

CHAPTER 17.138
TC (TIMBER CONSERVATION) ZONE

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17.138.010 PURPOSE. The purpose of the TC (timber conservation) zone is to conserve forest lands by maintaining the forest land base and to protect the forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

The TC zone is intended to be applied in areas where the soils are predominantly forest site Class I through VI and where the existing land use pattern is predominantly large commercial forest ownerships managed as commercial timber. It is necessary to the continuation of the commercial forest enterprises that contiguous ownerships be consolidated into larger parcels better suitable for large scale management. Subdivisions and planned developments are not consistent with the purpose and intent of this zone and are prohibited.

The TC zone places primary emphasis on forest use but compatible uses are also allowed. These include uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment. Also included are locationally dependent uses such as communication towers, and mineral and aggregate resources. The TC zone is intended to be applied in areas designated Forest Lands in the Marion County Comprehensive Plan and to implement the State Forest Lands Goal and OAR 660 Division 006.

17.138.020 PERMITTED USES. Within a TC zone no building, structure or premise shall be used, arranged or designed to be used, erected, structurally altered or enlarged except for one or more of the following uses:

- A. Farm Uses (see farm use definition, MCC 17. 110.223).
- B. Buildings, other than dwellings, customarily provided in conjunction with farm or forest use.
- C. Forest operations or forest practices including, but not limited to, reforestation, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash pursuant to ORS 527 (Forest Practices Act).

- D. Temporary forest labor camp.
- E. Alteration, restoration, or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.138.060(B), when the dwelling:
 - 1. Has a “percentage good” rating of 40 percent or more in the current county assessor’s records.
 - 2. In the case of replacement, the replaced dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the final inspection or occupancy of the replacement dwelling.
 - 3. In the case of replacement of a manufactured dwelling, the unit to be replaced is a manufactured home as defined in ORS 446.003 [manufactured after June 15, 1976].
 - 4. In the case of replacement, the replacement dwelling shall be situated in the same location as the existing dwelling.
- F. Temporary on-site structures which are auxiliary, as defined in MCC 17.138.120(A), to and used during the term of a particular forest operation pursuant to ORS 527.
- G. Physical alteration to the land auxiliary, as defined in MCC 17.138.120(A), to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities pursuant to ORS 527.
- H. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
- I. Local distribution lines (e.g. electric, telephone, natural gas) and accessory equipment (e.g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.
- J. Temporary portable facility for the primary processing of forest products.
- K. Exploration for mineral and aggregate resources as defined in ORS Chapter 517.
- L. Private hunting and fishing operations without any lodging accommodations.
- M. Towers and fire stations for forest fire protection.
- N. Widening of roads including public road and highway projects as follows:
 - 1. Climbing and passing lanes within the street right-of-way existing as of July 1, 1987.
 - 2. Reconstruction or modification of public streets, including the placement of utility facilities overhead and in the subsurface of public roads and highways along public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new parcels result.
 - 3. Temporary public street detours that will be abandoned and restored to original condition or use at such time as no longer needed.
 - 4. Minor betterment of existing public street related facilities such as maintenance yards, weigh stations and rest areas, within rights-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public streets.
- O. Water intake facilities, canals and distribution lines for farm irrigation and ponds.

- P. Caretaker dwelling for public park or public fish hatchery.
- Q. Uninhabitable structures accessory to fish and wildlife enhancement.
- R. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.
- S. Destination resorts reviewed and approved pursuant to the destination resort siting requirements in ORS 197.435 to ORS 197.465 and State Land Use Goal 8.
- T. Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation.

17.138.030 DWELLINGS PERMITTED SUBJECT TO STANDARDS. The following dwellings may be established in the TC zone, subject to approval by the Director, based on satisfaction of the standards and criteria listed for each type of dwelling, pursuant to the procedures in Chapter 17.115 MCC.

- A. Lot-of-Record Dwellings. A single family dwelling, subject to the special use and siting requirements in MCC 17.138.060 may be allowed on a lot or parcel provided:
 - 1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner:
 - a. Since prior to January 1, 1985; or
 - b. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel prior to January 1, 1985.
 - c. "Owner", as the term is used in this section, 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, step child, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.
 - 2. The tract on which the dwelling will be sited does not include a dwelling. "Tract" means all contiguous lands in the same ownership.
 - 3. 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.
 - 4. The subject tract is composed of soils not capable of producing 5,000 cubic foot per year of commercial tree species. (See definitions in MCC 17.138.120(B) and (C).)
 - 5. The subject tract 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. The road shall be maintained and be either paved or surfaced with rock, and shall not be:
 - a. A United States Bureau of Land Management road; or
 - b. 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.

6. The proposed dwelling is not prohibited by, and will comply with land use regulations and other provisions of law including MCC 17.110.830 through 17.110.836.
 7. The dwelling will be consistent with the density policy if located in the big game habitat area identified in the Comprehensive Plan.
 8. The remaining portions of the tract and the subject lot or parcel are consolidated into a single lot or parcel when the dwelling is allowed.
- B. Template Dwelling. A single family dwelling, subject to the special use and siting requirements in MCC 17.138.060 may be allowed on a lot or parcel provided:
1. The tract on which the dwelling will be sited does not include a dwelling. "Tract" means all contiguous lands in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.
 2. No dwellings are allowed on other lots or parcels that make up the tract, and the other lots or parcels in the tract cannot be used to justify another forest dwelling. Evidence must be provided that covenants, conditions and restrictions have been recorded with the county clerk of the county or counties where the property is located for any other lot or parcel within the subject tract.
 3. The lot or parcel is:
 - a. Predominantly composed of soils that are capable of producing zero to 49 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least three other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993, and continue to exist; or
 - b. Predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least seven other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993, and continue to exist; or
 - c. Predominantly composed of soils that are capable of producing more than 85 cubic feet per acre per year of wood fiber, and there are within a 160-acre square centered on the center of the subject tract all or part of at least eleven other lots or parcels that existed on January 1, 1993, and all or part of at least three dwellings that existed on January 1, 1993, and continue to exist; and
 - d. If the tract is 60 acres or larger and abuts a road or perennial stream the measurements 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 is to the maximum extent possible aligned with the road or stream; and

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

- e. If the tract abuts a road that existed on January 1, 1993, and subsection (B)(3)(d) of this section does not apply, the measurements may be made using a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and is to the maximum extent possible aligned with the road.
 - f. Lots or parcels within an urban growth boundary cannot be used to satisfy the requirements in this subsection.
 - 4. The proposed dwelling is not prohibited by and will comply with land use regulations and other provisions of law including MCC 17.110.830 through 17.110.836.
 - 5. The dwelling will be consistent with the density policy if located in the big game habitat area identified in the Comprehensive Plan.
- C. **Large Parcel Dwelling.** A single family dwelling, subject to the special use and siting requirements in MCC 17.138.060 may be allowed provided:
- 1. The lot or parcel on which the dwelling will be located was created before January 1, 1994, or is a consolidated parcel comprised entirely of contiguous lots or parcels that were created before January 1, 1994.
 - 2. The lot or parcel contains at least 160 acres in the TC zone.
 - 3. The lot or parcel on which the dwelling will be sited does not include a dwelling.
 - 4. The proposed dwelling is not prohibited by and will comply with land use regulations and other provisions of law including MCC 17.110.830 through 17.110.836.
 - 5. The dwelling will be consistent with the density policy if located in the big game habitat area identified in the Comprehensive Plan.
- D. **Dwelling Alteration and Replacement.** Alteration, restoration or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.138.060(B), other than as permitted in MCC 17.138.020(E), when the dwelling:
- 1. Has intact exterior walls and roof structure;
 - 2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - 3. Has interior wiring for interior lights;
 - 4. Has a heating system; and
 - 5. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the final inspection or occupancy of the replacement dwelling.
 - 6. In the case of replacement, the replacement dwelling shall meet siting requirements set forth in MCC 17.138.060(A)(2) or (3).

17.138.035 USES PERMITTED SUBJECT TO STANDARDS.

- A. **Wildlife Habitat Conservation.** A wildlife habitat conservation and management plan on a lot or parcel subject to the following:
- 1. The lot or parcel contains an existing legally established dwelling; or
 - 2. Approval for the dwelling is obtained under provisions contained in MCC 17.138.030(A), (B), (C), or (D).
 - 3. The dwelling is situated on a legally created lot or parcel existing on November 4, 1993.

4. The lot or parcel is not predominantly composed of soils rated Class I or II, when not irrigated, or rated Prime or Unique by the Natural Resources Conservation Service, or any combination of such soils.
- B. Parking of not more than seven dump trucks and not more than seven trailers on a tract when the use will not:
1. Force a significantly change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.
 2. Significantly increase the cost of accepted farm or forest practices on surrounding land devoted to farm or forest use.

17.138.040 **CONDITIONAL USES.** The following uses may be permitted in a TC zone subject to obtaining a conditional use permit and satisfying the criteria in MCC 17.138.050(A) and any additional criteria, requirements and standards specified in this section.

- A. Temporary residence for hardship purposes pursuant to MCC 17.120.040, subject to the siting standards and requirements in MCC 17.138.060(A) and (B).
- B. Home occupations, including bed and breakfast inns, subject to MCC 17.138.050(B) with the filing of the Declaratory Statement in MCC 17.138.060(B).
- C. The following uses supporting forest operations:
1. Log scaling and weigh stations.
 2. Permanent logging equipment repair and storage.
 3. Forest management research and experimentation facilities, as defined in ORS 526.215 or where accessory to a forest operation.
 4. Permanent facility for primary processing of forest products.
- D. The following mining and processing activities:
1. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under MCC 17.138.020(R), (e.g. compressors, separators and storage serving multiple wells).
 2. Mining and processing of aggregate as defined in ORS Chapter 517 subject to MCC 17.120.480.
 3. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.
- E. The following utility uses:
1. Water intake facilities, related treatment facility, pumping stations, and distribution lines.
 2. Television, microwave and radio communication facilities and transmission towers.
 3. Power generation facility provided an exception is taken under OAR 660, Division 004 if it precludes more than 10 acres from commercial forest use.
 4. Aids to navigation and aviation.
 5. New electric transmission lines-within a right-of-way not greater than 100 feet wide as specified in ORS 772.210.
 6. New distribution lines (e.g. gas, oil, geothermal)-within a right-of-way 50 feet or less in width.
- F. Expansion of a legally established existing airport.

- G. The following recreation uses:
1. Private parks and campgrounds subject to MCC 17.138.050(C) with filing of the declaratory statement in MCC 17.138.060(B).
 2. Private seasonal accommodations for fee hunting or fishing operations subject to MCC 17.138.050(D) with filing of the declaratory statement in MCC 17.138.060(B).
 3. Public parks and playgrounds including only those uses specified under OAR 660-034-035 or OAR 660-034-0040, whichever is applicable, and consistent with ORS 195.120 and with filing of the declaratory statement in MCC 17.138.060(B).
 4. A youth camp may be established in compliance with OAR 660-006-0031. The purpose is for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment. This zoning code applies to youth camps established after July 12, 1999, and shall meet the criteria in MCC 17.138.050 (E).
- H. Disposal site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operations.
- I. Reservoirs and water impoundments with filing of the declaratory statement in MCC 17.138.060(B).
- J. Firearms training facility as provided in ORS 197.770.
- K. The following transportation uses:
1. Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
 2. Reconstruction or modification of public streets involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
 3. Improvement of public street related facilities, such as maintenance yards, weigh stations and rest areas where additional property or right-of-way is required but not resulting in the creation of new land parcels.
 4. Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 4 and any applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 012.
- L. Fire stations for rural fire protection.
- M. Cemeteries.

17.138.050 CONDITIONAL USE REVIEW CRITERIA. The uses identified in MCC 17.138.040 shall satisfy the criteria in the applicable subsections below.

- A. The following criteria apply to all conditional uses in the TC zone:
1. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on surrounding lands devoted to farm or forest use. Land devoted to farm or forest use does not include farm or forest use on lots or

parcels in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.

2. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
3. Adequate fire protection and other rural services are or will be available when the use is established.
4. The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, and air and water quality.
5. Any noise associated with the use will not have a significant adverse impact on nearby land uses.
6. The use will not have a significant adverse impact on potential water impoundments identified in the comprehensive plan, and not create significant conflicts with operations included in the comprehensive plan inventory of significant mineral and aggregate sites.

B. Home Occupations. Notwithstanding MCC 17.110.270 and 17.120.075, home occupations, including the parking of vehicles in conjunction with home occupation and/or bed and breakfast inns, are subject to the following criteria:

1. A home occupation or bed and breakfast inn shall be operated by a resident of the dwelling on the property on which the business is located. Including residents, no more than five full-time or part-time persons shall work in the home occupation ("person" includes volunteer, non-resident employee, partner or any other person).
2. It shall be operated substantially in:
 - a. the dwelling; or
 - b. other buildings normally associated with uses permitted in the zone in which the property is located.
3. It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
4. A home occupation shall not be authorized in structures accessory to resource use.
5. A sign shall meet the standards in Chapter 17.191 MCC.
6. The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.
7. Retail and wholesale sales that do not involve customers coming to the property, such as internet, telephone or mail order offsite sales, and incidental sales related to the home occupation services being provided are allowed. No other sales are permitted as, or in conjunction with, a home occupation.

C. Private Parks and Campgrounds. Private parks and campgrounds shall meet the following criteria:

1. Campgrounds in private parks shall only be those allowed by this subsection.

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 004.
 3. It shall be 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 and other natural features between campsites.
 5. A camping site shall only be occupied by a tent, travel trailer or recreational vehicle. Private campgrounds may provide yurts for overnight camping subject to the following:
 - a. No more than one-third or a maximum of 10 campsites, whichever is smaller may include yurts;
 - b. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
 6. Separate sewer, water or electric service hook-ups shall not be provided to individual campsites.
 7. It shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
 8. 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.
- D. Temporary Accommodations for Fishing or Hunting. Private seasonal accommodations for fishing or fee hunting shall meet the following criteria:
1. Accommodations shall be 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:
 - a. Hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; or
 - b. Fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission, and are located within one-quarter mile of fish bearing Class I waters.
 - c. Accommodations shall comply with the special use and site requirements in MCC 17.138.060, except subsection (E) of that section.
- E. Youth Camps.
1. Youth camps shall be owned and leased and operated by a state or local government or a nonprofit corporation as defined under ORS 65.001, to provide an outdoor recreational

and educational experience for persons 21 years of age or younger. Youth camps do not include any manner of juvenile detention center or facility.

2. The number of overnight camp participants that may be accommodated shall be determined by the board, or its designee, based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp. A youth camp shall not provide overnight accommodations for more than 350 youth camp participants, including staff, except the board, or its designee, may allow up to eight nights during the calendar year when the number of overnight participants may exceed the total number of over-night participants.

Overnight stays for adult programs primarily for individuals over 21 years of age, not including staff, shall not exceed 10 percent of the total camper nights offered by the youth camp.

3. A campground as described in MCC 17.138.040(G)(1) and (2) shall not be established in conjunction with a youth camp.
4. A youth camp shall not be allowed in conjunction with an existing golf course and a youth camp shall not interfere with the exercise of legally established water rights on adjacent properties.
5. The youth camp shall be located on a lawful parcel that provides a forested setting to ensure outdoor experience without depending upon the use of adjacent public and private land. This determination shall be based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp, as well as, the number of overnight participants and type and number of proposed facilities. The parcel shall be a minimum of 40 acres with suitable protective buffers to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands. The buffers shall consist of forest vegetation, topographic or other natural features as well as structural setbacks from adjacent public and private lands, roads, and riparian areas. The structural setback from roads and adjacent public and private property shall be 250 feet unless the board, or its designee, sets a different setback based upon the following criteria that may be applied on a case-by-case basis:
 - a. The proposed setback will prevent conflicts with commercial resource management practices, and will prevent a significant increase in safety hazards associated with vehicular traffic; and will provide an appropriate buffer from visual and audible aspects of youth camp activities from other nearby and adjacent resource lands.
6. The parcel shall be suitable to provide for the establishment of sewage disposal facilities without requiring a sewer system as defined in OAR 660-011-0060(1)(f). Prior to granting final approval, the board or its designee shall verify that a proposed youth camp will not result in the need for a sewer system.
7. A youth camp may provide for the following facilities:
 - a. Recreational facilities limited to passive improvements, such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding or swimming that can be provided in conjunction with the site's natural environment. Intensively developed facilities such as tennis courts, gymnasiums, and golf courses shall not

be allowed. One swimming pool may be allowed if no lake or other water feature suitable for aquatic recreation is located on the subject property or immediately available for youth camp use.

- b. Primary cooking and eating facilities shall be included in a single building. Except in sleeping quarters, the board or its designee may allow secondary cooking and eating facilities in one or more buildings designed to accommodate other youth camp activities. Food services shall be limited to the operation of the youth camp and shall be provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants.
 - c. Bathing and laundry facilities except that they shall not be provided in the same building as sleeping quarters and up to three camp activity buildings, not including primary cooking and eating facilities.
 - d. Sleeping quarters including cabins, tents or other structures. Sleeping quarters may include toilets, but, except for the caretaker's dwelling, shall not include kitchen facilities. Sleeping quarters shall be provided only for youth camp participants and shall not be offered as overnight accommodations for persons not participating in youth camp activities or as individual rentals.
 - e. Administrative, maintenance and storage buildings; permanent structure for administrative services, first aid, equipment and supply storage, and for use as an infirmary if necessary or requested by the applicant, and covered areas that are not fully enclosed.
 - f. An infirmary may provide sleeping quarters for the medical care provider, (e.g. doctor, registered nurse, emergency medical technician, etc).
 - g. A caretaker's residence may be established in conjunction with a youth camp prior to or after the effective date of this rule, if no other dwelling exists on the subject property.
8. A proposed youth camp shall comply with the following safety requirements in OAR 660-006-0035 and shall have a fire safety protection plan developed for each youth camp that includes, fire prevention measures; on-site pre-suppression and suppression measures; and the establishment and maintenance of fire safe area(s) in which camp participants can gather in the event of a fire.
- a. Except as determined under subsection (E)(8)(b) and (c) of this section, a youth camp's on-site fire suppression capability shall at least include a 1,000-gallon mobile water supply that can access all areas of the camp; and a 30-gallon-per-minute water pump and an adequate amount of hose and nozzles; and a sufficient number of fire-fighting hand tools; and trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.
 - b. An equivalent level of fire suppression facilities may be determined by the board or its designee. The equivalent capability shall be based on the Oregon Department of Forestry's (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and consultation with ODF personnel if the camp is within an area protected by the Oregon

Department of Forestry and not served by a local structural fire protection provider.

- c. The provisions for on-site fire suppression may be waived by the board or its designee if the youth camp is located in an area served by a structural fire protection provider and that provider informs the Board in writing that on-site fire suppression at the camp is not needed.

17.138.060 SPECIAL USE AND SITING REQUIREMENTS. The following regulations apply to new and replacement dwellings, structures accessory to a dwelling, and may also be applied as a condition of approval for other uses in MCC 17.138.040.

A. Special Siting Requirements.

1. Dwellings and structures shall comply with the special requirements in subsection (A)(2) or (3) of this section. Compliance with the provisions in subsection (A)(2) and (B), (F) and (G) of this section satisfies the criteria in subsection (A)(3) of this section. Alternative sites that meet the criteria in subsection (A)(3) of this section may be approved concurrently with any land use application or as provided in Chapter 17.116 MCC.
2. Siting standards for dwellings and other buildings.
 - a. Dwellings shall be at least 200 feet from any abutting parcel in farm use or timber production. Buildings other than a dwelling shall be located at least 100 feet from any abutting parcel in farm use or timber production.
 - b. The special setback in subsection (A)(2)(a) of this section shall not be applied in a manner that prohibits dwellings approved pursuant to ORS 195.300 to 195.336 nor should the special setback in subsection (A)(2)(a) of this section prohibit a claimant's application for homesites under ORS 195.300 to 195.336.
 - c. The dwelling or other building shall be located within 300 feet of the driveway entrance on an abutting public road; or, if the property does not abut a public road for a distance of at least 60 feet, the dwelling or other building shall be located within 300 feet of the point where the driveway enters the buildable portion of the property.
3. Review criteria for alternative sites. Sites for dwellings or buildings that do not meet the siting requirements in subsection (A)(2) of this section may be approved if the proposed site will meet the following criteria:
 - a. The site will have the least impact on nearby or adjoining forest or agricultural lands;
 - b. The site ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 - c. The amount of agricultural and forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
 - d. The risks associated with wildfire are minimized.

- B. Declaratory Statement. For all dwellings, and other uses deemed appropriate, the property owner shall be required to sign and allow the entering the following declaratory statement into the chain of title for the lot(s) or parcel(s):

The property herein described is situated in or near a farm or forest zone or area in Marion County, Oregon, where the intent is to encourage, and minimize conflicts with farm and forest use. Specifically, residents, property owners and visitors may be subjected to common,

customary and accepted farm or forest management practices conducted in accordance with federal and state laws that ordinarily and necessarily produce noise, dust, smoke and other impacts. The grantors, including their heirs, assigns and lessees do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling, structure or use in this area, and acknowledge the need to avoid activities that conflict with nearby farm or forest uses and practices, grantors will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937.

C. Domestic Water Supply.

1. The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules (OAR Chapter 629).
2. Evidence of a domestic water supply means 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 a water use permit issued by the Water Resources Department for the use described in the application; or verification from the Water Resources Department that a water use permit is not required for the use.
3. 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 constructor's report upon completion of the well.

D. Road Access. As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the 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.

E. Tree Planting.

1. Prior to issuance of a building or siting permit for the dwelling on a tract of more than 10 acres in size, the landowner shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.
2. At the time required by the Department of Forestry rules the owner shall submit a stocking survey report to the county assessor and the assessor shall verify that the minimum stocking requirements have been met.

F. Fire Protection.

1. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district.
2. If inclusion within a fire protection district or contracting for residential fire protection is impracticable, an alternative means for protecting the dwelling from fire hazards may be approved pursuant to the procedures set forth in MCC 17.115, subject to the requirements of subsection (F)(3) of this section.

3. Alternative means of fire protection may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions.
 - a. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use.
 - b. Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posed along the access route to indicate the location of the emergency water source.

G. Fire Hazard Reduction.

1. The owners of a dwelling, or structure occupying more than 200 square feet, shall maintain a primary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provision in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry.
2. The dwelling shall have a fire retardant roof.
3. The dwelling shall not be sited on a slope of greater than 40 percent.
4. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

H. Road and Drainage standards.

1. Public road access to structures of more than 200 square feet in area or a dwelling shall comply with the Marion County Department of Public Works engineering applicable at the time the application was filed.
2. Except for private roads and bridges accessing only commercial forest uses, private road or driveway access to structures of more than 200 square feet in area or a dwelling shall meet the requirements of the local fire protection district or forest protection district except that the county maximum grade standard for a private road is 15 percent. A greater grade may be approved by the Fire District or, if the site is not in a fire district, by the State Department of Forestry.
3. Drainage standards for private roadways shall comply with the Marion County Department of Public Works engineering standards except that corrugated metal culverts of equivalent size and strength may be used.

17.138.070 EXISTING DWELLINGS AND OTHER STRUCTURES. For the purposes of regulating dwellings and structures existing at the time the TC zone is applied, the following regulations shall apply.

- A. Legally established dwellings existing when the TC zone is applied shall be considered in conformance with the TC zone and may be repaired, altered, enlarged or replaced pursuant to MCC 17.138.020(E) or 17.138.030(D).
- B. Legally established structures accessory to a dwelling or a farm or forest use and existing when the TC zone is applied shall be considered in conformance with the TC zone and may be repaired,

replaced, altered, or enlarged. New structures shall be permitted if accessory to a legally established dwelling existing when the TC zone is applied.

- C. Notwithstanding MCC 17.114.070, if a legally established non-resource use exists in the TC zone and is unintentionally destroyed by fire, other casualty or natural disaster, the use may be reestablished to its previous nature and extent, but the reestablishment shall satisfy other building codes, ordinances and permit requirements. Efforts to establish the use shall commence within one year of destruction of the use or structure.

17.138.080 MINIMUM PARCEL SIZE, DIVISIONS OF LAND, AND PROPERTY LINE ADJUSTMENTS. The following regulations shall apply when property line adjustments and partitioning of land within a TC zone subject to the provisions of Chapter 17.172 MCC are proposed:

A. Minimum Parcel Sizes for Newly Created Parcels.

1. The minimum parcel size is 80 acres, except as provided in subsection (A)(2) of this section.
2. A new parcel less than 80 acres may be approved as follows:
 - a. For a permitted use listed in MCC 17.138.020(R), (S), and (T); or
 - b. For a conditional use listed in MCC 17.138.040(C)(1) and (2); (D)(1); (E)(1) through (4); (G)(1) and (3); (H); (I); (J); (L) and (M).
 - c. Criteria applicable to the use shall apply to the parcel.
 - d. The parcel shall not be approved before the use is approved.
 - e. The parcel containing the use described in subsection (A)(2)(a) or (b) of this section shall be the minimum size necessary to accommodate the use.
 - f. The original parcel was less than 80 acres.
3. A division of land to create two parcels for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase one of the resulting parcels may be approved as follows:
 - a. A parcel created by the land division that is not sold to a provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:
 - i. If the parcel contains a dwelling or another use allowed under ORS chapter 215, the parcel must be large enough to support continued residential use or other allowed use of the parcel; or
 - ii. If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under provisions contained in MCC 17.138.030(A), (B), or (C), based on the size and configuration of the parcel.
 - b. Before approving a proposed division of land under this section, the governing body of a county or its designee shall require as a condition of approval that the provider of public parks or open space, or the not-for-profit land conservation organization, present for recording in the deed records for the county in which the parcel retained by the provider or organization is located an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from:

- i. Establishing a dwelling on the parcel or developing the parcel for any use not authorized in a forest zone or mixed farm and forest zone except park or conservation uses; and
 - ii. Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.
- c. If a proposed division of land under this section results in the disqualification of a parcel for a special assessment or the withdrawal of a parcel from designation as riparian habitat, the owner must pay additional taxes before the county may approve the division.

B. Property Line Adjustments.

- 1. Parcels larger than 80 acres may not be reduced to below 80 acres.
- 2. Parcels smaller than 80 acres may be reduced or enlarged provided:
 - a. If the tract does not include a dwelling and does not qualify for a dwelling under MCC 17.138.030(A) or (B), any reconfiguration after November 4, 1993, cannot in any way enable the lot or parcel to meet the criteria for a new dwelling under MCC 17.138.030(A) or (B).
 - b. Except as provided in subsection (B)(2)(c) of this section a lot or parcel that is reduced will be better suited for management as part of a commercial forest and, if capable of producing 5,000 cubic feet per year of commercial tree species, will not be reconfigured so that the cubic feet per year capability of the lot or parcel is reduced.
 - c. A lot or parcel may be reduced to the minimum size necessary for the use if the lot or parcel:
 - i. Was approved as a non-farm or non-forest parcel, or
 - ii. Is occupied by an approved non-farm or non-forest dwelling, or
 - iii. More than half of the parcel is occupied by a use in MCC 17.138.020 or 17.138.040 other than a dwelling or farm or forest use, or
 - iv. The lot or parcel is occupied by a dwelling established before January 1, 1994, and is not capable of producing 5,000 cubic feet per year of commercial tree species (see MCC 17.138.120(B) for definitions).
 - d. A property line adjustment may not be used to:
 - i. Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;
 - ii. Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or

- iii. Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard.

17.138.090 DEVELOPMENT STANDARDS. The following standards apply to all development in the TC zone.

A. Maximum Height:

1. Dwellings: 35 feet.
2. Resource related structures on parcels in farm or forest use: none.
3. Non-residential and non-resource related structures: 35 feet unless they are in conjunction with conditional uses allowed in MCC 17.138.040 and greater height is approved as part of the conditional use permit.

B. Minimum Setbacks: Except as required in MCC 17.138.060(A), the following setback requirements shall be implemented for all new structures, other than signs and fences:

1. Rear Yard: A minimum of 20 feet.
2. Side Yard: A minimum of 20 feet except for lots or parcels of one-half acre or less created prior to January 1, 1994, in which case the side yard setback shall be five feet.
3. Front Yard: A minimum of 20 feet. When by zoning code provisions a greater setback or a front yard of greater depth is required than specified in this section, then such greater setback line or front yard depth shall apply (see Chapter 17.112 MCC).

17.138.100 CONTIGUOUS OWNERSHIP.

- A. After June 29, 1994, it shall be a condition of approval that a new deed be recorded consolidating all contiguous lands in the same ownership when such contiguous lots of parcels are included in the application and must be considered in order for the application to meet the applicable criteria and standards. Consolidation shall be accomplished prior to exercising the rights granted in the land use decision and obtaining building permits, or concurrent with filing of a partitioning plat or property line adjustment survey.
- B. Where a land-use action prior to June 29, 1994, required that contiguous lot or parcels be considered a single lot or parcel, they shall continue to be considered a single lot or parcel for land use purposes.

17.138.110 PERMIT EXPIRATION DATES.

- A. Notwithstanding other provisions of this zoning code, a discretionary decision, except for a land division, approving a proposed development in the TC zone expires two years from the date of the final decision if the development action is not initiated and all required conditions are met in that period. The Director may grant an extension period of up to 12 months if:
 1. An applicant makes a written request for an extension of the development approval period.
 2. The request is submitted to the county prior to expiration of the approval period.
 3. The applicant states the reasons that prevented the applicant from beginning or continuing development within the approval period.
 4. The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.

- B. Approval of an extension granted under this section is not a land-use decision described in ORS 197.015 and is not subject to appeal as a land-use decision.
- C. Additional one-year extensions may be authorized where applicable criteria for the decision have not changed.
- D. If a permit is approved for a proposed residential development in the TC zone, the permit shall be valid for four years. For the purposes of this subsection, “residential development” only includes the dwellings provided for under MCC 17.138.020(E) and 17.138.030.
- E. An extension of a permit consistent with subsection (D) of this section and with subsections (A)(1) through (4) of this section and where applicable criteria for the decision have not changed shall be valid for two years.

17.138.120 DEFINITION OF TERMS USED IN THIS CHAPTER. The following terms apply only to this chapter and have no relevance to the same term used in other chapters of this title unless specifically stated.

- A. “Auxiliary,” for the purposes of MCC 17.138.020(F) and (G), a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest’s entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- B. “Commercial tree species” means trees recognized under rules adopted under ORS 527.715 for commercial production.
- C. “Cubic feet per year per tract” means the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the Natural Resources Conservation Service (NRCS) soil survey information, USDA Forest Service plant association guides, Oregon Department of Revenue Western Oregon site class maps, or other information determined by the State Forester to be of comparable quality. Where such data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data as explained in the Oregon Department of Forestry’s Technical Bulletin entitled “Land Use Planning Notes Number 3 dated April 1998” and be approved by the Oregon Department of Forestry.