

**CHAPTER 17.139
FT (FARM/TIMBER) ZONE**

Section	Title	Page
17.139.010	Purpose	1
17.139.020	Permitted Uses	1
17.139.030	Dwellings Permitted Subject to Standards	3
17.139.040	Uses Permitted Subject to Standards	14
17.139.050	Conditional Uses	19
17.139.060	Conditional Use Review Criteria	22
17.139.070	Special Use and Siting Requirements	28
17.139.080	Existing Dwellings and Other Structures	31
17.139.090	Minimum Parcel Size, Divisions of Land, and Property Line Adjustments	31
17.139.100	Development Standards	35
17.139.110	Permit Expiration Dates	35
17.139.120	Consideration of Soil Classification Changes	36
17.139.130	Definitions of Terms Used in This Chapter	36

17.139.010 PURPOSE. The FT (farm/timber) zone is intended to be applied in areas where the soils are suitable for farm or forest uses as defined in the Forest Lands Goal, and where the existing land use pattern is a mixture of agricultural ownerships, forest management units and some acreage homesites. The farm operations range widely in size and often include an area managed as a woodlot or a small timber tract. The forest management units range from small timber tracts managed by the owner resident to commercial forest ownerships managed as commercial timber. The mixture of farm and forest use and the range in size of management units present no significant conflicts and allow optimum resource production from areas with variable terrain and soils. These areas are a transition between the large farm operations in the EFU zones and the large almost exclusively commercial timber tracts in the TC zones. It is not deemed practical or necessary to the continuation of the forest and farm uses that contiguous ownerships be consolidated into large parcels suitable for large scale management.

This zone allows the flexibility in management needed to obtain maximum resource production for these lands. It places equal emphasis on farming and timber production. Subdivisions and planned developments are not consistent with the purpose and intent of this zone and are prohibited. The FT zone is intended to be applied in areas designated Farm/Timber in the Marion County Comprehensive Plan and to comply with statewide Goals 3 and 4.

17.139.020 PERMITTED USES. Within an FT 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 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 17.139.070(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. If the lot or parcel was predominantly devoted to farm use on January 1, 1993, and the dwelling to be replaced is located on a portion of the lot or parcel not zoned FT or EFU the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.
 - 5. If the lot or parcel was predominantly devoted to forest use on January 1, 1993, the replacement dwelling shall be situated in the same location as the existing dwelling.
- F. Temporary on-site structures auxiliary, as defined in MCC 17.139.130(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 17.139.130(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, including creation, restoration, or enhancement of wetlands.
- 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. Exploration for mineral and aggregate resources as defined in ORS Chapter 517.
- K. Private hunting and fishing operations without any lodging accommodations.
- L. Towers and fire stations for forest fire protection.
- M. 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.
- N. Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- O. Caretaker residences for public park or public fish hatchery.
- P. Uninhabitable structures accessory to fish and wildlife enhancement.
- Q. 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.
- R. On-site filming and activities accessory to filming, as defined in MCC 17.139.130(B), if the activity would involve no more than 45 days on any site within a one-year period.
- S. Composting operations and facilities limited to those that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, and that meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.
- T. Single Agri-tourism or Other Commercial Event subject to MCC 17.125.130.

17.139.030 DWELLINGS PERMITTED SUBJECT TO STANDARDS. The following dwellings may be established in the FT zone, with filing of the declaratory statement in MCC 17.139.070(B), 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. Subsections (A) through (D) of this section provide criteria for siting a dwelling based on the predominant use of the tract on January 1, 1993, for forest land. Subsections (E) through (I) of this section list criteria for siting a dwelling based on the predominant use of the tract on January 1, 1993, for farm use.

- A. Lot-of-Record Dwellings. A single-family dwelling, subject to the special use and siting requirements in MCC 17.139.070, may be allowed on a lot or parcel predominantly devoted to forest use on January 1, 1993, 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 only, 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 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, and 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 feet per year of commercial tree species. (See definitions in MCC 17.139.130(H) and (I).)
 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 Dwellings. A single-family dwelling, subject to the special use and siting requirements in MCC 17.139.070, may be allowed on a lot or parcel predominantly devoted to forest use on January 1, 1993, 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 (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 Dwellings. A single-family dwelling, subject to the special use and siting requirements in MCC 17.139.070, may be allowed on a lot or parcel predominantly devoted to forest use on January 1, 1993, 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 FT or TC zone, or a combination of these zones.
3. The tract 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 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 17.139.070(B), other than as permitted in MCC 17.139.020(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 occupancy of the replacement dwelling.
6. In the case of replacement, the replacement dwelling shall meet siting requirements set forth in MCC 17.139.070(A)(2) or (A)(3).

E. Primary Farm Dwellings. A single-family dwelling, subject to the special use and siting requirements in MCC 17.139.070, customarily provided in conjunction with farm use. The dwelling will be considered customarily provided in conjunction with farm use when:

1. It is located on high-value farmland, as defined in MCC 17.139.130(E) on a lot or parcel predominantly devoted to farm use on January 1, 1993, and satisfies the following standards:
 - a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term “farm operation” means all lots or parcels of land in the same ownership that are used by the farm operator for farm use.
 - b. The farm operator earned on the subject tract in the last two years, three of the last five years, or the average of the best three of the last five years at least \$80,000 in gross annual income from the sale of farm products. In determining gross annual income from the sale of farm products, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted;
 - c. The subject tract is currently employed for the farm use that produced the income required in subsection (E)(1)(b) of this section.
 - d. The dwelling will be occupied by a person or persons who produced the commodities which generated the income in subsection (E)(1)(b) of this section; or
2. It is not located on high-value farmland, as defined in MCC 17.139.130(E) on a lot or parcel predominantly devoted to farm use on January 1, 1993, and satisfies the following standards:
 - a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term “farm operation” means all lots or parcels of land in the same ownership that are used by the farm operator for farm use.
 - b. The farm operator earned on the subject tract in the last two years, three of the last five years, or the average of the best three of the last five years at least \$40,000 in gross annual income from the sale of farm products. In determining gross annual income from the sale of farm products, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted;
 - c. The subject tract is currently employed for the farm use that produced the income required in subsection (E)(1)(b) of this section.
 - d. The dwelling will be occupied by a person or persons who produced the commodities which generated the income required in subsection (E)(1)(b) of this section; or
3. It is not located on high-value farmland, as defined in MCC 17.139.130(E) on a lot or parcel predominantly devoted to farm use on January 1, 1993, and satisfies the following standards:

- a. There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term “farm operation” means all lots or parcels of land in the same ownership that are used by the farm operator for farm use.
 - b. The parcel on which the dwelling will be located is at least 160 acres.
 - c. The subject tract is currently employed for farm use, as defined in ORS 215.203.
 - d. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing, or caring for livestock, at a commercial scale.
4. It is in conjunction with a commercial dairy farm as defined in this chapter and if:
- a. The subject tract will be employed as a commercial dairy as defined; and
 - b. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and
 - c. Except as permitted by ORS 215.283 (1)(p) (1999 Edition), (Seasonal Farmworker Housing), there is no other dwelling on the subject tract; and
 - d. The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm activities necessary to the operation of the commercial dairy farm; and
 - e. The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
 - f. The Oregon Department of Agriculture has approved the following:
 - i. A permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to 468B.230; and
 - ii. A producer license for the sale of dairy products under ORS 621.072.
5. The applicant had previously operated a commercial farm use and 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 MCC 17.139.030(E)(1) or (2), whichever is applicable;
 - b. The subject lot or parcel on which the dwelling will be located is:
 - i. Currently employed for the farm use, as defined in this title, that produced in the last two years or three of the last five years, or the average of the best three of the last five years; the gross farm income required by MCC 17.139.030(E)(1) or (2) of this section, whichever is applicable, and
 - ii. Currently employed for the farm use, as defined in this title, that produced in the last two years or three of the last five years the gross farm income required by MCC, whichever is applicable; and

- iii. At least the size of the applicable minimum lot size in this title; and
 - iv. Except as permitted in ORS 215.283(1)(p)(1999 Edition) (Seasonal Farmworker Housing), there is no other dwelling on the subject tract; and
 - v. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (E)(5)(a) of this section;
 - vi. In determining the gross income required by subsections (E)(5)(a) and (E)(5)(b)(i) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract, and only gross income from land owned, not leased or rented, shall be counted.
6. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:

It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.

These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

- F. Secondary Farm Dwellings. Secondary (accessory) dwellings, subject to the special use and siting requirements in MCC 17.139.070, customarily provided in conjunction with farm use, on a lot or parcel predominantly devoted to farm use on January 1, 1993, when:
- 1. The primary dwelling and the proposed dwelling will each be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-around 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. There is no other dwelling on lands in the FT, SA or EFU zones owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm and could reasonably be used as an additional farm dwelling.
 - 3. The proposed dwelling will be located:
 - a. On the same lot or parcel as the primary farm dwelling; or
 - b. On the same contiguous ownership as the primary dwelling, and the lot or parcel on which the proposed dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the same ownership; or
 - c. On a lot or parcel on which the primary farm dwelling is not located, when the secondary farm dwelling is limited to only a manufactured dwelling with a deed

restriction is filed with the county clerk. The deed restriction shall require the additional dwelling to be removed when the lot or parcel is conveyed to another party. Occupancy of the additional farm dwelling shall continually comply with subsection (F)(1) of this section; or

- 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 farm worker housing as that existing on farm operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The county shall require all accessory farm dwellings approved under this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or
 - e. On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in subsection (F)(4) of this section, whichever is applicable.
4. The primary dwelling to which the proposed dwelling would be accessory satisfies the following criteria:
- a. On land not identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and the farm operator earned at least \$40,000 in gross annual income from the sale of farm products in the last two years, three of the last five years, or the average of the best three of the last five years; or
 - b. On land identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in the last two years, three of the last five years, or the average of the best three of the last five years.
 - c. The primary dwelling is located on a commercial dairy farm as defined in MCC 17.139.130(C); and
 - i. The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and
 - ii. The Oregon Department of Agriculture has approved a permit for a confined animal feeding operation under ORS 468B.050 and ORS 468B.200 to 468B.230; and
 - iii. The Oregon Department of Agriculture has approved a producer license for the sale of dairy products under ORS 621.072.
 - d. In determining the gross income in subsections (F)(4)(a) and (b) of this subsection, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
5. The dwelling will be consistent with the Fish and Wildlife Habitat policies of the Comprehensive Plan if located in a designated big game habitat area.

6. Secondary farm dwellings shall be a manufactured home, or other type of attached multi-unit residential structure allowed by the applicable State Building Code, and a deed restriction (removal agreement) is filed with the county clerk requiring the removal of the manufactured home, or removal, demolition or conversion to a non-residential use, if other residential structures are used, when the occupancy or use no longer complies with the criteria or standards under which the manufactured home was originally approved.

G. A secondary single-family dwelling on real property used for farm use since at least January 1, 1993, subject to the special use and siting requirements in MCC 17.39.070, and subject to the following standards:

1. 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, which means grandparent, step-grandparent, grandchild, parent, stepparent, child, brother, sister, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use.
2. The farm operator shall continue to play the predominant role in management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding, and marketing.
3. A deed restriction is filed with the county clerk requiring removal of the dwelling when the occupancy or use no longer complies with the criteria or standards under which the dwelling was originally approved.
4. For purposes of this subsection, a commercial farm operation is one that meets the income requirements for a primary farm dwelling identified in MCC 17.139.030(E)(1)(b), and the parcel where the dwelling is proposed contains a minimum of 80 acres.
5. All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions:

It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.

These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

H. Lot-of-record Dwellings. A lot-of-record dwelling on a lot or parcel predominantly devoted to farm use on January 1, 1993, subject to the special use and siting requirements in MCC 17.139.070, and subject to the following standards and criteria:

1. The lot or parcel on which the dwelling will be sited was lawfully created and acquired and owned continuously by the present owner:
 - a. Since prior to January 1, 1985; or
 - b. By devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
 - c. “Owner”, as the term is used in this section only, 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 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; and
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; and
4. 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; and
5. The request is not prohibited by, and complies with, the Comprehensive Plan and other provisions of this zoning code, including but not limited to floodplain, greenway, and big game habitat area restrictions; and
6. The proposed dwelling will not:
 - a. Exceed the facilities and service capabilities of the area.
 - b. Create conditions or circumstances contrary to the purpose of the FT zone.
7. A lot-of-record dwelling approval may be transferred one time only by a person who has qualified under this section to any other person after the effective date of the land-use decision; and
8. The county assessor shall be notified that the county intends to allow the dwelling; and
9. The lot or parcel on which the dwelling will be sited is not high-value farmland as defined in MCC 17.139.130(E); or
10. The lot or parcel on which the dwelling will be sited is high-value farmland as defined in MCC 17.139.130(E)(2) or (3) and:
 - a. Is 21 acres or less in size; and
 - b. The tract on which the dwelling is to be sited is not a flag lot and is:
 - i. 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 them on January 1, 1993; or
 - ii. 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. No more than two of the four dwellings may be within an urban growth boundary; or

- c. The tract on which the dwelling is to be sited is a flag lot and is:
 - i. The tract is a flag lot and is bordered on at least 25 percent of its perimeter by tracts that are small 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 board, or its designee, must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. 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:
 - ii. “Flag lot” means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
 - iii. “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 flag lot.

- 11. The lot or parcel on which the dwelling is to be sited is high-value farmland as defined in MCC 17.139.130(E)(1) and:
 - a. The hearings officer determines that:
 - i. The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. 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 demonstrate that a lot or parcel cannot be practicably managed for farm use. Examples of extraordinary circumstances inherent in the land or its physical setting include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use; and
 - ii. The use will not force a significant change in or significantly increase the cost of farm or forest practices on surrounding lands devoted to farm or forest use; and
 - iii. The dwelling will not materially alter the stability of the overall land use pattern in the area. To address this standard, the following information shall be provided:
 - (A) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 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 operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, 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 non-resource uses shall not be included in the study area;

- (B) Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved under subsection (H) of this section and MCC 17.139.050(A), including identification of predominant soil classifications and parcels created prior to January 1, 1993. 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 non-farm dwellings under this provision;
- (C) Determine whether approval of the proposed non-farm/lot-of-record dwellings together with existing non-farm 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 non-farm 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, 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.

- b. The county shall provide notice of the application for a dwelling allowed under this subsection to the Oregon Department of Agriculture.

I. Dwelling Alteration and Replacement. Alteration, restoration or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.139.070(B), other than as permitted in MCC 17.139.020(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.

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. For the case in which the applicant has requested a deferred replacement permit, the dwelling to be replaced shall be removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of consideration. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
7. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned FT, SA or EFU, the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.

17.139.040 USES PERMITTED SUBJECT TO STANDARDS. The following uses may be permitted in the FT zone subject to approval of the request by the director, based on satisfaction of the standards and criteria specified for each use, pursuant to the procedures in MCC 17.115.

A. Farm Stand. Farm stand subject to the following standards:

1. Structures shall be designed and used for the sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.
 - a. As used in this section, “farm crops or livestock” includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, “processed crops and livestock” includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another produce but not prepared food items.
 - b. As used in this section, “local agricultural area” is limited to the state of Oregon.
2. The sale of incidental retail items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand is permitted provided 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.
3. Farm stand shall 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.

B. Winery. A winery subject to the standards in MCC 17.125.030.

C. Religious Organizations and Cemeteries. Religious organizations and cemeteries in conjunction with religious organizations subject to the following:

1. New religious organizations and cemeteries in conjunction with religious organizations:
 - a. May not be established on high-value farmland.
 - b. New religious organizations and cemeteries in conjunction with religious organizations, not on high-value farmland may be established. All new religious organizations and cemeteries in conjunction with religious organizations, within three miles of an urban growth boundary shall meet the following standards:
 - (i) 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, unless an exception is approved pursuant to OAR Chapter 660, Division 004.
 - (ii) Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.
 - (iii) For the purposes of this subsection “tract” means a tract as defined in MCC 17.139.130(F) in existence on (MAY 5, 2010).
2. Existing religious organizations and cemeteries in conjunction with religious organizations:
 - a. Existing religious organizations and cemeteries in conjunction with religious organizations may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
 - b. Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (C)(1)(b)(i – iii) of this section.

D. Public and Private Schools. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, subject to the following:

1. New schools primarily for the residents of the rural area in which the school is located:
 - a. New schools may not be established on high-value farmland.
 - b. New schools not on high-value farmland may be established. Any new school within three miles of an urban growth boundary shall meet the following standards:
 - (i) 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, unless an exception is approved pursuant to OAR Chapter 660, Division 004.
 - (ii) Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract.

- (iii) For the purposes of this subsection “tract” means a tract as defined in MCC 17.139.130(F) in existence on (MAY 5, 2010).
 - c. New schools must be determined to be consistent with the provisions contained in MCC 17.139.060(A)(1).
 - 2. Existing schools primarily for the residents of the rural area in which the school is located:
 - a. Existing schools on high-value farmland may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
 - b. Existing schools not on high-value farmland may be maintained, enhanced, or expanded consistent with the provisions contained in MCC 17.139.060(A)(1).
 - c. Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (D)(1)(b)(i – iii) of this section.
 - 3. Existing schools that are not primarily for residents of the rural area in which the school is located may be expanded on the tax lot on which the use was established or on a contiguous tax lot owned by the applicant on January 1, 2009, however, existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsection (D)(1)(b)(i – iii) of this section.
- E. **Filming Activities.** On-site filming and activities accessory to filming, as defined in MCC 17.139.130(B), if the activity:
- 1. Involves filming or activities accessory to filming for more than 45 days; or
 - 2. Involves erection of sets that would remain in place longer than any 45 day period.
 - 3. The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- F. **Facility for the Processing of Farm Crops.** A facility for the processing of farm crops, or the production of biofuel as defined in ORS 315.141, subject to the following:
- 1. The farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility,
 - 2. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm use.
 - 3. The processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits siting of the processing facility.
 - 4. Division of a lot or parcel that separates a processing facility from the farm operation on which is it is located shall not be approved.
- G. **Model Aircraft.** A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary subject to the following:
- 1. Buildings and facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use.
 - 2. The site shall not include an aggregate surface or hard area surface unless the surface pre-existed the use.

3. 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 controlled by radio, lines or design by a person on the ground.
 4. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator’s cost to maintain the property, buildings and facilities.
- H. 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 17.139.030(A), (B), (C), (D), (E), (H), (I) or 17.139.050(A);
 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.
- I. Utility facilities necessary for public service, including 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. A facility is "necessary" if it must be situated in the FT zone in order for the service to be provided. An applicant must demonstrate that reasonable alternatives have been considered and that the facility must be sited in an FT zone due to one or more of the following factors as found in OAR 660-33-130(16):
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 farm/timber 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.
 - a. Costs associated with any of the factors listed above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.
 - b. The owner of a utility facility approved under this section shall be responsible for restoring, to its former condition as nearly as possible, 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.

- c. The applicant shall address the requirements of MCC 17.139.060(A)(1) .
- d. In addition to the provisions above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in a farm/timber zone shall be subject to the provisions of OAR 660-011-0060.
- e. The provisions of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
- f. If the criteria contained in MCC 17.137.040(I) for siting a utility facility on land zoned for exclusive farm use are met for a utility facility that is a transmission line, the utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult. The requirement to consult under this section is in addition to and not in lieu of any other legally required consultation process. For the purposes of this subsection:
 - (i) 'Consult' means to make an effort to contact for purpose of notifying the record owner of the opportunity to meet.
 - (ii) 'Transmission line' means a linear utility facility by which a utility provider transfers the utility product in bulk from a point of origin or generation, or between transfer stations, to the point at which the utility product is transferred to distribution lines for delivery to end users.

J. Parking of not more than seven log trucks on a tract when the use will not:

- 1. Force a significant 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 lands devoted to farm or forest use.

K. Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249, and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in the farm/timber zone under this division.

L. 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.
- M. Dog training classes or testing trials conducted outdoors or in agricultural buildings existing on June 4, 2012 subject to the following:
1. The number of dogs in each training class shall not exceed 10.
 2. There shall be no more than six training classes per day.
 3. The number of dogs participating in the testing trials shall not exceed 60.
 4. There shall be no more than four testing trials per calendar year.

17.139.050 CONDITIONAL USES. The following uses may be permitted in an FT zone subject to obtaining a conditional use permit and satisfying the criteria in MCC 17.139.060(A) and any additional criteria, requirements and standards specified for the use.

- A. Single family dwelling or mobile home not in conjunction with farm uses on a lot or parcel predominantly devoted to farm use on January 1, 1993, meeting the criteria and standards in MCC 17.139.060(B) and 17.139.070.
- B. Temporary residence for hardship purposes per MCC 17.120.040, meeting the standards and requirements in MCC 17.139.070.
- 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. Temporary portable facility for the primary processing of forest products, subject to MCC 17.139.060(I).
- D. The following commercial uses:
 1. Home occupations, including bed and breakfast inns, subject to MCC 17.139.060(C) and the requirements in MCC 17.139.070(B).
 2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.139.040(F), and subject to MCC 17.139.060 (L), but including a winery not permitted under MCC 17.139.040 (B).
 3. Dog kennels in conjunction with a dwelling occupied by the kennel operator, subject to the requirements in MCC 17.139.070(B).
 4. Room and board arrangements for a maximum of five unrelated persons in an existing dwelling, subject to the requirements in MCC 17.139.070(B).
 5. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.
 6. 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.

7. Composting Facilities:
 - a. Existing composting operations and facilities that do not meet 17.139.020(S) may be maintained, enhanced, or expanded on the same tract subject to meeting the performance and permitting requirements of the Department of Environmental Quality (DEQ) under OAR 340-093-0050 and 340-096-006.
 - b. New composting operations and facilities that do not meet 17.139.020(S) may be established on land not defined as high-value farmland subject to the following:
 1. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-006; and
 2. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility; and
 3. 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.
 8. Operations for the extraction and bottling of water, except in the sensitive groundwater overlay zone.
 9. Agri-tourism events and activities subject to the requirements in MCC 17.120.090.
 10. Dog training classes or testing trials not permitted under MCC 17.139.040(M).
- E. The following mining and processing activities:
1. Operations for the exploration for and production of oil, gas and geothermal resources as defined by ORS 520.005 and ORS 522.005, including the placement and operation of compressors, separators and storage serving multiple wells and other customary production equipment otherwise permitted in this chapter.
 2. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298 and MCC 17.120.410 through 17.120.480.
 3. Processing as defined in ORS 517.750 of aggregate into asphalt or portland cement subject to the standards in MCC 17.139.060(D) and MCC 17.120.410 through 17.120.480.
 4. Processing of other mineral resources and other subsurface resources subject to MCC 17.120.410 through 17.120.480.
 5. Temporary asphalt and concrete batching plants as accessory uses to specific highway projects.
- F. The following utility uses:
1. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.

2. Television, microwave and radio communication facilities and transmission towers over 200 feet in height.
 3. Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than:
 - a. Ten acres from use as a commercial forest operation unless an exception is taken pursuant to OAR Chapter 660, Division 004.
 - b. Twelve acres from use as a commercial agricultural enterprise on high-value farmland unless an exception is taken pursuant to OAR Chapter 660, Division 004.
 - c. Twenty acres from use as a commercial agricultural enterprise on farmland that is not high-value unless an exception is taken pursuant to ORS 197.732 and OAR Chapter 660, Division 004.
 4. Aids to navigation and aviation.
 5. New electric transmission lines with right of way widths of up to 100 feet specified in ORS 772.210.
 6. New distribution lines (gas or oil, for example) with right of way widths up to 50 feet.
- G. Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities as defined in ORS 215.283(2)(h).
- H. The following recreation uses subject to MCC 17.139.060(M):
1. Private parks, playgrounds and campgrounds, subject to MCC 17.139.060(E) and (F), and subject to MCC 17.139.070(B).
 2. Private seasonal accommodations for fee hunting or fishing operations, subject to MCC 17.139.060(E) and (G), and subject to MCC 17.139.070(B).
 3. 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, subject to MCC 17.139.060(E) and 17.139.070(B).
 4. Community centers, operated primarily by and for residents of the local rural community, where the land and facilities are owned and operated by a governmental agency or a nonprofit community organization, subject to MCC 17.139.070(B).
 5. Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035 or OAR 660-034-0040, whichever is applicable, and with filing of the declaratory statement in MCC 17.137.100(C) and consistent with ORS 195.120 and subject to MCC 17.139.070(B).
 6. Golf courses, as defined in MCC 17.139.130(D) and subject to the requirements of MCC 17.139.060(H) and subject to the requirements of MCC 17.139.070(B).
 7. 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 requirements in MCC 17.139.060(J).
 8. Living history museum on a lot or parcel where the predominant use of the tract on January 1, 1993, was farm use, subject to MCC 17.139.060(K), with the filing of a declaratory statement in MCC 17.139.070(B).

- I. Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, or for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation, subject to MCC 17.139.060(E) and 17.139.070(B).
- J. Reservoirs and water impoundments, subject to MCC 17.139.070(B).
- K. Firearms training facility as provided in ORS 197.770.
- L. 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 roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
 - 3. Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.
 - 4. Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 012.
- M. Fire stations for rural fire protection.
- N. The propagation, cultivation, maintenance and harvesting of aquatic species.
- O. A residential home or adult foster home, as defined in ORS 197.660 and section 110.477, in an existing dwelling, subject to the requirements in MCC 17.139.070(B).
- P. A replacement dwelling to be used in conjunction with farm use if the existing dwelling is listed in the Comprehensive Plan Inventory and the National Register of Historic Places as historic property as defined in ORS 358.480 and subject to the requirements in MCC 17.139.070(B).
- Q. Expansion of an existing, legally established, airport.
- N. Expansion of existing schools not for kindergarten through grade 12 established on or before January 1, 2009, on the same tract wholly within a farm zone subject to MCC 139.060(M).

17.139.060 CONDITIONAL USE REVIEW CRITERIA. The uses identified in MCC 17.139.050 shall satisfy the criteria in the applicable subsection below.

- A. The following criteria apply to all uses in MCC 17.139.050 and other uses where referenced:
 - 1. The use will not force a significant change in, or significantly increase the cost of, accepted farm 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 upon which a non-farm or non-forest dwelling has been approved and established, in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.
 - 2. The 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, 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. Non-farm Dwellings. The following additional criteria apply to non-farm dwellings:

1. The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through Class VIII soils that would not, when irrigated, be classified as prime, unique, Class I or Class II soils. Soils classifications shall be those of the Soil Conservation Service in its most recent publication, unless evidence is submitted as required in MCC 17.139.120(B).
2. The dwelling will be sited on a lot or parcel that does not currently contain a dwelling and was created before January 1, 1993. The boundary of the lot or parcel cannot be changed after November 4, 1993, in any way that enables the lot or parcel to meet the criteria for a non-farm dwelling.
3. The dwelling will not materially alter the stability of the overall land use pattern of the area. In making this determination the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated shall be considered. To address this standard, information outlined in MCC 17.139.030(H)(11)(a)(iii) shall be provided.
4. Disqualification. Prior to issuance of any residential building permit for an approved non-farm dwelling under MCC 17.139.050(A), the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm or forest use; and that the additional tax or penalty has been imposed, if any is applicable, as provided by ORS 308A.113 or ORS 308A.724 or ORS 321.359(1)(b), ORS 321.842(1)(A) and 321.716. A parcel that has been disqualified under this section shall not requalify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.

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

1. A home occupation or bed and breakfast shall be operated by a resident of the dwelling on the property on which the business is located. Including the 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 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 on high-value farmland.
 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.
- D. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. "Planted vineyard" means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
- E. For uses listed in MCC 17.139.050(D)(3), (H)(1),(2) and (3), and (I), new facilities on high-value farmland shall not be authorized. Existing legally established facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract where the current use is located.
- F. Private Parks, playgrounds and campgrounds shall meet the following criteria:
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 004.
 2. 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.
 3. 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.
 4. 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.
 5. Separate sewer, water or electric service hook-ups shall not be provided to individual campsites.
 6. It shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
 7. 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.

- G. Temporary accommodations for hunting or fishing. The following criteria apply to private seasonal accommodations for fee hunting and private accommodations for fishing:
1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code.
 2. Only minor incidental and accessory retail sales are permitted.
 3. Accommodations are occupied temporarily for the purpose of:
 - 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.
 4. Accommodations shall comply with the special use and siting requirements in MCC 17.139.070, except subsection (E).
- H. Golf Course. A golf course is subject to the following limitations:
1. New golf courses shall not be permitted on high-value farmland, as defined in MCC 17.139.130(E).
 2. A legally established existing golf course on high-value farmland may be expanded on the subject tract where the current use is located, consistent with the provisions of MCC 17.139.130(D).
- I. A portable or temporary facility for the primary processing of forest products is subject to the following criteria and limitations:
1. The use shall not seriously interfere with accepted farming practices.
 2. The use shall be compatible with farm uses described in ORS 215.203(2).
 3. The use may be approved for a maximum one-year period, which is renewable.
 4. The primary processing of a forest product, as used in this section, means the use of a portable chipper, stud mill, or other similar facility for 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.
- J. Youth camps on a lot or parcel predominantly in forest use on January 1, 1993:
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 17.139.050(H)(1) through (5) 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;
 - b. Will prevent a significant increase in safety hazards associated with vehicular traffic; and
 - c. 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 (J)(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.
- K. Living History Museum (only on a tract predominantly in farm use on January 1, 1993). A living history museum related to resource-based activities owned and operated by a governmental agency or a local historical society, together with 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 a farm/timber 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.

1. As used in this paragraph:
 - a. “Living history museum” means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and event; and
 - b. “Local historical society” means the local historical society recognized by the county board of commissioners and organized under ORS Chapter 65.

L. Commercial Activities in Conjunction with Farm Use

1. The commercial activity must be primarily a customer or supplier of farm uses.
2. The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.
3. The agricultural and commercial activities must occur together in the local community.
4. The products and services provided must be essential to the practice of agriculture.

M. The following criteria apply to those uses identified in MCC 17.139.050

1. No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved within three miles of an urban growth boundary unless an exception is approved pursuant to OAR Chapter 660, Division 004.
2. Any new enclosed structure or group of enclosed structures subject to this section shall be situated no less than one-half mile from other enclosed structures approved under OAR 660-33-130(2) on the same tract. For the purposes of this subsection “tract” means a tract as defined in MCC 17.139.130(F) in existence on (MAY 5, 2010).
3. Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, but existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits of this subsection.

17.139.070 SPECIAL USE AND SITING REQUIREMENTS. The following regulations shall apply to new dwellings, structures accessory to a dwelling, and they may also be applied as a standard or condition of approval for dwellings, other structures and uses including but not limited to those in MCC 17.139.030, 17.139.040 and 17.139.050.

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) of this section and subsections (B), (F) and (G) satisfies the criteria in (A)(3) of this section. Alternative sites that meet the criteria in subsection (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 forestlands used to site access roads, service corridors, the dwelling and structures is minimized.
 - d. The risks associated with wildfire are minimized.
- B. Declaratory Statement. The owner of property for which a dwelling, structure or other specified use has been approved shall be required to sign and allow the entering of the following declaratory statement into the chain of title for the subject lots or parcels:

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 which 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, 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 Requirements for Lots or Parcels over 10 Acres:
1. Prior to issuance of a building or siting permit for a dwelling, approved under the provisions in MCC 17.139.030(A), (B) or (C), 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, on-site equipment and water storage or other methods that are reasonable, given the site conditions. The following requirements apply:
 - 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 to the water supply required in subsection (F)(3)(A) of this section 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 standards 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.

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

- A. Legally established dwellings existing when the FT zone is applied shall be considered in conformance with the FT zone and may be repaired, altered, enlarged or replaced pursuant to MCC 17.139.020(E), 17.139.030(D) or (I).
- B. Legally established structures accessory to a dwelling or a farm or forest use and existing when the FT zone is applied shall be considered in conformance with the FT zone and may be repaired, replaced, altered, or enlarged. New structures shall be permitted if accessory to a legally established dwelling existing when the FT zone is applied.
- C. Notwithstanding MCC 17.114.070, if a legally established non-resource use exists in the FT 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.

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

- A. Minimum Parcel Size for Newly Created Parcels:
 1. The minimum parcel size shall be 80 acres, except as provided in subsections (A)(2), and (B) or (C) of this section.
 2. A new parcel less than 80 acres may be approved as follows:
 - a. The parcel shall only be as large as necessary to accommodate the use and any buffer area needed to ensure compatibility with adjacent farm or forest uses.
 - b. The criteria in MCC 17.139.060 applicable to the proposed use of the parcel shall apply to the creation of the parcel.

- c. A parcel shall not be approved before the use is approved.
 - d. A division of land for non-farm/forest use shall not be approved unless any additional tax imposed for the change has been paid or payment has been made a condition of approval.
- B. Requirements for creation of new non-farm parcels if the land was predominantly devoted to farm use on January 1, 1993. A new parcel smaller than 80 acres may be created only for those uses listed in MCC 17.139.040(C) and 17.139.050, except the residential uses in MCC 17.139.050(A) and (B).
- 1. If 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 subject to the following:
 - a. A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
 - b. A parcel created pursuant to this subsection that does not contain a dwelling:
 - i. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - ii. May not be considered in approving or denying an application for siting any other dwelling;
 - iii. 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
 - c. May not be smaller than 25 acres unless the purpose of the land division is:
 - i. To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or
 - ii. 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.
 - 2. A division of land smaller than the minimum lot or parcel size described in MCC 17.139.090(A) and (B) may be approved to establish a religious organization including cemeteries in conjunction with the religious organization if they meet the following requirements:
 - a. The religious organization has been approved under MCC 17.139.040(C);
 - b. The newly created lot or parcel is not larger than five acres; and
 - c. The remaining lot or parcel, not including the religious organization, meets the minimum lot or parcel size described in MCC 17.139.090(A) and (B) either by itself or after it is consolidated with another lot or parcel.
- C. Requirements for creation of new non-forest parcels if the land was predominantly devoted to forest use on January 1, 1993:
- 1. For a permitted use listed in MCC 17.139.020(Q); or
 - 2. For a conditional use listed in MCC 17.139.050(C)(1) and (2), (E)(1), (F)(1) through (4), (H)(1), (3) and (5), (I), (J), (K), and (M).

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 17.139.030(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.

D. Property Line Adjustments:

1. When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to MCC 17.136.090(A)(1), the same number of lots or parcels shall be as large or larger than the minimum parcel size after the adjustment. When all lots or parcels subject to the proposed adjustment are as large or larger than the minimum parcel size, no lot or parcel shall be reduced below the applicable minimum parcel size. If all lots or parcels are smaller than the minimum parcel size before the property line adjustment, the minimum parcel size pursuant to this section does not apply to those lots or parcels.
2. A property line adjustment may not be used to:
 - a. 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;

- b. 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
 - c. 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.
3. Any property line adjustment that results in an existing dwelling being located on a different parcel shall not be subject to the standards in MCC 17.139.030(E) so long as the adjustment:
- a. Does not increase any adverse impacts on the continued practice of commercial agriculture on the resulting parcels; and
 - b. Does not increase the potential number of dwellings on the resulting parcels.
- E. Property Line Adjustments if the land was predominantly devoted to forest use on January 1, 1993:
- 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 17.139.030(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 17.139.030(A) or (B).
 - b. Except as provided in subsection (E)(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 17.139.020 or 17.139.050 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 as defined in MCC 17.139.130(H).

- 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.

17.139.100 DEVELOPMENT STANDARDS. The following standards apply to all development in the FT zone.

A. Maximum Height.

- 1. Dwellings: 35 feet
- 2. Farm related structures on farm parcels: none.
- 3. Non-residential and non-farm structures: 35 feet unless they are in conjunction with conditional uses allowed in MCC 17.139.050, and a greater height is requested and approved as part of the conditional use permit.

B. Minimum Setbacks: Except as required in MCC 17.139.070(A), the following setback requirements shall be implemented for all new structures other than farm-exempt buildings, 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 smaller 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).

17.139.110 PERMIT EXPIRATION DATES.

A. Notwithstanding other provisions of this title, a discretionary decision, except for a land division, approving a proposed development in the FT 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 FT 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 17.139.020(E), 17.139.030(A), (B), (C), (D), (H) and (I), and 17.139.050(A).
- 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.

17.139.120 CONSIDERATION OF SOIL CLASSIFICATION CHANGES. For the purposes of approving an application for a lot-of-record dwelling under MCC 17.139.030(H) or for a dwelling not in conjunction with farm use under MCC 17.139.050(A) or for a forest land dwelling under MCC 17.139.030(A), (B), or (C), the soil class, soil rating, or other soil designation of a specific lot or parcel may be changed if the property owner:

- A. For lot-of-record dwellings:
 1. Submits, for a lot-of-record dwelling only, a statement of agreement from the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture that the soil class, soil rating or other soil designation should be adjusted based on new information; or
 2. Submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating, or other soil designation should be changed; and
 3. Submits, for a lot-of-record dwelling only, a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in subsection (A)(2) of this section and finds the analysis in the report to be soundly and scientifically based.
- B. For dwellings not in conjunction with farm use, submits a report from a consulting soils scientist whose credentials have been certified as acceptable to the State Department of Agriculture that the soil class, soil rating, or other soil designation should be changed, and the report satisfies the most recent requirements in Oregon Administrative Rules for acceptable soils reports.
- C. For forestland dwellings, where NRCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

17.139.130 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 17.139.020(F) and (G), means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest’s entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- B. “Filming activities” means on-site filming and activities accessory to on-site filming includes filming and site preparation, construction of sets, staging, makeup and support services customary provided for on-site filming. Production of advertisements, documentaries, feature film, television services and other film production that rely on the rural qualities of the FT zone in more than an incidental way. It does not include facilities for marketing, editing and other such activities that are allowed only as a home occupation or construction of new structures that require a building permit.
- C. “Commercial dairy farm” is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by MCC 17.139.030(E)(1) or (2).
- D. “Golf course” means an area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" means a nine or 18-hole regulation golf, or golf tournament, course consistent with the following:
1. A regulation 18-hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes.
 2. A regulation nine-hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes.
 3. An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course and conforms to the following.
 - a. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course include parking, maintenance buildings, cart storage and repair, practice range or driving range, clubhouse, restrooms, lockers and showers, food and beverage service, pro shop, and a practice or beginners course.
 - b. Accessory uses to a golf course do not include sporting facilities unrelated to golf such as tennis courts, swimming pools, or weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing.
 - c. A use is accessory to a golf course only when limited in size and orientation to serve the needs of persons and their guests who patronize the golf course to golf.
 - d. Commercial activities such as food and beverage service and pro shop are accessory to a golf course only when located in the clubhouse.
 - e. Accessory uses may include one or more food and beverage service facilities to 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 designated for or include structures for banquets, public gatherings or public entertainment.

- E. “High-value farmland” means a tract composed of:
1. Soils rated Class I or II, prime, or unique, either irrigated or not irrigated;
 2. The following Class III soils: Chehalem (CeC), Concord (Co), Hullt (HuD), Jory (JoD), Nekia (NeC, NeD, NkC), Salkum (SkD), Silverton (SuD), and Woodburn (WuD);
 3. The following Class IV soils: Bashaw (Ba), Camas (Ca), Courtney (Cu), Dayton (Da), and Jory (JoE).
- F. “Tract” means one or more contiguous lots or parcels under the same ownership.
- G. “Commercial tree species” means trees recognized under rules adopted under ORS 527.715 for commercial production.
- H. “Cubic foot 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 USDA 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.