ARTICLE 64 – EXCLUSIVE FARM USE ZONE & MULTIPLE USE RANGE ZONE

64.010 – PURPOSE

The purpose of the Exclusive Farm Use (EFU-80(160)) Zone is to protect and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products. The Multiple Use Range Zone (MUR-160(320)) is applied to those agricultural and agricultural/low or nonproductive forest lands of the County dominated by and managed primarily for range and grazing uses. Both the EFU-80(160) and MUR-160(320) zones are also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county. It is also the purpose of the EFU-80(160) and MUR-160(320) zones to qualify farms for farm use valuation under the provisions of ORS Chapter 308.

The provisions of the EFU-80(160) and MUR-160(320) zone reflect the agricultural policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and OAR 660-033. The minimum parcel size and other standards established by this zone are intended to promote commercial agricultural operations. The EFU-80(160) and MUR-160(320) zones are intended to guarantee the right to conduct normal farm practices and facilitate and encourage resource management activity. Normal resource management practices shall not be considered a nuisance in these or bordering zones.

Residents in the EFU-80(160) and MUR-160(320) zones should recognize that the intent of these zones is to protect resource activities and that in the event of conflict between residential use and resource practices, this Code will be interpreted in favor of the resource practice.

64.020 – OUTRIGHT USES

In the EFU and MUR zones, the following uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this ordinance:

A. Farm use;

B. Propagation or harvesting of a forest product;

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

64.030 – PERMITTED USES

The following uses and their accessory uses shall be permitted using a Type I Review Procedure as specified in Section 22.030, and to the standards set out in Section 65.095 when applicable.

A. Agricultural buildings customarily provided in conjunction with farm use;

B. 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;

C. Operations for the exploration for minerals as defined by ORS 517.750;

D. Climbing and passing lanes within the right of way existing as of July 1, 1987;

E. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result;

F. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed;

G. Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways;

H. Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505;

I. Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306;

J. Firearms training facility in existence on September 9, 1995;

K. An outdoor mass gathering of more than 3,000 persons that is expected to continue for more than 24 hours but less than 120 hours in any three-month period, as provided in ORS 433.735;

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

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.

M. Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480 and listed on the National Register of Historic Places.

N. Alteration, restoration, or replacement of a lawfully established dwelling subject to the following:

1. A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the permitting authority finds to its satisfaction, based on substantial evidence that:

a. The dwelling to be altered, restored or replaced has, or formerly had:

(1) Intact exterior walls and roof structure;

(2) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(3) Interior wiring for interior lights;

(4) A heating system; and

(5) The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time.

b. Notwithstanding Subsection 64.030(N)(1)(a)(5), if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:

(1) The destruction (i.e., by fire or natural hazard), or demolition in the case of restoration, of the dwelling; or

(2) The applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner. "Improperly removed" means that the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the county stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.

2. For replacement of a lawfully established dwelling under this Section:

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

(1) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or

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

(3) If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.

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

c. As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, Section 2 and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

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

   a. The siting standards of Subsection 64.030(N)(3)(b) apply when a dwelling qualifies for replacement because the dwelling:

      (1) Formerly had the features described in Subsection 64.030(N)(1)(a);

      (2) Was removed from the tax roll as described in Subsection 64.030(N)(1)(b); or

      (3) Had a permit that expired as described under Subsection 64.030(N)(4).

   b. The replacement dwelling must be sited on the same lot or parcel:

      (1) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and

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

   c. Replacement dwellings that currently have the features described in Subsection 64.030(N)(1)(a) and that have been on the tax roll as described in Subsection 64.030(N)(1)(b) may be sited on any part of the same lot or parcel.

4. A replacement dwelling permit that is issued under this Section:

a. Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:

(1) Formerly had the features described in Subsection 64.030(N)(1)(a); or

(2) Was removed from the tax roll as described in Subsection 64.030(N)(1)(b);

b. Is not subject to the time to act limits of ORS 215.417; and

c. If expired before January 1, 2014, shall be deemed to be valid and effective if, before January 1, 2015, the holder of the permit:

(1) Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and

(2) Causes to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

O. Signs

P. Accessory buildings, including private garage or carport, guest house, personal use shop, personal storage building, boat landings, and docks for personal use or other similar buildings located:

1. On the same lot or parcel as the principal farm dwelling; or

2. On the same tract as the principal farm dwelling when the lot or parcel on which the accessory building will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract.

64.040 – ADMINISTRATIVE PERMIT USES

The following uses and their accessory uses are permitted as an Administrative Permit under Article 43, processed as a Type II Review Procedure under Section 22.040 subject to the criteria set out in Section 64.060, and shall meet the standards set out in Section 64.095 when applicable:

A. A facility for the primary processing of forest products. A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses defined in Article 11. Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this Section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this Section means timber grown upon a tract where the primary processing facility is located;

B. 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;

C. A facility for the processing of farm crops, biofuel or poultry, except the use is not subject to 64.060. A farm on which a processing facility is located must provide at least one-quarter of the farm crops processed at the facility. A farm may also be used for an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment. A county may not approve any division of a lot or parcel that separates a processing facility or establishment from the farm operation on which it is located;

D. Dog training classes or testing trials that are conducted outdoors, or in farm buildings that existed on January 1, 2013, and are limited as follows:

   1. The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and

   2. The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.

E. Agri-tourism and other commercial events or activities subject to ORS 215.283 (4) through (6);

F. Land application of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of sewage prior to the land application of biosolids, except the use is not subject to 64.060. Land Application of Reclaimed or Process Water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an EFU or MUR zone is subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251;

G. Utility facilities necessary for public service, including associated transmission lines and wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height, except the use is not subject to 64.060;

1. A utility facility is necessary for public service if the facility must be sited in the EFU or MUR zone in order to provide the service.

    a. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an EFU or MUR 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 EFU or MUR uses 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.

b. Costs associated with any of the factors listed in Subsection 64.040(G)(1)(a) may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar;

c. The owner of a utility facility approved under Subsection 64.040(G)(1) 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.

d. 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;

e. Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under the EFU or MUR Zone or other statute or rule when project construction is complete. Off-site facilities allowed under this Subsection are subject to Section 65.060. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request, processed as a Type I Review under Section 22.030. A minor amendment request shall have no effect on the original approval;

f. In addition to the provisions of Subsections 64.040(G)(1)(a) through (d), the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) shall be subject to the provisions of 660-011-0060;

g. The provisions of Subsection 64.040(G)(1) do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

2. An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of Subsection 64.040(G)(2)(a) or (b) of this Subsection.

    a. An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

        (1) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;

        (2) The associated transmission line is co-located with an existing transmission line;

        (3) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or

        (4) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.

    b. After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to Subsections 64.040(G)(2)(c) and (d), two or more of the following criteria:

        (1) Technical and engineering feasibility;

        (2) The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

        (3) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;

        (4) Public health and safety; or

        (5) Other requirements of state or federal agencies.

c. As pertains to Subsection 64.040(G)(2)(b), the applicant shall demonstrate how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.

d. The county may consider costs associated with any of the factors listed in Subsection 64.040(G)(2)(b), but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.

H. A site for the takeoff and landing of model aircraft, except the use is not subject to 64.060. The use shall be subject to the following:

1. Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this Section;

2. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved;

3. 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; and

4. 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.

5. 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.

I. Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by a county planning commission under ORS 433.763, except the use is not subject to 64.060.

J. Residential home as defined in ORS 197.660, in existing dwellings.

K. Parking of up to seven log trucks;

L. Home occupations subject to the provisions of Article 92;

M. Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under Subsection 64.040(D);

N. 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;

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

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

S. Transmission towers over 200 feet in height;

T. Fire service facilities providing rural fire protection services, except the use is not subject to 64.060;

U. Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.

V. A winery subject to ORS 215.452 through 456, except the use is not subject to 64.060;

W. A cider business subject to ORS 215.451, except the use is not subject to 64.060;

X. Farm stands, except the use is not subject to 64.060. A farm stand may be approved if:

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

2. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

3. As used in this Section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.

4. As used in this Section, "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.

6. A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.

7. Farm Stand Development Standards

    a. Adequate off-street parking will be provided pursuant to provisions of the Article 75 – Off-street Parking;

    b. Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips;

    c. All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways;

    d. No farm stand building or parking is permitted within the right-of-way;

    e. Approval is required from the County *Road* Department regarding adequate egress and access. All egress and access points shall be clearly marked.

    f. Vision clearance areas consistent with Section 73.020; and

    g. Signs are permitted consistent with Article 74 – Signs.

8. Permit approval is subject to compliance with the County Health Department, Department of Environmental Quality, or Department of Agriculture requirements and with the development standards of this zone.

64.050 – CONDITIONAL USES

The following uses and accessory uses are permitted as a Conditional Use subject to issuance of a Conditional Use Permit as per Article 46 subject to criteria set out in Section 64.060, processed as a Type II Review Procedure under Section 22.040 unless otherwise specified, and shall meet standards set out in Section 64.095 when applicable:

A. Destination resort subject to Article 96 and reviewed by the Planning Commission, except the use is not subject to 64.060(A) through (C);

B. Churches, and cemeteries in conjunction with churches, except the use is not subject to 64.060(A) through (C);

C. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Subsection 64.040(C), but excluding activities in conjunction with a marijuana crop, and subject to the following:

1. The commercial activity is either exclusively or primarily a customer or supplier of farm products;

2. The commercial activity is limited to providing products and services essential to the practice of agriculture by surrounding agricultural operations that are sufficiently important to justify the resulting loss of agricultural land to the commercial activity; or

3. The commercial activity significantly enhances the farming enterprises of the local agricultural community, of which the land housing the commercial activity is a part. Retail sales of products or services to the general public that take place on a parcel or tract that is different from the parcel or tract on which agricultural product is processed, such as a tasting room with no on-site winery, are not commercial activities in conjunction with farm use.

D. Guest ranch subject to the following provisions:

1. Definitions

a. "Guest lodging unit" means a guest room in a lodge, bunkhouse, cottage or cabin used only for transient overnight lodging and not for a permanent residence.

b. "Guest ranch" means a facility for guest lodging units, passive recreational activities described in Subsection 64.050(G)(6) and food services described in Subsection 64.050(G)(7) that are incidental and accessory to an existing and continuing livestock operation that qualifies as a farm use.

c. "Livestock" means cattle, sheep, horses and bison.

2. A guest ranch may be established unless the proposed site of the guest ranch is within the boundaries of or surrounded by:

a. A federally designated wilderness area or a wilderness study area;

b. A federally designated wildlife refuge;

c. A federally designated area of critical environmental concern; or

d. An area established by an Act of Congress for the protection of scenic or ecological resources.

3. The guest ranch must be located on a lawfully established unit of land that:

a. Is at least 160 acres;

b. Contains the dwelling of the individual conducting the livestock operation; and

c. Is not high-value farmland.

4. Except as provided in Subsection 64.050(G)(5), the guest lodging units of the guest ranch cumulatively must:

a. Include not fewer than four nor more than 10 overnight guest lodging units; and

b. Not exceed a total of 12,000 square feet in floor area, not counting the floor area of a lodge that is dedicated to kitchen area, rest rooms, storage or other shared or common indoor space.

5. For every increment of 160 acres that the lawfully established unit of land on which the guest ranch is located exceeds the minimum 160-acre requirement described in Subsection 64.050(G)(3), up to five additional overnight guest lodging units not exceeding a total of 6,000 square feet of floor area may be included in the guest ranch for a total of not more than 25 guest lodging units and 30,000 square feet of floor area;

6. A guest ranch may provide passive recreational activities that can be provided in conjunction with the livestock operation's natural setting including, but not limited to, hunting, fishing, hiking, biking, horseback riding, camping and swimming. A guest ranch may not provide intensively developed recreational facilities, including golf courses as identified in ORS 215.283;

7. A guest ranch may provide food services only for guests of the guest ranch, individuals accompanying the guests and individuals attending a special event at the guest ranch. The cost of meals, if any, may be included in the fee to visit or stay at the guest ranch. A guest ranch may not sell individual meals to an individual who is not a guest of the guest ranch;

8. The governing body of a county or its designee may not allow a guest ranch in conjunction with:

    a. A campground

    b. A golf course

9. The governing body of a county or its designee may not approve a proposed division of land:

    a. for a guest ranch; or

    b. to separate the guest ranch from the dwelling of the individual conducting the livestock operation.

E. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted and subject to Article 91;

F. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298, Article 91, and the following:

1. A land use permit is required for mining more than one thousand (1,000) cubic yards of material or excavation preparatory to mining of a surface area of more than one (1) acre; and

2. A land use permit for mining of aggregate shall be issued only for a site included on the mineral and aggregate inventory in the Comprehensive Plan.

G. Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement, subject to Article 91;

H. Processing of other mineral resources and other subsurface resources, subject to Article 91;

I. Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport, as used in this Section, prohibits aircraft other than those owned or controlled by the owner of the airstrip. Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation;

J. Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities subject to the following:

1. Permanent features of a power generation facility shall not preclude more than:

   a. 12 acres from use as a commercial agricultural enterprise on high value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4; or

   b. 20 acres from use as a commercial agricultural enterprise on land other than high-value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

2. A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval.

K. 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(37);

L. 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(38);

M. A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation, subject to the requirements of Section 64.060 and the following:

1. The facility shall be designed to minimize conflicts with existing and permitted uses allowed under plan designations for adjacent parcels as outlined in policies of the Comprehensive Plan;

2. The facility must be of a size and design to minimize noise or other detrimental effects when located adjacent to farm, forest and grazing dwellings(s) or a residential zone;

3. The facility shall be fenced when the site is located adjacent to dwelling(s) or a residential zone and landscaping, buffering and/or screening shall be provided;

4. The facility does not constitute an unnecessary fire hazard. If located in a forested area, the county shall condition approval to ensure that minimum fire safety measures will be taken, which may include but are not limited to the following:

    a. The area surrounding the facility is kept free from litter and debris;

    b. Fencing will be installed around the facility, if deemed appropriate to protect adjacent farm crops or timber stand; and

    c. If the proposed facility is located in a forested area, construction materials shall be fire resistant or treated with a fire-retardant substance and the applicant will be required to remove forest fuels within 30 feet of structures.

5. The facility shall adequately protect fish and wildlife resources by meeting minimum Oregon State Department of Forestry regulations;

6. Access roads or easements for the facility shall be improved to the county's Transportation System Plan standards and comply with grades recommended by the County Roadmaster;

7. Road construction for the facility must be consistent with the intent and purposes set forth in the Oregon Forest Practices Act to minimize soil disturbance and help maintain water quality;

8. Hours of operation for the facility shall be limited to 8 am – 7 pm; and

9. Comply with other conditions deemed necessary.

N. Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060. Composting operations and facilities shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.

1. Compost facility operators must prepare, implement and maintain a site-specific Odor Minimization Plan that:

   a. Meets the requirements of OAR 340-096-0150;

   b. Identifies the distance of the proposed operation to the nearest residential zone;

   c. Includes a complaint response protocol;

   d. Is submitted to the DEQ with the required permit application; and

   e. May be subject to annual review by the county to determine if any revisions are necessary.

2. Compost operations subject to Section 64.050(Q)(1) include:

   a. A new disposal site for composting that sells, or offers for sale, resulting product; or

   b. An existing disposal site for composting that sells, or offers for sale, resulting product that:

   c. Accepts as feedstock non-vegetative materials, including dead animals, meat, dairy products and mixed food waste (type 3 feedstock); or

d. Increases the permitted annual tonnage of feedstock used by the disposal site by an amount that requires a new land use approval.

O. Living history museum as defined in Article 11. A living history museum shall be related to resource-based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an EFU or MUR zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65.

P. Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community. A community center may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

Q. Public parks and playgrounds. Public parks may include:

1. All outdoor recreation uses allowed under ORS 215.213 or 215.283.

2. The following uses, if authorized in a local or park master plan that is adopted as part of the local comprehensive plan, or if authorized in a state park master plan that is adopted by OPRD:

a. Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts; teepees; covered wagons; group shelters; campfire program areas; camp stores;

b. Day use areas: picnic shelters, barbecue areas, swimming areas (not swimming pools), open play fields, play structures;

c. Recreational trails: walking, hiking, biking, horse, or motorized off-road vehicle trails; trail staging areas;

d. Boating and fishing facilities: launch ramps and landings, docks, moorage facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage pumpout stations;

e. Amenities related to park use intended only for park visitors and employees: laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor area;

f. Support facilities serving only the park lands wherein the facility is located: water supply facilities, sewage collection and treatment facilities, storm water management facilities, electrical and communication facilities, restrooms and showers, recycling and trash collection facilities, registration buildings, roads and bridges, parking areas and walkways;

g. Park Maintenance and Management Facilities located within a park: maintenance shops and yards, fuel stations for park vehicles, storage for park equipment and supplies, administrative offices, staff lodging; and

h. Natural and cultural resource interpretative, educational and informational facilities in state parks: interpretative centers, information/orientation centers, self-supporting interpretative and informational kiosks, natural history or cultural resource museums, natural history or cultural educational facilities, reconstructed historic structures for cultural resource interpretation, retail stores not exceeding 1500 square feet for sale of books and other materials that support park resource interpretation and education.

i. Visitor lodging and retreat facilities if authorized in a state park master plan that is adopted by OPRD: historic lodges, houses or inns and the following associated uses in a state park retreat area only:

(1) Meeting halls not exceeding 2000 square feet of floor area;

(2) Dining halls (not restaurants).

R. Operations for the extraction and bottling of water;

S. 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. Schools as formerly allowed pursuant to ORS 215.283(1)(a) that were established on or before January 1, 2009 may be expanded if Sections 64.060(A) and (C) are met and the expansion occurs on a tax lot on which the use was established on or before January 1, 2009 or a tax lot that is contiguous to the tax lot and that was owned by the applicant on January 1, 2009.

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

1. The activites are conducted in existing buildings or 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.

U. Private parks, playgrounds, hunting and fishing preserves, and campgrounds subject to following:

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

2. Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed by Subsection 64.050(W)(3);

3. 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.

V. Golf courses as defined in Article 11 and subject to the following:

1. Accessory uses provided as part of a golf course shall be limited consistent with the following standards:

    a. An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;

    b. Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and

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

2. This use is not permitted on high-value farmland except that existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of Subsection 64.050(X)(1) and Section 64.060.

64.055 – TEMPORARY USES

The following uses and their accessory uses are permitted as a Temporary Use under Article 44, processed using the review procedures specified for the type of Temporary Use in that Article and shall be subject to the standards set out in Section 64.095 when applicable:

A. Temporary hardship dwelling subject to 64.060 and the following:

1. One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:

    a. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required;

    b. The county shall review the permit authorizing such manufactured homes every two years; and

    c. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use.

2. A temporary residence approved under this Section is not eligible for replacement. Department of Environmental Quality review and removal requirements also apply;

3. As used in this Section "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons;

64.060 – REVIEW CRITERIA

Applications for an Administrative Permit or a Conditional Use Permit in an EFU or MUR Zone shall be reviewed against the following criteria in addition to those enumerated in Sections 43.030 and 46.030 as applicable:

A. The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;

B. The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use;

C. The proposed use will be compatible with vicinity uses, and satisfies all relevant requirements of this ordinance and the following general criteria:

1. The use is consistent with those goals and policies of the Comprehensive Plan which apply to the proposed use;

2. The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features;

3. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district;

4. The proposed use is appropriate, considering the adequacy of public facilities and services existing or planned for the area affected by the use; and

5. The use is or can be made compatible with existing uses and other allowable uses in the area.

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

1. Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as provided in 64.030(M).

2. Alteration, restoration, or replacement of a lawfully established dwelling as provided in 64.030(N).

3. Residential home as provide in 64.040(J).

4. Temporary hardship dwelling as provided in 64.055(A).

5. Dwelling customarily provided in conjunction with a farm use as provided in 64.070(A).

6. A relative farm help dwelling as provided in 64.070(B).

7. Accessory farm dwellings for year-round seasonal farm workers as provided in 64.070(C).

8. A single-family dwelling on a lawfully created lot or parcel as provided in 64.070(D).

9. Single-family residential dwelling, not provided in conjunction with a farm use, as provided in 64.070(E).

E. Urban growth boundary setback provisions.

1. The following uses are subject to the urban growth boundary setback provisions:

a. Churches and cemeteries in conjunction with churches as provided in Section 64.050(B).

b. Living history museum as provided in Section 64.050(O).

c. Community centers owned by a governmental agency or nonprofit organization as provided in Section 64.050(P).

d. Public parks and playgrounds as provided in Section 64.050(Q).

e. Public or private schools for kindergarten through grade 12 as provided in Section 64.050(S).

f. Private parks, playgrounds, hunting and fishing preserves, and campgrounds as provided in Section 64.050(U).

g. Golf course as provided in Section 64.050(V).

2. Urban growth boundary setback standards:

a. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34;

b. Any enclosed structures or group of enclosed structures described in Subsection 64.060(E)(2)(a) within a tract must be separated by at least one-half mile. For purposes of this Subsection, "tract" means a tract that is in existence as of June 17, 2010;

c. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this ordinance.

F. The following uses are not permitted on high-value farmland except that existing uses on high-value farmland may be maintained, enhanced or expanded on the same tract, subject to other requirements of law;

1. Destination resort as provided in Section 64.050(A);

2. Churches and cemeteries in conjunction with churches as provided in Section 64.050(B);

3. A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality as provided in Section 64.050(M);

4. Composting facilities for which a permit has been granted by the Department of Environmental Quality as provided in Section 64.050(N);

5. Public or private schools for kindergarten through grade 12 as provided in Section 64.050(S); and

6. Private parks, playgrounds, hunting and fishing preserves, and campgrounds as provided in Section 64.050(U).

64.070 – DWELLINGS

Single family or manufactured dwellings may be allowed using a Type II Review Procedure as set out in Section 22.040. Farming of a marijuana crop, and the gross sales derived from selling a marijuana crop, may not be used to demonstrate compliance with the approval criteria for a farm dwelling. Dwellings shall meet the standards set out in Sections 64.060(D) and 64.095 when applicable and may be allowed as follows:

A. Dwellings customarily provided in conjunction with farm use subject to the following:

1. Large Tract Standards. On land not identified as high-value farmland as defined in Article 11, a dwelling may be considered customarily provided in conjunction with farm use if:

   a. In the EFU Zone only, the parcel on which the dwelling will be located is at least 160 acres.

   b. In the MUR Zone only, the parcel on which the dwelling will be located is at least 320 acres.

   c. The subject tract is currently employed for farm use.

   d. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the subject tract, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.

   e. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract.

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

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

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

      (2) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon; and

   b. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 owned by the farm or ranch operator or on the farm or ranch operation;

c. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Subsection 64.070(A)(2)(a); and

d. In determining the gross income required by Subsection 64.070(A)(2)(a):

(1) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

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

(3) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

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

a. The subject tract is currently employed for the farm use on which the farm operator earned at least $80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years; and

b. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use owned by the farm or ranch operator or on the farm or ranch operation; and

c. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Subsection 64.070(A)(3)(a);

d. In determining the gross income required by Subsection 64.070(A)(3)(a):

(1) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

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

(3) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

4. Additional Farm Income Standards:

a. For the purpose of Subsections 64.070(A)(2) or (3), noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Lots or parcels in eastern or western Oregon may not be used to qualify a dwelling in the other part of the state.

b. Prior to the final approval for a dwelling authorized by Subsections 64.070(A)(2) or (3) that requires one or more contiguous or non-contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall complete and record with the county clerk the covenants, conditions, and restrictions form provided by the county (Exhibit A to OAR Chapter 660 Division 33). The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:

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

(2) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

c. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;

5. Commercial Dairy Farm. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm and capable of earning the gross annual income requirements by Subsections 64.070(A)(2) or (3), subject to OAR 660-033-0135(7) and (8).

6. Relocated Farm Operations. A dwelling may be considered customarily provided in conjunction with farm use if:

a. Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by Subsection 64.070(A)(2) or (3), whichever is applicable;

b. The subject lot or parcel on which the dwelling will be located is:

(1) Currently employed for the farm use that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by Subsection 64.070(A)(2) or (3), whichever is applicable; and

(2) At least the size of the applicable minimum lot size under Section 64.090;

c. Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;

d. The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Subsection 64.070(A)(6)(a); and

e. In determining the gross income required by Subsection 64.070(A)(6)(a) and (b):

(1) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

(2) Only gross income from land owned, not leased or rented, shall be counted.

B. A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse if the farm operator does, or will, require the assistance of the relative in the management of the farm use subject to the following:

1. A dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm;

2. A relative farm help dwelling must be located on the same lot or parcel as the dwelling of the farm operator and must be on real property used for farm use;

C. Accessory farm dwellings for year-round and seasonal farm workers subject to the following requirements:

1. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;

2. The accessory farm dwelling will be located:

    a. On the same lot or parcel as the primary farm dwelling;

    b. On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract;

    c. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these provisions;

    d. On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this Subsection to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. "Farmworker housing" shall have the meaning set forth in 215.278 and not the meaning in 315.163; or

    e. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(3) or (4), whichever is applicable; and

3. There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working

on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling;

4. In addition to the requirements in Subsection 64.070(C)(1), the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

   a. On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years or in an average of three of the last five years, the farm operator earned the lower of the following:

      (1) At least $40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
      (2) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;

   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, as defined in ORS 215.203, on which the farm operator earned at least $80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

   c. It is located on a commercial dairy farm as defined in OAR 660-033-0135(8); and

      (1) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm;

(2) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

(3) A Producer License for the sale of dairy products under ORS 621.072.

d. No division of a lot or parcel for an accessory farm dwelling shall be approved pursuant to this Subsection. If it is determined that an accessory farm dwelling satisfies the requirements of this ordinance, a parcel may be created consistent with the minimum parcel size requirements in Subsection 65.090(A).

e. An accessory farm dwelling approved pursuant to this Section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Subsection 64.070(E).

f. For purposes of this Subsection, "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.

g. No accessory farm dwelling unit may be occupied by a relative of the owner or operator of the farmworker housing. “Relative” means a spouse of the owner or operator or an ancestor, lineal descendant or whole or half sibling of the owner or operator or the spouse of the owner or operator.

D. One single-family dwelling on a lawfully created lot or parcel subject to the following:

1. A lot of record dwelling may be approved on a pre-existing lot or parcel if:

a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in Subsection 64.070(D)(5):

(1) Since prior to January 1, 1985; or

(2) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

b. The tract on which the dwelling will be sited does not include a dwelling;

c. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;

d. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;

e. The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in Subsections 64.070(D)(3) and (4); and

f. When the lot or parcel on which the dwelling will be sited lies within an area designated in the comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

2. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

3. Notwithstanding the requirements of Subsection 64.070(D)(1)(e), a single-family dwelling may be sited on high-value farmland if:

a. It meets the other requirements of Subsections 64.070(D)(1) and (2);

b. The lot or parcel is protected as high-value farmland as defined in Section 11.030.177(A) and (B);

c. The county hearings officer *or planning director* determines that:

(1) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity.

1. For the purposes of this Section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrates that a lot or parcel cannot be practicably managed for farm use.

2. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms.

3. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;

(2) The dwelling will comply with the provisions of Section 64.060(A) through (C); and

(3) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in Subsection 64.070(E)(3).

4. Notwithstanding the requirements of Subsection 64.070(D)(1)(e), a single-family dwelling may be sited on high-value farmland if:

a. It meets the other requirements of Subsections 64.070(D)(1) and (2);

b. The tract on which the dwelling will be sited is:

(1) Not high-value farmland defined in Subsection Section 11.030.177(A) and (B); and

(2) Twenty-one acres or less in size; and

c. The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

d. The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

e. The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:

(1) "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.

(2) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

5. For purposes of Subsection 64.070(D)(1), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;

6. The county assessor shall be notified that the governing body intends to allow the dwelling.

7. An approved single-family dwelling under this Section may be transferred by a person who has qualified under this Section to any other person after the effective date of the land use decision.

8. The county shall provide notice of all applications for lot of record dwellings on high value farmland to the State Department of Agriculture. Notice shall be provided in accordance with land use regulations and shall be mailed at least 20 calendar days prior to the public hearing.

E. Single-family residential dwelling not provided in conjunction with farm use subject to the following requirements.

1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

2. Non-farm dwelling suitability standards:

a. The dwelling, including essential or accessory improvements or structures, is situated upon a lot or parcel, or, in the case of an existing lot or parcel, upon a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A new parcel or portion of an existing lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

b. A new parcel or portion of an existing lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then it is not "generally unsuitable." A new parcel or portion of an existing lot or parcel is presumed to be suitable if it is composed predominantly of Class I-VI soils. Just because a new parcel or portion of an existing lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

c. If the lot or parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 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. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth below. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in Sections 64.070(E)(3)(a) through (c);

   a. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;

b. Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under Subsection 64.070(D) and (E), including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4), ORS 215.263(5), and ORS 215.284(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this Subsection; and

c. Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

4. If a single-family dwelling is established on a lot or parcel as set forth in Subsection 64.070(D), no additional dwelling may later be sited under the provisions of this Section.

5. The dwelling is sited to satisfy the siting standards listed in Section 64.080;

64.080 – SITING STANDARDS

The placement of dwellings shall be on the least productive, buildable portion of the parcel taking into consideration terrain, adverse soil or land conditions, drainage and flooding, access, vegetation, location and the size of the tract. If the parcel is under forest assessment, the dwelling shall be sited upon generally unsuitable land for the production of merchantable tree species recognized under the Forest Practice Rules. The following will be required:

A. Drawing requirements:

1. A site map of the property which shows the township, range, section and tax lot numbers held in ownership by the property owner;

2. All physical features on the site which are of significance with regard to review of the above application process including steep slopes, access roads, existing buildings and structures, and other improvements;

3. The proposed location of new dwellings to be placed on the site.

B. Siting requirements:

1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use; and

2. The placement of dwellings shall be on the least productive, buildable portion of the parcel taking into consideration terrain, adverse soil or land conditions, drainage and flooding, access, vegetation, location and the size of the tract;

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

3. If the parcel is under forest assessment, the dwelling shall be sited upon generally unsuitable land for the production of merchantable tree species recognized under the Forest Practice Rules considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel; and

4. The dwelling will not materially alter the stability of the overall land use pattern of the area; and

5. If the dwelling is established under Sections 64.070(B) or (C), then additional dwellings may not be approved or sited.

64.090 – PARCEL STANDARDS

A. Minimum Parcel Size:

1. The minimum size for creation of a new parcel in the EFU Zone shall be 80 acres;

2. The minimum size for creation of a new parcel in the MUR Zone shall be 160 acres.

B. A division of land to accommodate a use authorized under ORS 215.283(2), except a residential use, smaller than the minimum parcel size provided in Section 64.090(A) may be approved if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.

C. A division of land to create up to two new parcels smaller than the minimum size established under Section 64.090(A), each to contain a dwelling not provided in conjunction with farm use, may be permitted if:

1. The nonfarm dwellings have been approved under Subsection 64.070(E);

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

3. The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum size in Section 64.090(A); and

4. The remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under Section 64.090(A).

D. A division of land to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use, may be permitted if:

1. The nonfarm dwellings have been approved under Subsection 64.070(E);

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

3. The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size in Subsection A, but equal to or larger than 40 acres;

4. The parcels for the nonfarm dwellings are:

a. Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber; and

b. Either composed of at least 90 percent Class VII and VIII soils or composed of at least 90 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage for grazing livestock. The Land Conservation and Development Commission, in cooperation with the State Department of Agriculture and other interested persons, may establish by rule objective criteria for identifying units of land that are not capable of producing adequate herbaceous forage for grazing livestock. In developing the criteria, the commission shall use the latest information from the United States Natural Resources Conservation Service and consider costs required to utilize grazing lands that differ in acreage and productivity level; and

5. The parcels for the nonfarm dwellings do not have established water rights for irrigation.

E. This Section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.

F. This Section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.

G. This Section does not allow a division or a property line adjustment of a lot or parcel that separates a use described in Subsection 64.070(B), 64.055(A), or 64.040(L) from the lot or parcel on which the primary residential use exists.

H. This Section does not allow a division or a property line adjustment of a lot or parcel that separates a processing facility from the farm operation specified in Section 64.040(C).

I. A division of land may be permitted to create a parcel with an existing dwelling to be used:

1. As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under Subsection 64.070(E); and

2. For historic property that meets the requirements of Subsection 64.030(M).

J. Notwithstanding the minimum lot or parcel size described in Section 64.090(A),

1. A division of land may be approved provided:

    a. The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and

    b. A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.

    c. The landowner signs and records in the deed records for the county an irrevocable deed restriction prohibiting the owner, and the owner's successors in interest, from pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.

2. A parcel created pursuant to this Subsection that does not contain a dwelling:

    a. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

    b. May not be considered in approving or denying an application for siting any other dwelling;

    c. May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and

    d. May not be smaller than 25 acres unless the purpose of the land division is to facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan or to allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.

K. A division of land smaller than the minimum lot or parcel size in Section 64.090(A) may be approved provided:

1. The division is for the purpose of establishing a church, including cemeteries in conjunction with the church;

2. The church has been approved under Subsection 64.050(E);

3. The newly created lot or parcel is not larger than five acres; and

4. The remaining lot or parcel, not including the church, meets the minimum lot or parcel size described in Section 64.090(A) either by itself or after it is consolidated with another lot or parcel.

L. Notwithstanding the minimum lot or parcel size described Section 64.090(A), a division for the nonfarm uses set out in Subsection 64.040(T) if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.

M. The governing body of a county may not approve a division of land for nonfarm use under Section 64.090(B), (C), (D), (I), (J), (K), or (L) unless any additional tax imposed for the change in use has been paid.

N. A land division may not be approved for the land application of reclaimed water, agricultural or industrial process water, or biosolids as described under 64.040(F)

O. Parcels used or to be used for training or stabling facilities may not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.

P. A division of a lawfully established unit of land may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for agricultural uses and is smaller than the minimum parcel size, provided that:

1. If the parcel contains a dwelling, the parcel must be large enough to support the continued residential use;

2. If the parcel does not contain a dwelling, it:

a. Is not eligible for siting a dwelling, except as may be authorized in ORS 195.120;

b. May not be considered in approving or denying an application for any other dwelling; and

c. May not be considered in approving a redesignation or rezoning of agricultural lands, except to allow a public park, open space, or other natural resource use.

d. The landowner signs and records in the deed records for the county an irrevocable deed restriction prohibiting the owner, and the owner's successors in interest, from pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.

64.095 – PROPERTY DEVELOPMENT STANDARDS

The following standards will apply, as appropriate, to all development and land divisions within this Zone

A. Lot Size and Shape - See Article 71

B. Building & Accessory Heights, Setbacks, Yards - See Article 72

C. Stream Setbacks - See Article 72

D. Fences, Wall, and Screens - See Article 73

E. Signs - See Article 74

F. Parking - See Article 75

G. Access - See Article 81

H. Erosion and Sediment Control - See Article 83

I. Utilities - See Article 85

J. Solid Waste - See Article 86

K. Aggregate Mining and Processing - See Article 91

L. Home Occupations - See Article 92

M. Archeological Resources - See Article 93

N. Historic Resources - See Article 94

O. Hydroelectric Facilities - See Article 95

P. Destination Resort - See Article 96

Q. Parks, Playgrounds, and Campgrounds - See Article 98

R. Flood Hazard Combining Zone - See Article 69.1

S. Big Game Combining Zone - See Article 69.2

T. Wild & Scenic Rivers Combining Zone - See Article 69.3

U. Airport Combining Zone - See Article 69.4

V. Water Hazard Combining Zone - See Article 69.5

W. Mineral & Aggregate Combining Zone - See Article 69.11