subsection obtains construction financing or other financing secured by the dwelling and the

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

2. Prior conditions of approval for the subject land and dwelling remain in effect.
3. For purposes of this subsection, "Foreclosure" means only those foreclosures that are exempt from partition under ORS 92.010(9)(a).
- d. The farm operator plays the predominant role in the management and farm use of the farm and will continue to do so after the relative farm help dwelling is approved.
- e. Any approval granted under DCC 18.16.050 shall be conditioned with a requirement that the farm operator annually submit a report to the Planning Division identifying the resident(s) of the dwelling, their relationship to the farm operator, the assistance the resident provides to the farm operator, and verifying the farm operator's continued residence on the property and the predominant role the farm operator continues to play in the management and farm use of the farm.
2. A manufactured dwelling permitted under DCC 18.16.050 shall be considered to be a temporary installation, and permits for such home shall be renewable and renewed on an annual basis. The manufactured dwelling shall be removed from the property if it no longer meets the criteria of DCC 18.16.050 and the approval shall be so conditioned.
3. A dwelling approved under DCC 18.16.050 shall be removed or converted to an allowable use within one year of the date the relative farm help dwelling no longer meets the criteria of DCC 18.16.050 and the approval shall be so conditioned.
4. Upon approval of a dwelling under DCC 18.16.050, a Conditions of Approval Agreement shall be recorded with the Deschutes County Clerk prior to issuance of any building or placement permit for the new dwelling on the property.

5. For the purposes of DCC 18.16.050(D), a farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

E. Lot of record dwelling on non-high value farmland.

1. A lot of record dwelling may be approved on a pre-existing lot or parcel on non-high value farmland when all of the following requirements are met:
 - a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner:
 1. Prior to January 1, 1985; or
 2. By devise or by intestate succession from a person who acquired and owned continuously the lot or parcel prior to January 1, 1985.
 - b. The tract on which the dwelling will be sited does not include a dwelling.
 - c. For lots or parcels located within a wildlife area (WA) combining zone, siting of the proposed dwelling would be consistent with the limitations on density as applied under the applicable density restrictions of DCC 18.88.
 - d. If the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 - e. The County Assessor shall be notified of any approval of a dwelling under DCC 18.16.050.
 - f. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of the tract;
2. For purposes of DCC 18.16.050(E), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, grandparent, or grandchild of the owner or a business entity owned by any one or a combination of these family members.

3. For purposes of DCC 18.16.050(E), the date of creation and existence means that, when a lot, parcel, or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel, or tract for the siting of a lot of record dwelling, the date of the reconfiguration is the date of creation and existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.

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

1. A lot of record dwelling on a pre-existing lot or parcel will be approved on high value farmland when all of the following requirements are met:
 - a. The requirements set forth in DCC 18.16.050(E)(1)(a) through (f), as determined by the County; and
 - b. The requirements of Oregon Administrative Rules 660-33-130(3)(c)(C), as determined by the County hearings officer.
2. Applicants under DCC 18.16.050(F) shall make their application to the County. The County shall notify the State Department of Agriculture at least 20 calendar days prior to the public hearing under DCC 18.16.050(F)(1)(b).
3. Applicants under DCC 18.16.050(F) shall be subject to such other procedural requirements as are imposed by the Oregon Department of Agriculture.
4. For purposes of DCC 18.16.050(F), the date of creation and existence means that, when a lot, parcel, or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel, or tract for the siting of a lot of record dwelling, the date of the reconfiguration is the date of creation and existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.

G. Nonfarm dwelling.

1. One single-unit dwelling, including a manufactured dwelling in accordance with DCC 18.116.070, not provided in conjunction with farm use, may be permitted on an existing lot or parcel subject to the following criteria:
 - a. The Planning Director or Hearings Body shall make findings that:
 1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming practices, as defined in ORS

215.203(2)(c), or accepted forest practices on nearby lands devoted to farm or forest use.

2. The proposed nonfarm dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the County shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated, by applying the standards under OAR 660-033-0130(4)(a)(D), and whether creation of the lot or parcel will lead to creation of other nonfarm lots or parcels, to the detriment of agriculture in the area.
 3. The proposed nonfarm dwelling is situated on an existing lot or parcel, or a portion of a lot or parcel that is generally unsuitable for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location, and size of the tract.
 4. The proposed nonfarm dwelling is not within one-quarter mile of a dairy farm, feed lot, or sales yard, unless adequate provisions are made and approved by the Planning Director or Hearings Body for a buffer between such uses. The establishment of a buffer shall be designed based upon consideration of such factors as prevailing winds, drainage, expansion potential of affected agricultural uses, open space and any other factor that may affect the livability of the nonfarm-dwelling or the agriculture of the area.
 5. Road access, fire and police services, and utility systems (i.e., electrical and telephone) are adequate for the use.
 6. The nonfarm dwelling shall be located on a lot or parcel created prior to January 1, 1993, or was created or is being created as a nonfarm lot or parcel under the land division standards in DCC 18.16.055(B) or (C).
2. For the purposes of DCC 18.16.050(G) only, "unsuitability" shall be determined with reference to the following:

- a. A lot or parcel or a portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land. If the 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 lot or parcel.
 - b. A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented, or otherwise managed as part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel or portion of a lot or parcel is presumed to be suitable if it is composed predominantly of Class I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use. If the 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.
 - c. If a lot or parcel under forest assessment can be sold, leased, rented, or otherwise managed as a part of a forestry operation, it is not "generally unsuitable." If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soil capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.
3. Loss of tax deferral. Pursuant to ORS 215.236, a nonfarm dwelling on a lot or parcel in an Exclusive Farm Use zone that is or has been receiving special assessment may be approved only on the condition that before a building permit is issued the applicant must produce evidence from the County Assessor's office that the lot or parcel upon which the dwelling is proposed has been disqualified under ORS 308A.050 to 308A.128 or other special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or

321.805 to 321.855 and that any additional tax or penalty imposed by the County Assessor as a result of disqualification has been paid.

H. Temporary hardship dwelling.

1. A temporary hardship dwelling listed in DCC 18.16.030 is allowed subject to DCC 18.116.090, and the requirements of this chapter.~~under the following conditions:~~

~~1.2.~~ A temporary hardship dwelling approved under this section is not eligible for replacement under DCC 18.16.020(J).

~~a.—The dwelling is an existing building, or is a manufactured dwelling or recreational vehicle that is used in conjunction with an existing dwelling on the lot or parcel. For the purposes of this section, “existing” means the building was in existence on or before March 29, 2017;~~

~~b.—The manufactured dwelling or recreational vehicle would be temporarily sited on the lot or parcel only for the term of a hardship suffered by the existing resident or relative of the resident. The manufactured dwelling shall be removed or demolished within three months of the date the hardship no longer exists. The recreational vehicle shall not be occupied once the term of the medical hardship is completed, except as allowed under DCC 18.116.095. A temporary dwelling approved under this section is not eligible for replacement under DCC 18.16.020(J);~~

~~c.—The existence of a medical hardship is verified by a written doctor's statement, which shall accompany the permit application; and~~

~~d.—The temporary manufactured dwelling uses the same subsurface sewage disposal system used by the existing dwelling, provided that the existing disposal system is adequate to accommodate the additional dwelling. If the manufactured dwelling will use a public sanitary sewer system, such condition will not be required.~~

~~e.—If a recreational vehicle is used as a medical hardship dwelling, it shall be required to have a bathroom, and shall meet the minimum setbacks established under DCC 18.16.070.~~

- ~~2.—Permits granted under DCC 18.16.050(H) shall be subject to the provisions of DCC 18.116.090 and shall be required to meet any applicable DEQ review and removal requirements as a condition of approval.~~
- ~~3.—As used in DCC 18.16.050(H), the term "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.~~
- ~~4.—As used in DCC 18.16.050(H), the term "relative" means grandparent, step-grandparent, grandchild, parent, step-parent, child, step-child, brother, sister, sibling, step-sibling, niece, nephew, uncle, aunt, or first cousin of the existing resident.~~
- ~~5.—The proposed hardship dwelling or recreational vehicle shall meet the criteria under DCC 18.16.040(A)(1-2) and DCC 18.16.020(J)(1).~~

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Repealed & Reenacted by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [91-038](#) §§1 and 2 on 9/30/1991

Amended by Ord. [92-065](#) §3 on 11/25/1992

Amended by Ord. [94-026](#) §1 on 5/11/1994

Amended by Ord. [95-007](#) §15 on 3/1/1995

Amended by Ord. [98-030](#) §1 on 5/13/1998

Amended by Ord. [98-033](#) §1 on 12/2/1998

Amended by Ord. [2004-001](#) §2 on 7/14/2004

Amended by Ord. [2004-013](#) §2 on 9/21/2004

Amended by Ord. [2004-020](#) §1 on 10/13/2004

Amended by Ord. [2008-001](#) §2 on 5/6/2008

Amended by Ord. [2009-014](#) §1 on 6/22/2009

Amended by Ord. [2012-007](#) §2 on 5/2/2012

Amended by Ord. [2014-010](#) §1 on 4/28/2014

Amended by Ord. [2018-006](#) §5 on 11/20/2018

Amended by Ord. [2021-013](#) §4 on 4/5/2022

Amended by Ord. [2025-002](#) §4 on 3/28/2025

~~Amended by Ord. 2025-xxx §x on x/xx/xxxx~~

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Exhibit C to Ordinance 2025-xxx

CHAPTER 18.36 FOREST USE ZONE; F-1[18.36.010 Purpose](#)[18.36.020 Uses Permitted Outright](#)[~~18.36.025 Lawfully Established Dwelling Replacement~~](#)[18.36.030 Conditional Uses Permitted](#)[18.36.040 Limitations On Conditional Uses](#)[18.36.050 Standards For Single-Unit Dwellings](#)[18.36.060 Siting Of Dwellings And Structures](#)[18.36.070 Fire Siting Standards For Dwellings And Structures](#)[18.36.080 Fire Safety Design Standards For Roads](#)[18.36.085 Stocking Requirement](#)[18.36.090 Dimensional Standards](#)[18.36.100 Setbacks](#)[18.36.110 Ordinary High Water Mark Setbacks](#)[18.36.120 State Law Controls](#)[18.36.130 Rimrock Setbacks](#)[18.36.140 Restrictive Covenants](#)

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18.36.020 Uses Permitted Outright

The following uses and their accessory uses are permitted outright, subject to applicable siting criteria set forth in DCC 18.36 and any other applicable provisions of DCC Title 18.

- A. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash, subject to the Forest Practices Act (ORS Chapter 527) and Goal 4.
- B. Temporary on-site structures, that are auxiliary to and used during the term of a particular forest operation, subject to the Forest Practices Act (ORS Chapter 527) and Goal 4. As used here, temporary structures are those which are portable and/or not placed on a permanent foundation, and which are removed at the conclusion of the forest operation requiring its use. For the purposes of this section, including DCC 18.36.020(B) and (C) "auxiliary" means a use or alteration of a structure or land, that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is

not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

- C. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, land disposal sites, dams, reservoirs, road construction or recreational facilities, subject to the Forest Practices Act (ORS Chapter 527) and Goal 4). Gravel extraction and processing not covered by DCC 18.36.020 is governed by DCC 18.52.
- D. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
- E. Farm use as defined in ORS 215.203.
- F. Local distribution lines (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups.
- G. Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.
- H. Exploration for mineral and aggregate resources as defined in ORS 517.
- I. Towers and fire stations for forest fire protection.
- J. Widening of roads within existing rights of way in conformance with the transportation element of the comprehensive plan including public road and highway projects as described in ORS 215.283(1).
- K. Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- L. Uninhabitable structures accessory to fish and wildlife enhancement.
- M. A lawfully established dwelling may be altered, restored or replaced, as allowed by and subject to the requirements of ORS 215.291 and OAR 660-006-0025. ~~subject to DCC 18.36.025.~~
- N. An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in

any three-month period is not a "land use decision" as defined in ORS 197.015(10) or subject to review under OAR 660-006.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [91-002](#) §8 on 2/6/1991

Amended by Ord. [92-025](#) §2 on 4/15/1991

Amended by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [94-038](#) §1 on 10/5/1994

Amended by Ord. [2003-007](#) §1 on 3/26/2003

Amended by Ord. [2012-007](#) §3 on 5/2/2012

Amended by Ord. [2023-001](#) §5 on 5/30/2023

Amended by Ord. [2024-008](#) §5 on 1/7/2025

[Amended by Ord 2025-xxx §x on x/xx/xxxx](#)

18.36.025 Lawfully Established Dwelling Replacement

~~A lawfully established dwelling may be altered, restored or replaced under DCC~~

~~18.36.020(M) above if:~~

~~A.—The dwelling to be altered, restored or replaced:~~

~~1.—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; and~~

~~d.—A heating system; and~~

~~B.—Unless the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of:~~

~~1.—Five years before the date of the application; or~~

~~2.—The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment; or~~

~~3.—If the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:~~

~~a.—Five years before the date of the destruction or demolition; or~~

~~b.—The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.~~

~~C.—For replacement of a lawfully established dwelling under this section:~~

~~1.—The dwelling to be replaced must be removed, demolished, or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055.~~

~~2.—The replacement dwelling:~~

~~a.—May be sited on any part of the same lot or parcel.~~

~~b.—Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.~~

~~c.—Must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:~~

~~1.—The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or~~

~~2.—No statewide map of wildfire risk has been adopted.~~

~~D.—As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.~~

~~E.—If an applicant is granted a deferred replacement permit under this section:~~

~~1.—The deferred replacement permit:~~

~~a.—Does not expire but the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and~~

~~b.—May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.~~

~~2.—The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes, and other requirements relating to health and safety or to siting at the time of construction.~~

~~F.—An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed under subsection (A)(1) of this section.~~

~~G.—Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.~~

HISTORY

Adopted by Ord. [2024-008](#) §5 on 1/7/2025

Amended by Ord. [2025-002](#) §7 on 3/28/2025

~~Repealed by Ord. [2025-xxx](#) §x on x/xx/xxxx~~

18.36.030 Conditional Uses Permitted

The following uses and their accessory uses may be allowed in the Forest Use Zone, subject to applicable provisions of the Comprehensive Plan, DCC 18.36.040 and other applicable sections of DCC Title 18.

- A. Private hunting and fishing operations without any lodging accommodations.
- B. Caretaker residences for public parks and fish hatcheries.
- C. Temporary forest labor camps limited to the duration of the forest operation requiring its use.
- D. Exploration for and production of geo-thermal, gas, oil and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.
- E. Log scaling and weigh stations.

F. A disposal site which includes a land disposal site which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.

G. Private parks and campgrounds as allowed by and subject to the requirements of ORS 215.459 and OAR 660-006-0025.

~~1.—Campgrounds in private parks shall only be those allowed by OAR 660-006-0025.~~

~~2.—Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4.~~

~~3.—For the purpose of DCC 18.36.030 a campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.~~

~~4.—A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.~~

~~5.—Campsites may be occupied by a tent, travel trailer, or recreational vehicle.~~

~~6.—Separate sewer, water or electric service hookups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by OAR 660-006-0025(4)(e)(C).~~

~~7.—Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.~~

~~8.—A private campground may provide yurts for overnight camping.~~

~~a.—No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.~~

~~b.—The yurt shall be located on the ground or on a wood floor with no permanent foundation.~~

~~9.—As used in this rule, “yurt” means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.~~

- H. Mining and processing of oil, gas or other subsurface resources, as defined in ORS 520.005, and not otherwise permitted under DCC 18.36.030(D).
- I. Television, microwave and radio communication facilities and transmission towers.
- J. Fire stations for rural fire protection.
- K. Commercial utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to Oregon Administrative Rules 660, Division 4.
- L. Aids to navigation and aviation.
- M. Water intake facilities, related treatment facilities, pumping stations and distribution lines.
- N. Reservoirs and water impoundments.
- O. Cemeteries.
- P. New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g. electrical, gas, oil, geothermal, telephone, fiber optic cable) with rights of way 50 feet or less in width.
- Q. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.
- R. Home Occupations as allowed by and subject to the requirements of ORS 215.448 and, subject to DCC 18.116.280.
- S. Expansion of existing airports.
- T. Public road and highway projects as described as ORS 215.283(2) and 215.283(3).
- U. Private accommodations for fishing occupied on a temporary basis subject to other applicable sections of DCC Title 18 and the following requirements:

1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 2. Only minor incidental and accessory retail sales are permitted;
 3. Accommodations are occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
 4. Accommodations must be located within one-quarter mile of fish bearing Class I waters.
- V. Forest management research and experimentation facilities as described by ORS 526.215 or where accessory to forest operations.
- W. Fill or removal within the bed and banks of a stream or river or in a wetland, subject to DCC 18.120.050 and 18.128.270.
- X. ~~Temporary hardship dwelling. An existing building, or a manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative as defined in ORS 215.283. For the purposes of this section, "existing" means the building was in existence on or before March 29, 2017.~~
- ~~1.—A temporary hardship dwelling is conditionally allowed subject to DCC 18.116.090, 18.36.040, and 18.36.060. As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.~~
 - ~~2.—The use shall be subject to the review criteria in DCC 18.116.090, as well as DCC 18.36.040 and 18.36.060 of this chapter.~~
 - ~~3.—The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwellings if that disposal system is adequate to accommodate the additional dwelling.~~
 - ~~4.—If the manufactured dwelling will use a public sanitary sewer system, such condition will not be required.~~
 - ~~5.1. _____~~ A temporary residence approved under this subsection is not eligible for replacement under OAR 660-006-025.
- Y. Single-unit dwellings or manufactured dwellings as specified in DCC 18.116.070, as pursuant to DCC 18.36.050.

Z. Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.

AA. Private seasonal accommodations for fee hunting operations may be allowed subject to DCC 18.36.050 and the following requirements:

1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
2. Only minor incidental and accessory retail sales are permitted; and
3. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

AB. An Extended Outdoor Mass gathering subject to review by a county planning commission pursuant to DCC Chapter 8.16.

AC. Permanent facility for the primary processing of forest products.

AD. Firearms training facility.

AE. Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [86-018](#) §8 on 6/30/1986

Amended by Ord. [90-014](#) §28 on 7/12/1990

Amended by Ord. [92-025](#) §2 on 4/15/1991

Amended by Ord. [91-038](#) §2 on 9/30/1991

Amended by Ord. [92-068](#) §1 on 12/7/1992

Amended by Ord. [94-038](#) §1 on 10/5/1994

Amended by Ord. [2001-001](#) §1 on 1/22/2001

Amended by Ord. [2004-002](#) §5 on 4/28/2004

Amended by Ord. [2007-020](#) §3 on 2/6/2008

Amended by Ord. [2012-007](#) §3 on 5/2/2012

Amended by Ord. [2018-006](#) §6 on 11/20/2018

Amended by Ord. [2020-007](#) §10 on 10/27/2020

Amended by Ord. [2025-002](#) §7 on 3/28/2025

Amended by Ord 2025-xxx Sx on x/xx/xxxx

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18.36.050 Standards For Single-Unit Dwellings

A. General provisions.

1. Dwellings listed as a conditional use under DCC 18.36.050 shall meet the following standards:
 - a. One of the alternative tests set out in DCC 18.36.050(B) (lot of record dwelling), (C) (large tract dwelling), or (D) (template dwelling);
 - b. If the lot or parcel is part of a "tract," the remaining undeveloped lots or parcels of the tract shall be consolidated into a single lot or parcel, or the applicant shall sign and record with the County Clerk covenants, conditions and restrictions (on a form substantially similar to that set forth in DCC 18.36.140) prohibiting the siting of a dwelling on the undeveloped portions of the tract. Such covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by the County Planning Director, or his authorized representative.
 - c. No other dwellings shall be located on the tract.
 - d. The applicant shall provide evidence that any domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (Oregon Administrative Rules 690, Division 10) or surface water (Oregon Administrative Rules 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rule (Oregon Administrative Rules chapter 629).
 1. For purposes of DCC 18.36.050, evidence of a domestic water supply means:
 - A. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or

- B. A water use permit issued by the Water Resources Department for the use described in the application; or
 - C. Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well construction report to the County upon completion of the well.
- e. If road access to a dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
- 2. In addition, dwellings listed as a conditional use under DCC 18.36.030(Y) shall be subject to the following standards or conditions:
 - a. The conditional use standards set forth in DCC 18.36.040;
 - b. The siting criteria set forth in DCC 18.36.060;
 - c. The fire siting standards set forth in DCC 18.36.070;
 - d. The fire safety design standards for roads set forth in DCC 18.36.080;
 - e. The stocking requirements set forth in DCC 18.36.085, if applicable; and
 - f. Any other provisions made applicable by DCC Title 18 or the comprehensive plan.
- 3. Dwellings in forest zones shall not be subject to conditional use standards.
- 4. Approval of a dwelling in the forest zone under DCC Chapter 18.36 shall include a condition of approval requiring that, prior to the issuance of a building permit, the landowner 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 forestry practices for which no action or claim is allowed under ORS 30.936 or 30.937.

B. Lot of Record Dwelling. For approval under DCC 18.36.050(B), a single-unit dwelling shall meet the following requirements:

1. The lot or parcel on which the dwelling would be sited was lawfully created prior to January 1, 1985, and was acquired and owned continuously by the present owner either prior to January 1, 1985, or by devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
2. For the purposes of DCC 18.36.050(B), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, grandparent, or grandchild of the owner or a business entity owned by any one or combination of these family members.
3. The dwelling must be located on a tract that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract.
 - a. The road shall be maintained and either paved or surfaced with rock and shall not be a:
 1. United States Bureau of Land Management (BLM) road, or
 2. a United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction, and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.
4. For the purposes of DCC 18.36.050, "commercial tree species" means trees recognized for commercial production under rules adopted by the Oregon Department of Forestry pursuant to ORS 527.715.
5. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwellings exists on another lot or parcel that was part of the tract.
6. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.

7. For lots or parcels located within a Wildlife Area (WA) Combining Zone, siting of the proposed dwelling would be consistent with the limitations on density as applied under the applicable density restrictions of DCC 18.88.

C. Large Tract Dwelling. A dwelling not allowed pursuant to DCC 18.36.050(B) may be allowed if the subject property consists of at least 240 contiguous acres or 320 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use and does not include an existing dwelling.

1. A deed restriction shall be filed pursuant to DCC 18.36.140 for all tracts that are used to meet the acreage requirements of this subsection.
2. A tract shall not be considered to consist of less than 240 acres because it is crossed by a public road or a waterway.

D. Template Dwelling. For approval under DCC 18.36.050(D), a single-unit dwelling shall meet the following requirements:

1. The lot or parcel on which the dwelling will be sited:
 - a. Was lawfully established;
 - b. Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
 - c. Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
 - d. If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract:

~~1. As an exception to DCC 18.36.050(0)(1)(d), prior to November 1, 2023, a single-family dwelling may be established on a lot or parcel that was part of a tract on January 1, 2021, if no more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract.~~

2. The lot or parcel on which the dwelling will be sited is predominantly composed of soils that are:

- a. Capable of producing zero to 20 cubic feet per acre per year of wood fiber if:
 - 1. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - 2. At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
 - b. Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:
 - 1. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - 2. At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
 - c. Capable of producing more than 50 cubic feet per acre per year of wood fiber if:
 - 1. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - 2. At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
3. Requirements of Applying Template
- a. Lots or parcels within urban growth boundaries shall not be used to satisfy the template requirements under this subsection.
 - b. As used in this section, "center of the subject tract" means the mathematical centroid of the tract.
 - c. If a tract 60 acres or larger described in DCC 18.36.050(D) abuts a road or perennial stream, the measurement shall be made by using a 160-acre rectangle that is one mile long and one fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible aligned with the road or stream.

- d. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling. However, one of the three required dwellings shall be on the same side of the road or stream as the tract and:
 - 1. Be located within a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible aligned with the road or stream;
 - 2. Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.
- e. If a tract reviewed under DCC 18.36.050(D) abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [92-025](#) §2 on 4/15/1991

Amended by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [94-038](#) §1 on 10/5/1994

Amended by Ord. [2003-007](#) §1 on 3/26/2003

Amended by Ord. [2012-007](#) §3 on 5/2/2012

Amended by Ord. [2021-013](#) §6 on 4/5/2022

Amended by Ord. [2025-002](#) §7 on 3/28/2025

[Amended by Ord. 2025-xxx \\$x on x/xx/xxxx](#)

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Exhibit D to Ordinance 2025-xxx

CHAPTER 18.40 FOREST USE ZONE; F-2

[18.40.010 Purpose](#)

[18.40.020 Uses Permitted Outright](#)

~~[18.040.025 Lawfully Established Dwelling Replacement](#)~~

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[18.40.080 Fire Safety Design Standards For Roads](#)

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[18.40.090 Dimensional Standards](#)

[18.40.100 Setbacks](#)

[18.40.110 Ordinary High Water Mark Setbacks](#)

[18.40.120 State Law Controls](#)

[18.40.130 Rimrock Setback](#)

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18.40.020 Uses Permitted Outright

The following uses and their accessory uses are permitted outright, subject to applicable siting criteria set forth in DCC 18.40 and any other applicable provisions of DCC Title 18:

- A. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash, subject to the Forest Practices Act (ORS Chapter 527) and Goal 4.
- B. Temporary on-site structures that are auxiliary to and used during the term of a particular forest operation, subject to the Forest Practices Act (ORS Chapter 527) and Goal 4. As used here, temporary structures are those which are portable and/or not placed on a permanent foundation, and which are removed at the conclusion of the forest operation requiring its use. For the purposes of this section, including DCC 18.36.020(B) and (C) "auxiliary" means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not

designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

- C. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, land disposal sites, dams, reservoirs, road construction or recreational facilities, subject to the Forest Practices Act (ORS Chapter 527 and Goal 4). Gravel extraction and processing not covered by DCC 18.40.020 is governed by DCC 18.52.
- D. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
- E. Farm use as defined in ORS 215.203.
- F. Local distribution lines (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups.
- G. Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.
- H. Exploration for mineral and aggregate resources as defined in ORS 517.
- I. Towers and fire stations for forest fire protection.
- J. Widening of roads within existing rights of way in conformance with the transportation element of the comprehensive plan including public road and highway projects as described in ORS 215.283(1).
- K. Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- L. Uninhabitable structures accessory to fish and wildlife enhancement.
- M. A lawfully established dwelling may be altered, restored or replaced, as allowed by and subject to the requirements of ORS 215.291 and OAR 660-006-0025. ~~DCC 18.040-025.~~
- N. An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period is not a "land use decision" as defined in ORS 197.015(10) or subject to review under OAR 660-006.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [91-002](#) §9 on 2/6/1991

Amended by Ord. [91-005](#) §21 on 3/4/1991

Amended by Ord. [92-025](#) §3 on 4/15/1991

Amended by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [94-038](#) §2 on 10/5/1994

Amended by Ord. [2003-007](#) §2 on 3/26/2003

Amended by Ord. [2012-007](#) §4 on 5/2/2012

Amended by Ord. [2023-001](#) §6 on 5/30/2023

Amended by Ord. [2024-008](#) §6 on 1/7/2025

[Amended by Ord. 2025-xxx §x on x/xx/xxxx](#)

18.040.025 Lawfully Established Dwelling Replacement

~~A lawfully established dwelling may be altered, restored or replaced under DCC 18.40.020(M) above if:~~

~~A.—The dwelling to be altered, restored or replaced:~~

~~1.—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; and~~

~~d.—A heating system; and~~

~~B.—Unless the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of:~~

~~1.—Five years before the date of the application; or~~

~~2.—The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment; or~~

~~3.—If the value of the dwelling was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:~~

~~a.—Five years before the date of the destruction or demolition; or~~

~~b.—The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.~~

~~C.—For replacement of a lawfully established dwelling under this section:~~

~~1.—The dwelling to be replaced must be removed, demolished, or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055.~~

~~2.—The replacement dwelling:~~

~~a.—May be sited on any part of the same lot or parcel.~~

~~b.—Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.~~

~~c.—Must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:~~

~~1.—The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or~~

~~2.—No statewide map of wildfire risk has been adopted.~~

~~D.—As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.~~

~~E.—If an applicant is granted a deferred replacement permit under this section:~~

~~1.—The deferred replacement permit:~~

~~a.—Does not expire but the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and~~

~~b.—May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.~~

~~2.—The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes, and other requirements relating to health and safety or to siting at the time of construction.~~

~~F.—An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed under subsection (A)(1) of this section.~~

~~G.—Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.~~

HISTORY

Adopted by Ord. [2024-008](#) §6 on 1/7/2025

Amended by Ord. [2025-002](#) §8 on 3/28/2025

~~Repealed by Ord. 2025-xxx §x on x/xx/xxxx~~

18.40.030 Conditional Uses Permitted

The following uses and their accessory uses may be allowed in the Forest Use Zone, subject to applicable provisions of the Comprehensive Plan, DCC 18.40.040 and other applicable sections of DCC Title 18:

- A. Private hunting and fishing operations without any lodging accommodations.
- B. Caretaker residences for public parks and fish hatcheries.
- C. Temporary forest labor camps limited to the duration of the forest operation requiring it use.
- D. Destination Resorts where mapped in a DR zone and subject only to the provisions of DCC 18.113 and other applicable provisions of DCC Title 18 and the Comprehensive Plan not contained in DCC 18.40.
- E. Exploration for and production of geothermal, gas, oil and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.
- F. Log scaling and weigh stations.

- G. A disposal site which includes a land disposal site which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
- H. Private parks and campgrounds as allowed by and subject to the requirements of ORS 215.459 and OAR 660-006-0025.
- ~~1.—Campgrounds in private parks shall only be those allowed by OAR 660-006-0025.~~
 - ~~2.—Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4.~~
 - ~~3.—For the purpose of DCC 18.36.030 a campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.~~
 - ~~4.—A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.~~
 - ~~5.—Campsites may be occupied by a tent, travel trailer, or recreational vehicle.~~
 - ~~6.—Separate sewer, water or electric service hookups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by OAR 660-006-0025(4)(e)(C).~~
 - ~~7.—Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6-month period.~~
 - ~~8.—A private campground may provide yurts for overnight camping:

 - ~~a.—No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.~~
 - ~~b.—The yurt shall be located on the ground or on a wood floor with no permanent foundation.~~~~

~~9.—As used in this rule, “yurt” means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.~~

- I. Mining and processing of oil, gas or other subsurface resources, as defined in ORS 520.005, and not otherwise permitted under DCC 18.40.030(E).
- J. Television, microwave, and radio communication facilities and transmission towers.
- K. Fire stations for rural fire protection.
- L. Commercial utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to Oregon Administrative Rules 660, Division 4.
- M. Aids to navigation and aviation.
- N. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
- O. Reservoirs and water impoundments.
- P. Cemeteries.
- Q. New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g. gas, oil, geothermal, telephone, fiber optic cable) with rights of way 50 feet or less in width.
- R. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.
- S. Home Occupations, as allowed by and; subject to the requirements of ORS 215.448 and DCC 18.116.280.
- T. Expansion of existing airports.
- U. Public road and highway projects as described as ORS 215.283(2) and 215.283(3).
- V. Private accommodations for fishing occupied on a temporary basis subject to other applicable sections of DCC Title 18 and the following requirements:
 - 1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - 2. Only minor incidental and accessory retail sales are permitted;

3. Accommodations are occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
 4. Accommodations must be located within one-quarter mile of fish-bearing Class I waters.
- W. Forest management research and experimentation facilities as described by ORS 526.215 or where accessory to forest operations.
- X. Single-unit dwellings or manufactured dwellings as specified in DCC 18.116.070, pursuant to DCC 18.40.050.
- Y. Fill or removal within the bed and banks of a stream or river or in a wetland, subject to DCC 18.120.050 and 18.128.270.
- Z. ~~Temporary hardship dwelling. An existing building, or a manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative as defined in ORS 215.283. For the purposes of this section, "existing" means the building was in existence on or before March 29, 2017.~~
1. ~~A temporary hardship dwelling is conditionally allowed subject to DCC 18.116.090, 18.40.040, and 18.40.060 As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.~~
 2. ~~The use shall be subject to the review criteria in DCC 18.116.090, as well as DCC 18.40.040 and 18.40.60.~~
 3. ~~The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwellings if that disposal system is adequate to accommodate the additional dwelling.~~
 4. ~~If the manufactured dwelling will use a public sanitary sewer system, such condition will not be required.~~
- ~~5.2.~~ _____ A temporary residence approved under this subsection is not eligible for replacement under OAR 660-006-025.
- AA. Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.
- AB. Private seasonal accommodations for fee hunting operations may be allowed subject to DCC 18.36.050 and the following requirements:

1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
2. Only minor incidental and accessory retail sales are permitted; and
3. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

AC. An Extended Outdoor Mass Gathering subject to review by a county planning commission pursuant to DCC Chapter 8.16.

AD. Permanent storage and repair of logging equipment.

AE. Permanent facility for the primary processing of forest products.

AF. Firearms training facility.

AG. Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [86-018](#) §8 on 6/30/1986

Amended by Ord. [90-014](#) §28 on 7/12/1990

Amended by Ord. [92-025](#) §2 on 4/15/1991

Amended by Ord. [91-038](#) §1 on 9/30/1991

Amended by Ord. [92-068](#) §1 on 12/7/1992

Amended by Ord. [94-038](#) §1 on 10/5/1994

Amended by Ord. [2000-033](#) §1 on 12/6/2000

Amended by Ord. [2004-020](#) §6 on 10/13/2004

Amended by Ord. [2007-020](#) §4 on 2/6/2008

Amended by Ord. [2012-007](#) §4 on 5/2/2012

Amended by Ord. [2018-006](#) §7 on 11/20/2018

Amended by Ord. [2020-007](#) §11 on 10/27/2020

Amended by Ord. [2025-002](#) §8 on 3/28/2025

Amended by Ord 2025-xxx \$x on x/xx/xxxx

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18.40.050 Standards For Single-Unit Dwellings

A. General Provisions.

1. Dwellings listed as a conditional use under DCC 18.40.030(X) shall meet the following standards:
 - a. One of the alternative tests set out in DCC 18.40.050(B) (lot of record dwelling), DCC 18.40.050(C) (large tract dwelling), or DCC 18.40.050(D) (template dwelling);
 - b. If the lot or parcel is part of a "tract," the remaining undeveloped lots or parcels of the tract shall be consolidated into a single lot or parcel, or the applicant shall sign and record with the County Clerk covenants, conditions and restrictions (on a form substantially similar to that set forth in DCC 18.36.140) prohibiting the siting of a dwelling on the undeveloped portions of the tract. Such covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by the County Planning Director, or his authorized representative.
 - c. No other dwellings shall be located on the tract.
 - d. The applicant shall provide evidence that any domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (Oregon Administrative Rules 690, Division 10) or surface water (Oregon Administrative Rules 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rule (Oregon Administrative Rules Chapter 629).
For purposes of DCC 18.40.050, evidence of a domestic water supply means:
 1. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or
 2. A water use permit issued by the Water Resources Department for the use described in the application; or
 3. Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well construction report to the County upon completion of the well.

- e. If road access to a dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
 - 2. In addition, dwellings listed as a conditional use under DCC 18.40.030(X) shall be subject to the following standards or conditions:
 - a. The conditional use standards set forth in DCC 18.40.040;
 - b. The siting criteria set forth in DCC 18.40.060;
 - c. The fire siting standards set forth in DCC 18.40.070;
 - d. The fire safety design standards for roads set forth in DCC 18.40.080;
 - e. The stocking requirements set forth in DCC 18.40.085, if applicable; and
 - f. Any other provisions made applicable by DCC Title 18 or the comprehensive plan.
 - 3. Dwellings in forest zones shall not be subject to conditional use standards.
 - 4. Approval of a dwelling in the forest zone under DCC Chapter 18.40 shall include a condition of approval requiring that, prior to the issuance of a building permit, the landowner 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.
- B. Lot of Record Dwelling. For approval under DCC 18.40.050, a single-unit dwelling shall meet the following requirements:
- 1. The lot or parcel on which the dwelling would be sited was lawfully created prior to January 1, 1985, and was acquired and owned continuously by the present owner either prior to January 1, 1985, or by devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

2. For the purposes of DCC 18.40.050, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, grandparent, or grandchild of the owner or a business entity owned by any one or combination of these family members.
 3. The dwelling would be located on a tract that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract.
 - a. The road shall be maintained and either paved or surfaced with rock and shall not be:
 1. a United States Bureau of Land Management (BLM) road; or
 2. a United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.
 4. For the purposes of DCC 18.40.050, "commercial tree species" means trees recognized for commercial production under rules adopted by the Oregon Department of Forestry pursuant to ORS 527.715.
 5. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwellings exists on another lot or parcel that was part of the tract.
 6. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 7. For lots or parcels located within a Wildlife Area (WA) Combining Zone, siting of the proposed dwelling would be consistent with the limitations on density as applied under the applicable density restrictions of DCC 18.88.
- C. Large Tract Dwelling. A dwelling not allowed pursuant to DCC 18.40.050(B) may be allowed if the subject property consists of at least 240 contiguous acres or 320 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use and does not include an existing dwelling.

1. A deed restriction shall be filed pursuant to DCC 18.40.140 for all tracts that are used to meet the acreage requirements of this subsection.
2. A tract shall not be considered to consist of less than 240 acres because it is crossed by a public road or a waterway.

D. Template Dwelling. For approval under DCC 18.40.050(D), a single-unit dwelling shall meet the following requirements:

1. The lot or parcel on which the dwelling will be sited:
 - a. Was lawfully established;
 - b. Any property line adjustment to the lot or parcel complied with the applicable property line adjustment provisions in ORS 92.192;
 - c. Any property line adjustment to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and
 - d. If the lot or parcel was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract:

~~1.—As an exception to DCC 18.40.050(D)(1)(d), prior to November 1, 2023, a single-unit dwelling may be established on a lot or parcel that was part of a tract on January 1, 2021, if no more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract.~~

2. The lot or parcel on which the dwelling will be sited is predominantly composed of soils that are:
 - a. Capable of producing zero to 20 cubic feet per acre per year of wood fiber if:
 1. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 2. At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
 - b. Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:

1. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 2. At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
- c. Capable of producing more than 50 cubic feet per acre per year of wood fiber if:
1. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 2. At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.
3. Requirements of Applying Template
- a. Lots or parcels within urban growth boundaries shall not be used to satisfy the template requirements under this subsection.
 - b. As used in this section, "center of the subject tract" means the mathematical centroid of the tract.
 - c. Except as provided by subsection (d) of this section, if the tract described in DCC 18.40.050(D) abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.
 - d. If a tract 60 acres or larger described in DCC 18.40.050(D) abuts a road or perennial stream, the measurement shall be made in accordance with subsection (c) of this section. However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and;
 1. Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or

2. Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.
- e. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

HISTORY

Adopted by Ord. [PL-15](#) on 11/1/1979

Amended by Ord. [92-025](#) §3 on 4/15/1991

Amended by Ord. [91-020](#) §1 on 5/29/1991

Amended by Ord. [94-038](#) §2 on 10/5/1994

Amended by Ord. [2003-007](#) §2 on 3/26/2003

Amended by Ord. [2012-007](#) §4 on 5/2/2012

Amended by Ord. [2018-006](#) §7 on 11/20/2018

Amended by Ord. [2021-013](#) §7 on 4/5/2022

Amended by Ord. [2025-002](#) §8 on 3/28/2025

[Amended by Ord. 2025-xxx \\$x on x/xx/xxxx](#)

...



FINDINGS

FARM AND FOREST HOUSEKEEPING TEXT AMENDMENTS 247-25-000297-TA

I. **APPLICABLE CRITERIA:**

Title 22, Deschutes County Development Procedures Ordinance

II. **BACKGROUND:**

Oregon's zoning-based farm and forest land conservation programs have been in place since 1973. Over the past 10 years, interested parties, the courts, and the Department of Land Conservation and Development (DLCD) have identified a number of issues needing review. In 2024, the Land Conservation and Development Commission (LCDC) initiated the Farm and Forest Modernization Project, which included rulemaking and the appointment of a rules advisory committee (RAC). Rulemaking was intended to improve the clarity and consistency of implementing Oregon's farm and forest program across the state. DLCD directed the RAC to consider:

- Codifying identified case law standards;
- Other EFU rule amendments;
- Conforming rule changes; and
- Providing additional clarity to counties and potential applicants with the intent of reducing unnecessary appeals.

LCDC ultimately adopted new Oregon Administrative Rules (OARs) on December 6, 2024. They became effective on January 1, 2025. Staff provided an update to the Board of County Commissioners on February 3, 2025¹ and acknowledged an amendment package would be forthcoming in spring/summer 2025.

This housekeeping text amendment will incorporate the changes to the OAR into the Deschutes County Code (DCC), as well as incorporate some minor housekeeping changes from previous rulemaking or legislative changes that have not yet been captured locally.

III. **AMENDMENT SUMMARY:**

To comply with this rulemaking package, staff is proposing the following amendments:

¹ <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-220>

- Amend 18.16.040(A) to apply farm impacts test through reference to Oregon Revised Statute (ORS) and OAR.
- Amend 18.16.042(A) 'incidental and subordinate' definition for agri-tourism.
- Amend 18.16.030(Y) to include ORS and OAR references for rural transportation facilities in Exclusive Farm Use zone.
- Add rural transportation facilities as 18.36.030(AE) and 18.40.030(AG) in forest zones and included ORS and OAR references.
- Amend 18.16.031(D), 18.36.030(G), and 18.40.030(H) to reference ORS and OAR definition for private parks.
- Amend 18.16.020(J), 18.36.020(M), and 18.040.020(M) to reference ORS and OAR standards for replacement dwellings. Removed sections 18.16.023, 18.36.025, and 18.40.025 as they were duplicative.
- Amend 18.04 to reference ORS and OAR for definition of "farm use".
- Amend 18.16.050(A)(3)(f), 18.16.050(B)(8), and 18.16.050(C)(5) to reflect new requirements for verification of income associated with farmworker and primary farm dwellings.
- Amend 18.16.038(C) to reference ORS and OAR standards for farm stands.
- Amend 18.16.030(M), 18.36.030(R), and 18.40.030(S) to reference ORS and OAR standards for home occupations.
- Amend 18.36.050(D)(1)(d)(1) and 18.40.050(D)(1)(d)(1) to remove a temporary provision for template dwellings that has sunset.
- Amended 18.16.031(D), 18.16.030(G), 18.36.030(G), and 18.40.030(H) to directly reference requirements for campgrounds in OAR and ORS. Removed 18.16.050(L) as no longer needed.
- Amended 18.04 to amend the definition for a processing facility for farm crops to include rabbit products.
- Amended 18.16.033(C) as is it duplicative and superseded by 18.120.010(B), pertaining to expansion of nonconforming schools.

Staff included only housekeeping style amendments resulting from rulemaking in this particular text amendment package. Additional discretionary amendments related to childcare, temporary storage sites, and natural disaster event allowances may be pursued in the future.

IV. BASIC FINDINGS:

The Planning Division determined amendments were necessary to incorporate changes to state law into various sections of the Deschutes County Code. Staff initiated the proposed amendments and notified the Oregon Department of Land Conservation and Development on May 22, 2025 (File no. 247-25-000297-TA). As demonstrated in the findings below, the amendments remain consistent with Deschutes County Code, the Deschutes County Comprehensive Plan, and the Statewide Planning Goals.

V. FINDINGS:

CHAPTER 22.12, LEGISLATIVE PROCEDURES

Section 22.12.010.

Hearing Required

No legislative change shall be adopted without review by the Planning Commission and a public hearing before the Board of County Commissioners. Public hearings before the Planning Commission shall be set at the discretion of the Planning Director, unless otherwise required by state law.

FINDING: This criterion will be met because public hearings will be held before the Deschutes County Planning Commission (Commission) and the Board of County Commissioners (Board).

Section 22.12.020, Notice

Notice

A. Published Notice

- 1. Notice of a legislative change shall be published in a newspaper of general circulation in the county at least 10 days prior to each public hearing.***
- 2. The notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration.***

FINDING: This criterion will be met as notice will be published in *The Bulletin* newspaper at least 10 days prior to each public hearing.

B. Posted Notice. Notice shall be posted at the discretion of the Planning Director and where necessary to comply with ORS 203.045.

FINDING: Posted notice was determined by the Planning Director not to be necessary.

C. Individual notice. Individual notice to property owners, as defined in DCC 22.08.010(A), shall be provided at the discretion of the Planning Director, except as required by ORS 215.503.

FINDING: The proposed amendments are legislative and do not apply to any specific property. Therefore, individual notice is not required.

D. Media notice. Copies of the notice of hearing shall be transmitted to other newspapers published in Deschutes County.

FINDING: Notice was provided to the County public information official for wider media distribution. This criterion has been met.

Section 22.12.030 Initiation of Legislative Changes.

A legislative change may be initiated by application of individuals upon payment of required fees as well as by the Board of County Commissioners.

FINDING: The application was initiated by the Deschutes County Planning Division at the direction of the Board and has received a fee waiver. This criterion has been met.

Section 22.12.040. Hearings Body

- A. *The following shall serve as hearings or review body for legislative changes in this order:***
 - 1. *The Planning Commission.***
 - 2. *The Board of County Commissioners.***
- B. *Any legislative change initiated by the Board of County Commissioners shall be reviewed by the Planning Commission prior to action being taken by the Board of Commissioners.***

FINDING: This criterion will be met because public hearings will be held before the Deschutes County Planning Commission (Commission) and the Board of County Commissioners (Board).

Section 22.12.050 Final Decision

All legislative changes shall be adopted by ordinance

FINDING: The proposed legislative changes included in file no. 247-25-000297-TA will be implemented by ordinances upon approval and adoption by the Board.

OAR 660-015, STATEWIDE PLANNING GOALS AND GUIDELINES

Goal 1: Citizen Involvement:

FINDING: The amendments do not propose to change the structure of the County's citizen involvement program. Notice of the proposed amendments was provided to the *Bulletin* for the Board public hearing. This goal is met.

Goal 2: Land Use Planning:

FINDING: The purpose of the amendment is to integrate requirements from Oregon Administrative Rule and Oregon Revised Statutes. The proposal has a factual base and is consistent with the intent of the Comprehensive Plan and zoning districts. This goal is met.

Goal 3: Agricultural Lands:

FINDING: The proposed amendments integrate rulemaking from LCDRC's recent Farm and Forest Modernization Project into local code provisions. This goal is met.

Goal 4: Forest Lands:

FINDING: The proposed amendments integrate rulemaking from LCDRC's recent Farm and Forest Modernization Project into local code provisions. This goal is met.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 5. This goal does not apply.

Goal 6: Air, Water and Land Resources Quality:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 6. This goal does not apply.

Goal 7: Areas Subject to Natural Disasters and Hazards:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 7. This goal does not apply.

Goal 8: Recreational Needs:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 8. This goal does not apply.

Goal 9: Economic Development:

FINDING The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 9. This goal does not apply.

Goal 10: Housing:

FINDING: The proposed amendments integrate rulemaking from LCDRC's recent Farm and Forest Modernization Project into local code provisions. This goal is met.

Goal 11: Public Facilities and Services:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 11. This goal does not apply.

Goal 12: Transportation:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 12. This goal does not apply.

Goal 13: Energy Conservation:

FINDING: The proposed amendments do not include changes to the County's Comprehensive Plan policies or implementing regulations for compliance with Goal 13. This goal does not apply.

Goal 14: Urbanization:

FINDING: The proposed amendments integrate rulemaking from LCDRC's recent Farm and Forest Modernization Project into local code provisions. This goal is met.

Goals 15 through 19

FINDING: These goals are not applicable to the proposed plan and text amendments because the County does not contain these types of lands.

2011 DESCHUTES COUNTY COMPREHENSIVE PLAN

Chapter 2 – Resource Management -Section 2.2 Agricultural Land Policies

Policy 2.2.5 Uses allowed in Exclusive Farm Use zones shall comply with State Statute and Oregon Administrative Rule.

Policy 2.2.6 Regularly review farm regulations to ensure compliance with changes to State Statute, Oregon Administrative Rules and case law.

FINDING: The intent of the proposed text amendment is to integrate changes to state administrative rules into local code for implementation. Where possible, staff has proposed amendments to the code to directly reference state statute and administrative rule. These policies are met.

Chapter 2 – Resource Management -Section 2.3 Forest Land Policies

Policy 2.3.5 Uses allowed in Forest zones shall comply with State Statute and Oregon Administrative Rule.

FINDING: The intent of the proposed text amendment is to integrate changes to state administrative rules into local code for implementation. Where possible, staff has proposed amendments to the code to directly reference state statute and administrative rule. These policies are met.

VI. CONCLUSION:

Based on the information provided herein, the staff recommends the Board of County Commissioners approve the proposed text amendments that make minor changes necessary to clarify existing standards and procedural requirements, incorporate changes to state and federal law, and to correct errors in the Deschutes County Code.



COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Deschutes County Board of Commissioners

FROM: Tanya Saltzman, AICP, Senior Planner
Will Groves, Planning Manager
Peter Gutowsky, AICP, Director

DATE: January 29, 2025

SUBJECT: Department of Land Conservation and Development / Farm & Forest Modernization Program / Rule Changes

Oregon's zoning-based farm and forest land conservation programs have been in place since 1973. Over the past 10 years, interested parties, the courts, and the Department of Land Conservation and Development (DLCD) have identified a number of issues needing review. In 2024, the Land Conservation and Development Commission (LCDC) initiated the Farm and Forest Modernization Project, which included rulemaking and the appointment of a rules advisory committee (RAC). Rulemaking was intended to improve the clarity and consistency of implementing Oregon's farm and forest program across the state. DLCD directed the RAC to consider:

- Codifying identified case law standards;
- Other EFU rule amendments;
- Conforming rule changes; and
- Providing additional clarity to counties and potential applicants with the intent of reducing unnecessary appeals.

LCDC ultimately adopted new Oregon Administrative Rules (OARs) on December 6, 2024 (Attachment). They became effective on January 1, 2025.

The Community Development Department will initiate housekeeping amendments shortly. These amendments will apply the changes below into Deschutes County Code, as well as incorporate some minor housekeeping changes from previous rulemaking or legislative changes that have not yet been captured locally. Staff will first provide the Planning Commission with a review per the legislative process outlined in DCC 22.12.040 and will then proceed to a work session and public hearing before the Board of County Commissioners.

I. Rule Amendments for Codifying Case Law

Common law (or case law) is the body of law derived from judicial decisions by the courts. In this context, these are interpretations of statutory provisions by the Oregon Land Use Board of Appeals (LUBA), the Oregon Court of Appeals, and the Oregon Supreme Court. A large body of common law exists on aspects of the farm and forest program. While these rulings have not been codified in statute or rule, they are routinely applied to reviews on appeal of land use decisions. County planning departments have varying degrees of ability to apply un-codified common law when reviewing applications. The result, according to DLCD, is local governments unequally implementing case law standards across the state and unnecessary legal challenges.

A. Farm Impacts Test for Conditional Uses in Exclusive Farm Use Zones

Exclusive Farm Use (EFU) zoning is established at the state level to protect agricultural land for farming. Use of land zoned as EFU is limited to farm use, uses the legislature has determined are compatible with farm and forest operations, or uses which the legislature has determined may be compatible with farm and forest operations, per Oregon Revised Statutes (ORS) 215.283. All conditional uses in EFU zones require a county to exercise discretion: counties must find that the use as proposed will not force a significant change in farm and forest practices and will not significantly increase the cost of farm and forest practices on the surrounding lands. This discretionary review requirement is in ORS 215.296 and is often referred to as the “farm impacts test.” Counties routinely apply this test to a wide variety of EFU conditional uses to determine compatibility with farm and forest operations.

In case law, there is guidance from the courts on how to conduct a sufficient analysis to provide findings under the farm impacts test. These established case law standards have not been codified in statute or rule and are therefore applied inconsistently by counties throughout the state. RAC members considered several cases on the topic, most notably the Oregon Supreme Court’s decision in *Stop the Dump Coalition v. Yamhill County*, 364 Or 432, 435 P3d 698 (2019).¹ LCDC relied on the case’s step-by-step guidance to when it adopted the rule amendments.

B. “Incidental and Subordinate” and “Necessary to Support” standards as applied to ORS 215.213(11) and 215.283(4), the Agri-Tourism and Other Commercial Event Standards in Exclusive Farm Use Zones

In 2011, the legislature added a new use to EFU zones that allows for four different levels of agri-tourism events or other commercial events related to a farm use. The first three levels must pass the same standards for approval. The fourth level must meet more rigorous criteria to be approved. The four levels are:

1. Expedited review for a single, smaller event
2. One 72-hour event up to 500 people

¹ Other cases included: *Schellenberg v. Polk County*, 21 Or LUBA 425 (1991); *Von Lubken v. Hood River County*, 118 Or App 246, 846 P2d 1178, rev den 316 Or 529 (1993); *Von Lubken v. Hood River County*, 28 Or LUBA 362 (1994); *Von Lubken v. Hood River County*, 133 Or App 286, 891 P2d 5 (1995); and *Friends of Marion County v. Marion County* (Jones/Agritainment), ___ Or LUBA ___ (LUBA No. 2021-088/089, April 21, 2022).

3. Up to six 72-hour events or a month and a half of long weekend events
4. Up to eighteen 72-hour events or four months of long weekend events

The requirements for these events are listed in ORS 215.213(11) and ORS 215.283(4). Since 2013, counties have issued more than a hundred agri-tourism event permits under these standards. All four levels of events authorized in ORS 215.213(11)/ORS 215.283(4) must demonstrate that they are “incidental and subordinate” to existing farm use of the property. This means that farm use must remain the predominant use of the property, and the event use should not become the proverbial “tail wagging the dog.” For an application under the most intensive category — up to eighteen 72-hour events per year — the proposal must also be found to be “necessary to support” the commercial farm uses or the commercial agricultural enterprises in the area. LCDC codified case law that clarifies “incidental and subordinate” and “necessary to support” standards.²

C. Transportation Facilities on Rural Lands

The language in the Transportation Planning Rule (OAR 660-012-0065) that applies to rural transportation improvements applies to rural lands in general, meaning they apply to exception lands and nonresource lands as well as land protected under the farm and forest conservation program. LCDC adopted language that clarifies that when uses listed in OAR 660-012-0065(3) are proposed on land zoned farm or forest, they are subject to the farm impacts test or forest impacts test (as applicable). According to DLCD, this is consistent with the department’s guidance on the topic and recent case law.³

D. Private Parks

A variety of activities ranging in intensity have been approved as “private parks” in resource zones. Approved private park uses include/have included: frisbee golf, shooting ranges, paintball parks, demonstration gardens, event venues, fish viewing areas, and motocross tracks. The RAC considered the holdings in *Central Oregon Landwatch v. Deschutes County*, 276 Or App 282 (2016) which addresses this topic, given concerns that current rules do not state when proposals for private parks become inappropriate for a rural environment. LCDC adopted language to clarify that a private park is primarily recreational in nature — where the focus of the recreation is on the enjoyment of the outdoors. DLCD referenced *Central Oregon Landwatch v. Deschutes County* to clarify that private parks are meant to be low intensity uses.

II. **Other EFU Rule Amendments**

A. Preparation of Products on Farmland

ORS 215.203 clarifies that the general definition of “farm use” includes the “preparation of products or by-products raised on land employed for farm use.” OAR 660-033-0020(7) defines “products or by-products raised on such land” as “those products or by-products raised on the farm operation where the preparation occurs or on other farmland provided the preparation is occurring only on land being

² *Friends of Yamhill County v. Yamhill County* (DeBenedetti), 80 Or LUBA 135 (2019), rev’d and rem’d, 301 Or App 726, 458 P3d 1130 (2020).

³ *Van Dyke v. Yamhill County*, 81 Or LUBA 427 (2020)

used for the primary purpose of obtaining a profit in money from the farm use of the land.” Because “farm use of the land” includes preparation of products or by-products, the current definition contains a confusing, unintended circular reference. As a result, some counties have approved stand-alone, commercial preparation facilities with no associated farm operation as a “farm use.” On land zoned for exclusive farm use, farm use is allowed outright with minimal, if any, county review. LCDC adopted rule language that creates a two-part definition for “product or by-products raised on such land.”

B. Evidentiary Standard for the Verification of Income for Farm Dwellings and Farm Stands in Exclusive Farm Use Zones

One of the tests to obtain a permit for primary and accessory farm dwellings involves verifying that a certain amount of income was earned on the farm over a certain period from the sale of farm products produced on the property. According to DLCD, several counties communicated that it can be difficult to verify income in a reliable manner. Their concerns include that accountant statements and Internal Revenue Service (IRS) Schedule F (farm income) tax documents are not specific enough to be definitive, particularly about where the products were produced. County staff also noted that it is difficult to verify if a taxpayer filed the tax documents with the IRS. For dwellings in conjunction with farm use, income verification is only required at the time of application. There is no ongoing requirement to verify that the farming operation is continuing. For farm stands, there is an ongoing statutory requirement that the sales from incidental retail items and event fees not exceed 25 percent of the farm stand income. DLCD stressed that this ongoing limitation on the sale of retail items and fees from promotional activities is an existing statutory requirement that has been in place since the legislature added fee-based promotional activities to allowable farm stand uses in 2001.

LCDL adopted rule changes do not alter the income limitation. It only clarifies what method a county may use when it seeks to verify that the farm stand is complying with the income standard. The new language relies on the IRS tax return receipt as the minimum standard for verification of income. It also clarifies that a county may ask for any additional information it believes is necessary to demonstrate compliance with the standard.

C. Home Occupations in EFU Zones

According to DLCD, home occupations are the most common non-resource use approved in EFU zones. Home occupations are defined in statute as a use that occurs in dwellings or other buildings normally associated with exclusive farm use zones and are operated by a resident or employee of a resident of the property. Home occupations are limited to employing five full-time or part-time persons. Counties may choose to adopt more restrictive standards for this use.

Given the ambiguity and breadth of the definition of a home occupation, a very wide variety and intensity of activities are approved as home occupations in EFU zones: hair salons, firearms dealers, tasting rooms, medical offices, events venues, daycares, funeral homes, mechanic repair shops, veterinary clinics, restaurants, among others. Sometimes uses are approved as home occupations instead of being approved under the standards established for a particular activity by the legislature. Proposals that cannot meet the standards established for a particular use by the legislature often seek

approval under the more broadly defined “home occupation” option, which evades the legislature’s specific standards set for that particular use.

LCDC adopted rule clarifies that uses with scale and scope no more intensive than those permitted by legislative standards can be reviewed as home occupations. It also clarifies that certain home occupation businesses must be accessory to a residential use.

III. Conforming Rule Changes

According to DLCD, these rule updates adopted by LCDC are necessary to align agency rules with new provisions of law enacted by the legislature that are currently in effect and remove circular references.

A. Replacement Dwelling Requirements

Changed the requirements for replacement dwellings in forest zones at ORS 215.755 to mirror the new requirements in ORS 215.291 which were previously applicable only to farm zones. Also, modified the requirements for replacement dwellings in farm zones.

B. Template Test Provisions

Language in Section 3 clarifying effective dates for the new template test provisions has been removed to conform to statute. Section 4 repealed Section 2 on January 2, 2024, which had allowed a one-time opportunity which expired at the end of 2023.

C. Childcare

Added childcare facilities, preschool recorded programs, or school-age recorded programs as a new use in EFU zones.

D. Nonconforming Schools

Modified the requirements for expansion of certain nonconforming schools in farm zones.

E. Campsites

Removed a circular reference.

F. Rabbit Processing

Adds rabbits and rabbit products to the list of farm products which may be processed at a farm product processing facility under ORS 215.255.

G. Farm Dwellings in Conjunction with Cranberry Operations

Section 3 repealed Section 2 on January 2, 2022, removing special provisions for farm dwellings in conjunction with cranberry operations.

Attachment:

LCDC Rule Changes

Attachment - LCDC Rule Changes

Underlines represent new rule language and deleted text by ~~striketrough~~.

I. Codifying Case Law

A. Farm Impacts Test for Conditional Uses in EFU Zones

OAR 660-033-0130

(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

- (a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(c) For purposes of subsection (a) and (b), a determination of forcing a significant change in accepted farm or forest practices on surrounding lands devoted to farm and forest use or a determination of whether the use will significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use requires:

(A) Identification and description of the surrounding lands, the farm and forest operations on those lands, and the accepted farm practices on each farm operation and the accepted forest practices on each forest operation;

(B) An assessment of the individual impacts to each farm and forest practice, and whether the proposed use is likely to have an important influence or effect on any of those practices; and

(C) An assessment of whether all identified impacts of the proposed use when considered together could have a significant impact to any farm or forest operation in the surrounding area in a manner that is likely to have an important influence or effect on that operation.

(D) For purposes of this subsection, examples of potential impacts for consideration may include but are not limited to traffic, water availability and delivery, introduction of weeds or pests, damage to crops or livestock, litter, trespass, reduction in crop yields, or flooding.

(E) For purposes of subsection (a) and (b), potential impacts to farm and forest practices or the cost of farm and forest practices, impacts relating to the construction or installation of the proposed use shall be deemed part of the use itself for the purpose of conducting a review under subsections (a) and (b).

(F) In the consideration of potentially mitigating conditions of approval under ORS 215.296(2), the governing body may not impose such a condition upon the owner of the affected farm or forest land or on such land itself, nor compel said owner to accept payment to compensate for the significant changes or significant increases in costs described in subsection (a) and (b).

B. Agri-Tourism Standards / Incidental and Subordinate and Necessary to Support Standards

OAR 660-033-0130

(42)(a) A determination under ORS 215.213(11) or 215.283(4) that an event or activity is ‘incidental and subordinate’ requires consideration of any relevant circumstances, including the nature, intensity, and economic value of the respective farm and event uses, that bear on whether the existing farm use remains the predominant use of the tract.

(b) A determination under ORS 215.213(11)(d)(A) or 215.283(4)(d)(A) that an event or activity is ‘necessary to support’ either the commercial farm uses or commercial agricultural enterprises in the area means that the events are essential in order to maintain the existence of either the commercial farm or the commercial agricultural enterprises in the area.

C. Transportation Facilities on Rural Lands

OAR 660-012-0065

(5) (a) For transportation uses or improvements listed in subsection (3) within an exclusive farm use (EFU) or forest zone, except for transportation uses or improvements permitted under ORS 215.213(1), ORS 215.283(1) or OAR 660-006-0025(1)-(3), a jurisdiction shall find that the proposal will comply with the standards described in ORS 215.296. In addition, transportation uses or improvements in a forest zone, except for transportation uses or improvements authorized under OAR 660-006-0025(1)-(3), must also comply with the standards described in OAR 660-006-0025(5).

(b) For transportation uses or improvements listed in subsections (3)(d) to (g) and (o) within an EFU or forest zone, a jurisdiction shall, in addition to demonstrating compliance with the requirements of ORS 215.296:

- (i) Identify reasonable build design alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The jurisdiction need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer;
- (ii) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands; and
- (iii) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.

D. Private Parks

OAR 660-033-0130

(43) As used in ORS 215.213(2)(e) or 215.283(2)(c), a 'private park' means an area devoted to low-intensity, outdoor, recreational uses for which enjoyment of the outdoors in an open space, or on land in its natural state, is a necessary component and the primary focus.

II. Other EFU Amendments

A. Preparation of Products on Farmland

OAR 660-033-0020

(7)(a) "Farm Use" as that term is used in ORS chapter 215 and this division means "farm use" as defined in ORS 215.203.

(b) As used in the definition of "farm use" in ORS 215.203 and in this division:

(A) "Preparation" of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products; and

(B) "Products or by-products raised on such land" ~~means~~ includes;

(i) ~~that those p~~ Products or by-products ~~are~~ raised on the farm operation where the preparation occurs;

(ii) Products or by-products raised on other farmland provided:

(I) ~~or on other farm land provide the~~ The preparation is occurring only on ~~land a tract being use for the primary purpose of obtaining a profit in money from the farm use of the~~ currently employed for a farm use or farm uses other than preparation; and

(II) Such products or by-products are prepared in the same facilities as and in conjunction with products or by-products raised on the farm operation where the preparation occurs.

B. Verification of Income

Farmworker Dwellings

OAR 660-033-0130

(24) Accessory farm dwellings as defined by subsection (e) of this section may be considered customarily provided in conjunction with farm use if:

(h) The applicant shall submit to the local government an IRS tax return transcript and any other information the county may require that demonstrates compliance with the gross farm income requirements in paragraph (b)(A) or (B), whichever is applicable.

Primary Farm Dwellings

OAR 660-033-0135

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

(e) The applicant shall submit to the local government an IRS tax return transcript and any other information the local jurisdiction may require that demonstrates compliance with the gross farm income requirement.

- (4) On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(e) The applicant shall submit to the local government an IRS tax return transcript and any other information the local jurisdiction may require that demonstrates compliance with the gross farm income requirement.

Farm Stands

OAR 660-033-0130

- (23) A farm stand may be approved if:

(f) At the request of a local government with land use jurisdiction over the farm stand, the farm stand operator of a farm stand approved under this section shall submit to the local government evidence of compliance with the annual sales requirement of subsection (a). Such evidence shall consist of an IRS tax return transcript and any other information the local jurisdiction may require to document ongoing compliance with this section or any other condition of approval required by the county.

C. Home Occupations in EFU Zones

OAR 660-033-0130

- (14) Home occupations and the parking of vehicles may be authorized.

- (a) Home occupations shall be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located.
- (b) A home occupation shall be operated by a resident or employee of a resident of the property on which the business is located, and shall employ on the site no more than five full-time or part-time persons.
- (c) A governing body may only approve a use provided in OAR 660-033-0120 as a home occupation if:
 - (A) The scale and intensity of the use is no more intensive than the limitations and conditions otherwise specified for the use in OAR 660-033-0120, and
 - (B) The use is accessory, incidental and subordinate to the primary residential use of a dwelling on the property.

III. Conforming Rule Changes

A. Replacement Dwellings in Forest and Farm Zones

Forest Dwellings

OAR 660-006-0025

(1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in ORS 527.722, the Commission has determined that five general types of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards in the goal and in this rule. These general types of uses are:

(d) Dwellings authorized by ORS 215.705 to 215.757 ~~(ORS 215.757)~~; and

- (o) ~~(A) Alteration, restoration or replacement of lawfully established dwelling that:~~ A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the county finds to its satisfaction, based on substantial evidence that the dwelling to be altered, restored or replaced has, or formerly had:
- ~~(Ai) Has i~~ Intact exterior walls and roof structures;
 - ~~(Bii) Has i~~ ndoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - ~~(Ciii) Has~~ Interior wiring for interior lights; and
 - (iv) A heating system.
 - ~~(D) Has a heating system; and~~
 - ~~(E) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling;~~
 - (B) An application under this subsection must be filed within three years following the date that the dwelling last possessed all the features listed under paragraph (o)(A).
 - (C) Construction of a replacement dwelling approved under this subsection must commence no later than four years after the approval of the application under this section becomes final.
 - (D) In addition to the provisions of paragraph (o)(A), the dwelling to be replaced meets one of the following conditions:
 - (i) If the value of the dwelling to be replaced was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction or demolition and since the later of:
 - (I) Five years before the date of the destruction or demolition; or
 - (II) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment; or
 - (ii) The value of dwelling to be replaced has not been eliminated due to destruction or demolition, and the dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of:
 - (I) Five years before the date of the application; or
 - (II) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.
 - (E) For replacement of a lawfully established dwelling under this subsection:
 - (i) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055.
 - (ii) The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

- (iii) 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 ORS 215.291 and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
- (iv) The county planning director, or the director's designee, shall maintain a record of:
 - (I) The lots and parcels for which dwellings to be replaced have been removed, demolished or converted; and
 - (II) The lots and parcels that do not qualify for the siting of a new dwelling under paragraphs (E) and (F), including a copy of the deed restrictions filed under subparagraph (iii) of this paragraph.
- (F)(i) A replacement dwelling under this subsection must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction.
- (ii) The replacement dwelling may be sited on any part of the same lot or parcel.
- (iii) The replacement dwelling must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
- (iv) The replacement dwelling must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:
 - (I) The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or
 - (II) No statewide map of wildfire risk has been adopted.
- (G) If an applicant is granted a deferred replacement permit under this subsection, the deferred replacement permit:
 - (i) Does not expire but the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and
 - (ii) May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
- (r) Dump truck parking as provided in ORS 215.311;~~and~~
- (s) An agricultural building, as defined in ORS 455.315, customarily provided in conjunction with farm use or forest use. A person may not convert an agricultural building authorized by this section to another use; and

Dwellings in Forest Zones

OAR 660-006-0027

- 6) A proposed "template" dwelling under this rule is allowed only if:
 - (c) No dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under section (~~87~~) of this rule for the other lots or parcels that make up the tract are met;

- (7)(a) ~~Subsection (3)(d), subsection (4)(d), and subsections (6)(e) through (h) of this rule apply: (A) On and after January 1, 2020 in Clackamas, Jackson, Lane, and Polk Counties. (B) On and after November 1, 2021 in Columbia, Coos, Curry, Deschutes, Douglas, Josephine, Linn, Marion, Washington, and Yamhill Counties. (C) On and after November 1, 2023 in Baker, Benton, Clatsop, Crook, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Multnomah, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, and Wheeler Counties. (b) Prior to November 1, 2023, a county may allow the establishment of a single family dwelling on a lot or parcel that was part of a tract on January 1, 2021, if: (A) No more than one other dwelling exists or has been approved on another lot or parcel that was part of the tract; and (B) The lot or parcel qualifies, notwithstanding subsection (6)(h), for a dwelling under sections (3) and (4) of this rule. (c) Subsection (b) of this section applies: (A) On and after January 1, 2020, in Clackamas, Jackson, Lane, and Polk Counties; and (B) On and after November 1, 2021, in Columbia, Coos, Curry, Deschutes, Douglas, Josephine, Linn, Marion, Washington, and Yamhill Counties.~~
- ~~(8)(a)~~ The applicant for a dwelling authorized by paragraph (A) or (B) below shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located.

Replacement Dwellings in Farm Zones

OAR 660-006-0130

- (8)(a) A lawfully established dwelling may be altered, restored or replaced under ORS 215.213(1)(q) or 215.283(1)(p) if, when an application for a permit is submitted, the county finds to its satisfaction, based on substantial evidence that the dwelling to be altered, restored or replaced has, or formerly had:
- (b) An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed under subsection (a). In addition to the provisions of subsection (a), the dwelling to be replaced meets one of the following conditions;
 - (c) Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.
 - (d) In addition to the provisions of subsection (a), the dwelling to be replaced meets one of the following conditions:
 - (A) If the dwelling was removed, destroyed or demolished; value of the dwelling to be replaced was eliminated as a result of destruction or demolition, the dwelling was assessed as a dwelling for purposes of ad valorem taxation prior to the destruction, or demolition and since the later of:
 - (i) The dwelling's tax lot does not have a lien for delinquent ad valorem taxes; and
 - (ii) Any removal, destruction, or demolition occurred on or after January 1, 1973.
 - (B) If the dwelling is currently in such a state of disrepair that the dwelling is unsafe for occupancy or constitutes an attractive nuisance, the dwelling's tax lot does not have a lien for delinquent ad valorem taxes; or
 - (i) Five years before the date of the destruction or demolition; or
 - (ii) The date that the dwelling was erected upon or fixed to the land and became subject to the property tax assessment; or

- (B) The value of dwelling to be replaced has not been eliminated due to destruction or demolition, and the dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of:
- ~~(C) A dwelling not described paragraph (A) or (B) of this subsection was assessed as a dwelling for the purposes of ad valorem taxation:~~
- ~~(i) For the previous five property tax years; or~~
 - ~~(ii) From the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.~~
 - (i) Five years before the date of application; or
 - (ii) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment.
- ~~(ee)~~ For replacement of a lawfully established dwelling under ORS 215.213(1)(q) or 215.283(1)(p):
- (A) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use within three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055 or:
 - ~~(i) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or~~
 - ~~(ii) If the dwelling to be replaced is, in the discretion of the county, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the county that is not less than 90 days after the replacement permit is issued; and~~
 - ~~(iii) If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.~~
 - (B) The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.
 - (C) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of ~~2019 Oregon Laws, chapter 440, section~~ ORS 215.29¹ and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
 - (D) The county planning director, or the director's designee, shall maintain a record of:
 - (i) The lots and parcels for which dwellings to be replaced have been removed, demolished or converted; and
 - (ii) The lots and parcels that do not qualify for the siting of a new dwelling under subsection ~~(ee)~~ of this section, including a copy of the deed restrictions filed under paragraph (C) of this subsection.
- ~~(ef)~~ (A) A replacement dwelling under ORS 215.213(1)(q) or 215.283(1)(p) must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. ~~However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.~~
- (B) The replacement dwelling ~~may~~ust be sited on any part of the same lot or parcel:
- ~~(i) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and~~

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

~~(C) The replacement dwelling must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.~~

~~(D) The replacement dwelling must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:~~

~~(e) A replacement dwelling permit that is issued under ORS 215.213(1)(q) or 215.283(1)(p):~~

~~(A) Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:~~

~~(i) Formerly had the features described in paragraph (a)(A) of this section; or~~

~~(ii) Is eligible for replacement under paragraph (b)(B) of this section; and~~

~~(B) Is not subject to the time to act limits of ORS 215.417.~~

~~(i) The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490; or~~

~~(ii) No statewide map of wildfire risk has been adopted.~~

(11) 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 ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zones under this division is allowed. For the purposes of this section, 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.

C. Uses Authorized on Agricultural Lands - Childcare

OAR 660-033-0120

High Value Farm Land	All Other	Uses
R5	R5, 40	Child care facilities, preschool recorded programs or school-age recorded programs consistent with ORS 215.213(2)(aa) or 215.283(2)(dd).

“R” Use may be allowed, after required review. The use requires notice and the opportunity for a hearing.

Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns.

D. School Expansions

OAR 660-033-0130

(18)(a) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of sections (5) and (20) of this rule, but shall not be expanded to contain more than 36 total holes.

(b) Notwithstanding ORS 215.130, 215.213, 215.283, or any local zoning ordinance or regulation, a public or private school, including all buildings essential to the operation of a school, formerly allowed pursuant to ORS 215.213(1)(a) or 215.283(1)(a), as in effect before January 1, 2010, may be expanded provided:

(A) The expansion complies with ORS 215.296;

(B) The school was established on or before January 1, 2009;

(C) The expansion occurs on a tax lot:

(i) On which the school was established; or

(ii) Contiguous to and, on January 1, 2015, under the same ownership as the tax lot on which the school was established; and

(D) The school is a public or private school for kindergarten through grade 12.

E. Campsites

OAR 660-033-0130

~~19)(a) Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.~~

~~(b) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by subsection (19)(c) of this rule.~~

~~(c) Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this section, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or~~

~~internal cooking appliance.~~

F. Rabbit Processing

OAR 660-033-0130

- 28)(a) A facility for the processing of farm products is a permitted use under ORS 215.213(1)(u) and ORS 215.283 (1)(r) on land zoned for exclusive farm use, only if the facility:
- (A) Uses less than 10,000 square feet for its processing area and complies with all applicable siting standards. A county may not apply siting standards in a manner that prohibits the siting of a facility for the processing of farm products; or
 - (B) Notwithstanding any applicable siting standard, uses less than 2,500 square feet for its processing area. However, a local government shall apply applicable standards and criteria pertaining to floodplains, geologic hazards, beach and dune hazards, airport safety, tsunami hazards and fire siting standards.
- (b) A county may not approve any division of a lot or parcel that separates a facility for the processing of farm products from the farm operation on which it is located.
- (c) As used in this section, the following definitions apply:
- (A) "Facility for the processing of farm products" means a facility for:
 - (i) Processing farm crops, including the production of biofuel as defined in ORS 315.141, if at least one-quarter of the farm crops come from the farm operation containing the facility; or
 - (ii) Slaughtering, processing or selling poultry or poultry products, rabbits or rabbit products from the farm operation containing the facility and consistent with the licensing exemption for a person under ORS 603.038(2).

G. Farm Dwellings in Conjunction with Cranberry Operations

OAR 660-033-0135

- ~~(11)(a) Notwithstanding section (4), a dwelling on high value farmland may be considered customarily provided in conjunction with farm use if:~~
- ~~(A) The tract on which the dwelling will be established is currently employed for farm use involving the raising and harvesting of cranberries;~~
 - ~~(B) The tract on which the dwelling will be established is considered to be high value farmland on the basis that the tract is growing a specified perennial under OAR 660-033-0020(8)(b) but the tract is not considered to be high value farmland on the basis of soil composition under OAR 660-033-0020(8)(a);~~
 - ~~(C) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands zoned for exclusive farm use or for farm and forest use owned by the farm operator or on the farm operation;~~
 - ~~(D) The operator of the farm on the tract earned at least \$40,000 in gross annual income from the sale of cranberries or cranberry 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;~~
 - ~~(E) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in paragraph (D) of this subsection; and~~
 - ~~(F) As a condition of approval for the new dwelling, the property owner agrees to sign and record in the deed records for the county in which the parcel is located, one or more instruments containing irrevocable deed restrictions, enforceable by the county, that prohibit the owner~~

~~and the owner's successors from using the dwelling as a rental dwelling unit as defined in ORS 90.100.~~

~~(b) In determining the gross income required by subsection (a) of this section;~~

~~(A) Only gross income from land owned, not leased or rented, shall be counted; and~~

~~(B) 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.~~