

1 (C) Tracts which include land used in conjunction with a dairy operation on January 1,
2 1993, and which are composed predominantly of the following soils in Class III and Class IV,
3 or a combination of the following soils and soils described in subparagraph (A) of this
4 paragraph:

5 (i) Subclassification IIIw (Brenner and Chitwood).

6 (ii) Subclassification IVe (Winema).

7 (iii) Subclassification IVw (Coquille).

8 (b) Soil classes and ratings used in this subsection are those of the Soil Conservation
9 Service in its most recent publication for that class or rating prior to November 3, 1993.

10 (2) **"Lot" means a unit of land created by subdividing land as defined in ORS**
11 **92.010.**

12 (3)(a) **"Parcel" means a unit of land not created solely to establish a separate tax**
13 **account and:**

14 (A) **Created by partitioning land as defined in ORS 92.010;**

15 (B) **In compliance with all applicable planning, zoning, partitioning and**
16 **subdivision ordinances and regulations; or**

17 (C) **Created by deed or land sales contract if there were no applicable planning,**
18 **zoning, partitioning, or subdivision ordinances or regulations. As used in this**
19 **subparagraph, "created by" means a unit of land specifically described in the deed or**
20 **land sales contract, or a remnant unit of land resulting from such deed or land sales**
21 **contract.**

1 **(b) As used in this subsection, a lot or parcel remains a discrete lot or parcel**
2 **notwithstanding that it has been conveyed or described separately as two or more units**
3 **of land in a single recorded deed or land sales contract.**

4 **(4) "Lawfully created lot or parcel" includes:**

5 **(a) Lots created by recordation of a subdivision plat.**

6 **(b) Parcels created by the recordation of a partition plat.**

7 **(c) Parcels created by deed or land sales contract prior to February 12, 1974**
8 **(effective date of Lincoln County Ordinance #34, Zoning).**

9 **(d) Parcels created by deed or land sales contract after February 12, 1974 and**
10 **before September 22, 1982 (effective date of Lincoln County Ordinance #180, Minor**
11 **Partitioning Procedures) in conformance with requirements imposed by zoning in effect**
12 **at the time of creation.**

13 **(e) Parcels created through final approval of a land partition granted by**
14 **Lincoln County after September 22, 1982.**

15 **(f) Parcels created by deed or land sales contract recorded prior to November 5,**
16 **1991, based on a division by a public road or alley. In accordance with ORS 92.177,**
17 **such parcels shall be recognized as lawfully created upon application for land use**
18 **approval; the date of creation of such parcels shall be the date of approval of such**
19 **application.**

20 **[(2)] (5) "Tract" means one or more contiguous lots or parcels under the same**
21 **ownership.**

1 //

2 **SECTION 2.**

3 LCC 1.1373 is amended to read:

4 1.1373 Agricultural Conservation Zone A-C

5 In an A-C zone, the following regulations shall apply:

6 (1) Uses Permitted Outright:

7 The following uses and their accessory uses are permitted subject to the applicable
8 provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599 and 1.1901 to 1.1999:

9 (a) Farm use as defined in ORS 215.203.

10 (b) Other buildings customarily provided in conjunction with farm use.

11 (c) Propagation and harvesting of a forest product.

12 (d) Creation, restoration and enhancement of wetlands.

13 (e) A winery as defined in ORS 215.452.

14 (f) Operations for the exploration of geothermal resources as defined by ORS 522.005,
15 oil and gas as defined by ORS 520.005, or minerals as defined by ORS 517.750.

16 (g) Climbing and passing lanes within a highway right of way existing as of July 1,
17 1987.

18 (h) Reconstruction or modification of public roads and highways, not including the
19 addition of travel lanes, where no removal or displacement of structures would occur, and no
20 new land parcels would be created.

1 (i) Temporary public road and highway detours that will be abandoned and restored to
2 original condition when no longer needed.

3 (j) Minor betterment of existing public roads and highway related facilities, such as
4 maintenance yards, weigh stations and rest areas within right of way existing as of July 1,
5 1987, and contiguous public-owned property utilized to support the operation and maintenance
6 of public roads and highways.

7 (k) Alteration, restoration or replacement of a lawfully established dwelling that:

8 (A) Has intact interior walls and roof structure;

9 (B) Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities
10 connected to a sanitary waste disposal system;

11 (C) Has interior wiring or interior lights;

12 (D) Has a heating system; and

13 (E) In the case of replacement, is removed, demolished or converted to a permitted
14 nonresidential use within 90 days of completion of the replacement dwelling.

15 (2) Conditional Uses Permitted:

16 The following uses and their accessory uses may be permitted subject to the applicable
17 provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to
18 1.1999:

19 (a) One single family dwelling customarily provided in conjunction with farm use,
20 subject to subsection (3) of this section.

1 (b) One single family dwelling not provided in conjunction with farm use, subject to
2 subsection (4) of this section.

3 (c) One single family dwelling on a tract of record, meeting the following
4 qualifications:

5 (A) The lot or parcel on which the dwelling is to be sited was lawfully created and was
6 acquired by the present owner prior to January 1, 1985, or by devise or intestate succession
7 from a person who acquired the lot or parcel prior to January 1, 1985.

8 (B) The tract upon which the dwelling is to be sited does not include another a
9 dwelling.

10 (C) The lot or parcel upon which the dwelling is to be sited is not on high value
11 farmland.

12 (D) If the tract on which the dwelling is to be sited consists of more than one lot or
13 parcel, all lots and parcels within the tract shall be consolidated into a single lot or parcel.

14 (E) The director shall notify the county assessor of any decision to permit a dwelling
15 under this subsection.

16 (F) As used in subparagraph (A) of this paragraph, "owner" includes the wife, husband,
17 son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law,
18 daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent,
19 stepchild, grandparent or grandchild of the owner, or a business entity owned by any one or
20 combination of these family members.

21 (d) A farm help dwelling.

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NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 (e) A medical hardship dwelling.

2 (f) Primary processing of forest products.

3 (g) Public or private schools, including all buildings essential to the operation of a
4 school, except that no such use may be authorized within three miles of an urban growth
5 boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660,
6 division 4, and further that no such use may be authorized on high value farmland.

7 (h) Churches and cemeteries in conjunction with churches, except that no such use may
8 be authorized within three miles of an urban growth boundary, unless an exception is approved
9 pursuant to ORS 197.732 and OAR chapter 660, division 4, and further that no such use may
10 be authorized on high value farmland.

11 (i) Utility facilities necessary for public service, excluding commercial utility facilities
12 for the purpose of generating power for public use by sale and transmission towers over 200
13 feet in height. A facility is necessary if it must be situated in an A-C zone in order for the
14 service to be provided.

15 (j) A replacement dwelling to be used in conjunction with farm use if the existing
16 dwelling has been listed in a county inventory as historic property and is listed on the National
17 Register of Historic Places.

18 (k) Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland
19 cement, except that asphalt production shall not be permitted within two miles of a producing
20 vineyard of 40 acres or more which is planted as of the date that the application for asphalt
21 production is filed.

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1 (3) Additional Conditional Uses Permitted that are Subject to OAR 660-33-130(5):

2 The following uses and their accessory uses may be permitted subject to the provisions
3 of subsection (6) of this section and the applicable provisions of LCC 1.1401 to 1.1499, 1.1501
4 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

5 (a) Propagation, cultivation, maintenance, and harvesting of aquatic species.

6 (b) Residential home as defined in ORS 197.675 in an existing dwelling.

7 (c) Commercial activities in conjunction with farm use.

8 (d) Home occupation.

9 (e) Dog kennels, except that such uses are prohibited on high value farmland.

10 (f) Operations for the production of geothermal resources as defined in ORS 522.005,
11 and oil and gas as defined in ORS 520.005.

12 (g) Operations conducted for the mining, crushing or stockpiling of mineral, aggregate
13 and other subsurface resources subject to ORS 215.298.

14 (h) Personal use airports and heliports, including associated hangars and maintenance
15 and service facilities.

16 (i) Private parks, playgrounds, hunting and fishing preserves and campgrounds, except
17 that such uses are prohibited on high value farmland.

18 (j) Parks, playgrounds or community centers owned by a governmental agency or
19 non-profit community organization.

20 (k) Golf courses, except that such uses are prohibited on high value farmland.

21 (L) Transmission towers over 200 feet in height.

1 (m) Commercial utility facilities for the purpose of generating power for public use by
2 sale. A power generation facility shall not preclude more than 12 acres of high value farmland
3 or 20 acres of other land from commercial farm use unless an exception is approved pursuant
4 to OAR chapter 660, division 4.

5 (n) A site for the disposal of solid waste approved by a city or county governing body
6 and for which a permit has been granted by the Department of Environmental Quality under
7 ORS 459.245, including the equipment, facilities, and buildings necessary for its operation,
8 except that such uses are prohibited on high value farmland.

9 (o) Construction of additional passing and travel lanes requiring the acquisition of right
10 of way, but not resulting in the creation of new land parcels.

11 (p) Reconstruction or modification of public roads and highways involving the removal
12 or displacement of structures, but not resulting in the creation of new land parcels.

13 (q) Improvement of public roads and highway related facilities such as maintenance
14 yards, weigh stations, and rest areas, where additional property or right of way is required, but
15 not resulting in the creation of new land parcels.

16 (4) Requirements for Dwellings Customarily Provided in Conjunction with Farm Use:

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

19 (A) The parcel on which the dwelling will be located is at least 160 acres;

20 (B) The subject tract is currently employed for farm use, as defined in ORS 215.203;

1 (C) The dwelling will be occupied by a person or persons who will be principally
2 engaged in the farm use of the land, such as planting, harvesting, marketing or caring for
3 livestock, at a commercial scale; and

4 (D) There is no other dwelling on the subject tract.

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

7 (A) The subject tract is currently employed for the farm use, as defined in ORS
8 215.203, that produced in the last two years, or three of the last five years, gross annual income
9 of at least \$22,500. In determining the gross income required by this subparagraph, the cost of
10 purchased livestock shall be deducted from the total gross income attributed to the tract;

11 (B) There is no other dwelling on the subject tract; and

12 (C) The dwelling will be occupied by a person or persons who produced the
13 commodities which generated the grossed income described in subparagraph (A) of this
14 paragraph.

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

17 (A) The subject tract is at least as large as the median size of those commercial farm or
18 ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within
19 a study area which includes all tracts wholly or partially within one mile from the perimeter of
20 the subject tract;

1 (B) The subject tract is capable of producing at least the median level of annual gross
2 sales of county indicator crops as the same commercial farm or ranch tracts used to calculate
3 the tract size in subparagraph (A) of this paragraph;

4 (C) The subject tract is currently employed for a farm use, as defined in ORS 215.203,
5 at a level capable of producing the annual gross sales required in subparagraph (B) of this
6 paragraph;

7 (D) The subject lot or parcel on which the dwelling is proposed is not less than 10
8 acres;

9 (E) There is no other dwelling on the subject tract; and

10 (F) If no farm use has been established at the time of application, land use approval
11 shall be subject to a condition that no building permit may be issued prior to the establishment
12 of the farm use required by subparagraph (C) of this paragraph.

13 (d) In order to identify the commercial farm or ranch tracts to be used in paragraph (c)
14 of this subsection, the gross sales capability of each tract in the study area including the subject
15 tract must be determined, using the gross sales figures provided by the Land Conservation and
16 Development Commission pursuant to OAR 660-33-135(4) as follows:

17 (A) Identify the study area. This includes all the land in the tracts wholly or partially
18 within one mile of the perimeter of the subject tract;

19 (B) Determine for each tract in the study area the number of acres in every land
20 classification from the county assessor's data;

1 (C) Determine the potential earning capability for each tract by multiplying the number
2 of acres in each land class by the gross sales per acre for each land class provided by the LCDC
3 pursuant to OAR 660-33-135(4). Add these to obtain the potential earning capability for each
4 tract.

5 (D) Identify those tracts capable of grossing at least \$10,000 dollars based on the data
6 generated in subparagraph (C) of this paragraph; and

7 (E) Determine the median size and median gross sales capability for those tracts
8 capable of generating at least \$10,000 dollars in annual gross sales to use in subparagraphs (A)
9 and (B) of paragraph (c) of this subsection.

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

12 (A) The subject tract is currently employed for the farm use, as defined in ORS
13 215.203, that produced at least \$80,000, in 1994 dollars, in gross annual income from the sale
14 of farm products in the last two years or three of the last five years. In determining the gross
15 income required by this subparagraph, the cost of purchased livestock shall be deducted from
16 the total gross income attributed to the tract;

17 (B) There is no other dwelling on the subject tract; and

18 (C) The dwelling will be occupied by a person or persons who produced the
19 commodities which generated the gross income described in subparagraph (A) of this
20 paragraph.

1 **(f) A dwelling customarily provided in conjunction with farm use shall be located**
2 **on a lawfully created lot or parcel.**

3 (5) Requirements for Dwellings Not Provided in Conjunction With Farm Use:

4 Dwellings not provided in conjunction with farm use may be authorized upon findings
5 that:

6 (a) The dwelling or activities associated with the dwelling will not force a significant
7 change in, or significantly increase the cost of, accepted farming or forest practices on nearby
8 lands devoted to farm or forest use;

9 (b) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is
10 generally unsuitable land for the production of farm crops and livestock **or merchantable tree**
11 **species**, considering the terrain, adverse soil or land conditions, drainage and flooding,
12 vegetation, location and size of the tract. A lot or parcel shall not be considered unsuitable
13 solely because of size or location if it can reasonably be put to farm or forest use in conjunction
14 with other land. If the parcel is under forest assessment, the dwelling shall be situated upon
15 generally unsuitable land for the production of merchantable tree species recognized by the
16 Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and
17 flooding, vegetation, location and size of the parcel. A lot or parcel is not "generally
18 unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel
19 can be sold, leased, rented or otherwise managed as part of a commercial farm or ranch, it is
20 not "generally unsuitable." A lot or parcel is presumed to be suitable if it is composed
21 predominantly of Class I-IV soils. Just because a lot or parcel is unsuitable for one farm use

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1 does not mean it is not suitable for another farm use. If the parcel is under forest assessment,
2 the area is not "generally unsuitable" simply because it is too small to be managed for forest
3 production profitably by itself. If a lot or parcel under forest assessment can be sold, leased,
4 rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable."
5 If a lot or parcel is under forest assessment, it is presumed suitable if it is composed
6 predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year. If a
7 lot or parcel is under forest assessment, to be found compatible and not seriously interfere with
8 forest uses on surrounding land it must not force a significant change in forest practices or
9 significantly increase the cost of those practices on the surrounding land; *[and]*

10 (c) The dwelling will not materially alter the stability of the overall land use pattern of
11 the area. In determining whether a proposed nonfarm dwelling will alter the stability of the
12 land use pattern in the area, the director or commission shall consider the cumulative impact of
13 nonfarm dwellings on other lots or parcels in the area similarly situated. If the application
14 involves the creation of a new parcel for the nonfarm dwelling, the director or commission
15 shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to
16 the detriment of agriculture in the area; **and**

17 **(d) The dwelling will be located on a lawfully created lot or parcel.**

18 (6) Requirements for Conditional Uses Subject To OAR 660-33-130(5):

19 Approval of uses subject to the requirements of this subsection requires findings that
20 such uses:

1 (a) Will not force a significant change in a accepted farm or forest practices on
2 surrounding lands devoted to farm or forest use; and

3 (b) Will not significantly increase the cost of accepted farm or forest practices on lands
4 devoted to farm or forest use.

5 (7) Additional Tax Payment Requirements:

6 Any conditional use approval for a non-farm use in the A-C zone shall require as a
7 condition that, prior to final permit approval, verification be provided from the Lincoln County
8 Assessor that any additional taxes imposed on the change in use have been paid.

9 (8) Lot Size Standards:

10 (a) The minimum lot size shall be 80 acres.

11 (b) Land divisions creating parcels of less than 80 acres may be permitted for non-farm
12 uses authorized in accordance with subsection (2) or (3) of this section. Such new parcels shall
13 be the minimum size needed to accommodate the authorized use. No new parcels for non-farm
14 uses may be created until after the subject use has been authorized in accordance with
15 subsections (2) or (3) of this section.

16 (c) New lots or parcels for dwellings not in conjunction with farm use may be
17 permitted only if the dwelling has been authorized in accordance with subsection (2) or (3) of
18 this section and:

19 (A) The remaining lot or parcel not containing the dwelling meets the minimum 80
20 acre parcel size of the A-C zone; or

1 (B) The remaining lot or parcel not containing the dwelling is consolidated with an
2 adjoining lot or parcel which together meet the 80 acre minimum parcel size of the A-C zone.

3 (d) New parcels created for dwellings not in conjunction with farm use shall be a
4 minimum of two acres.

5 (8) Dimensional Standards:

6 (a) The front yard shall be a minimum of 20 feet.

7 (b) Each side yard shall be a minimum of five feet, or one foot for each three feet of
8 building height, whichever is greater.

9 (c) The rear yard shall be a minimum of 10 feet, except that on a corner lot it shall be a
10 minimum of either five feet, or one foot for each three feet of building height, whichever is
11 greater.

12 (d) No structure shall be located closer than 30 feet from the right of way of any state
13 highway, and no structure shall be located closer than 30 feet from the right of way of any
14 arterial or collector street which has a right of way width of less than 60 feet.

15 (e) No dwelling or residential accessory structure shall exceed a height of 30 feet.

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1 **SECTION 3.**

2 LCC 1.1375 is amended to read:

3 1.1375 Timber Conservation Zone T-C

4 In a T-C zone the following regulations shall apply:

5 (1) Uses Permitted Outright:

6 The following uses and their accessory uses are permitted outright, subject to
7 applicable siting criteria, other applicable provisions of this section, and applicable provisions
8 of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1901-1.1999:

9 (a) Forest operations or forest practices including, but not limited to, reforestation of
10 forest land, road construction and maintenance, harvesting of a forest tree species, application
11 of chemicals, and disposal of slash.

12 (b) Temporary on-site structures which are auxiliary to and used during the term of a
13 particular forest operation. As used in this paragraph, "auxiliary" means a use or alteration of a
14 structure or land which provides help or is directly associated with the conduct of a particular
15 forest practice. An "auxiliary structure" is located on-site, temporary in nature, and is not
16 designed to remain for the forest's entire growth cycle from planting to harvesting. An
17 auxiliary use is removed when a particular forest practice has concluded.

18 (c) Physical alterations to the land auxiliary to forest practices, including but not
19 limited to, those made for purposes of exploration, mining, commercial gravel extraction and
20 processing, landfills, dams, reservoirs, road construction or recreational facilities.

1 (d) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries
2 resources.

3 (e) Farm use as defined in ORS 215.203.

4 (f) Local distribution lines, such as electric, telephone and natural gas, and accessory
5 equipment, such as electric distribution transformers, poles, meter cabinets, terminal boxes,
6 pedestals, or equipment which provides service hookups, including water service hookups.

7 (g) Temporary portable facility for the primary processing of forest products. The
8 facility shall not be placed on a permanent foundation and shall be removed at the conclusion
9 of the forest operation requiring its use.

10 (h) Temporary forest labor camps limited to the duration of the forest operation
11 requiring the use.

12 (i) Exploration for, and production of, geothermal, gas, oil, and other associated
13 hydrocarbons, including the placement and operation of compressors, separators and other
14 customary production equipment for an individual well adjacent to the well head as defined in
15 ORS chapters 517 and 520.

16 (j) Caretaker residences for public parks and fish hatcheries.

17 (k) Private hunting and fishing operations without any accommodations.

18 (L) Exploration for mineral and aggregate resources as defined in ORS chapter 517.

19 (m) Towers and fire stations for forest fire protection.

20 (n) Widening of roads within existing rights-of-way in conformance with the
21 transportation element of acknowledged comprehensive plans, including public road and

1 highway projects as described in ORS 215.213(1)(L) through (o) and ORS 215.283(1)(k)
2 through (n).

3 (o) Water intake facilities, canals and distribution lines for farm irrigation and ponds.

4 (p) Uninhabitable structures accessory to fish and wildlife enhancement.

5 (q) Alteration, restoration or replacement of a lawfully established dwelling that:

6 (A) Has intact interior walls and roof structure;

7 (B) Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities
8 connected to a sanitary waste disposal system;

9 (C) Has interior wiring or interior lights;

10 (D) Has a heating system; and

11 (E) In the case of replacement, is removed, demolished or converted to a permitted
12 nonresidential use within 90 days of completion of the replacement dwelling.

13 (2) Conditional Uses Permitted:

14 The following uses may be permitted subject to provisions of subsection (3) of this
15 section and applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to
16 1.1699, and 1.1901 to 1.1999:

17 (a) Permanent facility for the primary processing of forest products.

18 (b) Permanent logging equipment repair and storage.

19 (c) Log scaling and weigh stations.

1 (d) Disposal site for solid waste approved by the governing body of a city or county or
2 both and for which the Department of Environmental Quality has granted a permit under ORS
3 459.245, together with equipment, facilities or buildings necessary for its operation.

4 (e) Parks and campgrounds.

5 (f) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS
6 chapter 520, and not otherwise permitted under paragraph (i) of subsection (1) of this section,
7 such as compressors, separators and storage serving multiple wells, and mining and processing
8 of aggregate and mineral resources as defined in ORS chapter 517.

9 (g) Television, microwave and radio communication facilities and transmission towers.

10 (h) Fire stations for rural fire protection.

11 (i) Utility facilities for the purpose of generating power. A power generation facility
12 shall not preclude more than 10 acres from use as a commercial forest operation unless an
13 exception is taken pursuant to OAR 660, Division 4;

14 (j) Aids to navigation and aviation.

15 (k) Water intake facilities, related treatment facilities, pumping stations, and
16 distribution lines.

17 (L) Reservoirs and water impoundments.

18 (m) Firearms training facility.

19 (n) Cemeteries.

20 (o) Private seasonal accommodations for fee hunting operation, subject to subsections
21 (3), (6) and (7) of this section and the following requirements:

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1 (A) Accommodations are limited to no more than 15 guest rooms as that term is
2 defined in the Oregon Structural Specialty Code.

3 (B) Only minor incidental and accessory retail sales are permitted.

4 (C) Accommodations are occupied temporarily for the purpose of hunting during game
5 bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

6 (p) New electric transmission lines with right-of-way widths of up to 100 feet as
7 specified in ORS 772.210. New distribution lines, such as gas, oil and geothermal, with
8 rights-of-way 50 feet wide or less in width.

9 (q) Temporary asphalt and concrete batch plants as accessory uses to specific highway
10 projects.

11 (r) Home occupations.

12 (s) Medical hardship dwelling.

13 (t) Expansion of existing airports.

14 (u) Public road and highway projects as described in ORS 215.213(2)(p) through (r)
15 and ORS 215.283(2)(p) through (r).

16 (v) Private accommodations for fishing occupied on a temporary basis, subject to
17 subsections (3), (6) and (7) of this section, and the following requirements:

18 (A) Accommodations limited to no more than 15 guest rooms, as that term is defined in
19 the Oregon Structural Specialty Code;

20 (B) Only minor incidental and accessory retail sales are permitted;

1 (C) Accommodations occupied temporarily for the purpose of fishing during fishing
2 seasons authorized by the Oregon Fish and Wildlife Commission; and

3 (D) Accommodations must be located within 1/4 mile of fish bearing Class I waters.

4 (w) Forest management research and experimentation facilities as defined by ORS
5 526.215 or where accessory to forest operations.

6 (x) One single-family dwelling on a tract meeting the following qualifications:

7 (A) The lot or parcel on which the dwelling is to be sited was lawfully created and was
8 acquired by the present owner prior to January 1, 1985, or by devise or intestate succession
9 from a person who acquired the lot or parcel prior to January 1, 1985. As used in this
10 subparagraph, "owner" includes the wife, husband, son, daughter, mother, father, brother,
11 brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law,
12 aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner, or a
13 business entity owned by any one or combination of these family members.

14 (B) The tract upon which the dwelling is to be sited does not include another dwelling.

15 (C) The tract is composed of soils not capable of producing 5,000 cubic feet per year of
16 commercial tree species.

17 (D) The tract is located within 1,500 feet of a maintained public road as defined in ORS
18 368.001 that is either paved or surfaced with rock, but not including United States Forest
19 Service and Bureau of Land Management roads.

20 (E) If the tract on which the dwelling is to be sited consists of more than one lot or
21 parcel, all lots and parcels within the tract shall be consolidated into a single lot or parcel.

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1 (y) Non-forest dwelling, subject to the provisions of subsections (5), (6) and (7) of this
2 section.

3 (z) One single family dwelling on a tract of 160 or more contiguous acres **and located**
4 **on a lawfully created lot or parcel.**

5 (3) Limitations on Conditional Uses:

6 The Planning Director or Commission shall determine whether a use other than a
7 dwelling authorized by subsection (2) of this section meets the following requirements. These
8 requirements are designed to make the use compatible with forest operations and agriculture,
9 and to conserve values found on forest lands:

10 (a) The proposed use will not force a significant change in, or significantly increase the
11 cost of, accepted farming or forest practices on agriculture or forest lands;

12 (b) The proposed use will not significantly increase fire hazard, significantly increase
13 fire suppression costs, or significantly increase risks to fire suppression personnel; and

14 (c) A written statement recorded with the deed or written contract with the county or its
15 equivalent is obtained from the land owner which recognizes the rights of adjacent and nearby
16 land owners to conduct forest operations consistent with the Forest Practices Act and
17 paragraphs (e), (l), (r), (s) and (v) of subsection (2) of this section.

18 (4) Lot Size Standards:

19 (a) The minimum lot size shall be 80 acres.

20 (b) Land divisions creating parcels less than 80 acres in size may be approved:

1 (A) For uses which have been authorized in accordance with paragraphs (a) through (n)
2 of subsection (2) of this section. Such parcels shall be the minimum size necessary to
3 accommodate the authorized use.

4 **(B) To allow the establishment of a parcel for an existing dwelling, subject to the**
5 **following requirements:**

6 **(i) The parcel established shall be not larger than five acres, except as necessary**
7 **to recognize physical factors such as roads or streams, in which case the parcel shall be**
8 **no larger than 10 acres;**

9 **(ii) The dwelling was lawfully established prior to June 1, 1995;**

10 **(iii) The remaining parcel, not containing the dwelling, is 80 acres or more in**
11 **size or is consolidated with another parcel, and together the parcels are 80 acres or**
12 **more in size;**

13 **(iv) The remaining parcel, not containing the dwelling, is not entitled to a**
14 **dwelling; and**

15 **(v) The applicant landowner agrees to record in the deed records of the county a**
16 **restriction applicable to the remaining parcel not containing the dwelling which**
17 **prohibits the placement of any new dwellings on the parcel, and is irrevocable unless a**
18 **statement is signed by the director indicating that the comprehensive plan or land use**
19 **regulations applicable to the property have been changed in such a manner that the**
20 **parcel is no longer subject to statewide planning goals pertaining to forest land; and**

21 **(vi) The applicant landowner agrees to record in the deed records of the county**

1 a statement declaring that the landowner will not in the future complain about
2 accepted farming or forest practices on nearby lands devoted to farm or forest use..

3 (c) The director shall maintain a record of parcels that do not qualify for the
4 siting of a new dwelling under the restrictions imposed by subsubparagraph (v) of
5 subparagraph (B) of paragraph (b) of this subsection. The record shall be readily
6 available to the public for inspection.

7 (5) Non-Forest Dwellings:

8 (a) Tracts Not Abutting a Public Road or Perennial Stream and Tracts of Less Than 60
9 Acres Which Abut a Perennial Stream:

10 A non-forest dwelling to be sited on a tract which does not abut a road or perennial
11 stream, or which abuts a perennial stream and is less than 60 acres in size, shall meet the
12 following qualifications:

13 (A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are
14 within a 160 acre square centered on the subject tract; and

15 (B) At least three dwellings existed on January 1, 1993, anywhere on the other lots or
16 parcels described in subparagraph (A) of this paragraph.

17 (b) Tracts of Less Than 60 Acres Which Abut a Public Road:

18 A non-forest dwelling to be sited on a tract which is less than 60 acres in size and
19 which abuts a road that existed on January 1, 1993, shall meet the following qualifications:

20 (A) All or part of 11 other lots or parcels that existed on January 1, 1993, are within
21 either a 160 acre square centered on the subject tract or a 160 acre rectangle 1/4 mile wide and

1 one mile long, centered on the subject tract and, to the maximum extent possible, aligned with
2 the road; and

3 (B) At least three other dwellings existed on January 1, 1993, on the other lots or
4 parcels described in subparagraph (A) of this paragraph.

5 (c) Tracts of 60 Acres or Greater Which Abut a Public Road or Perennial Stream:

6 A non-forest dwelling to be sited on tract which is 60 acres or greater in size and which
7 abuts a road or perennial stream shall meet the following qualifications:

8 (A) All or part of 11 other lots or parcels that existed on January 1, 1993, are within a
9 160 acre rectangle 1/4 mile wide and one mile long centered on the subject tract and, to the
10 maximum extent possible, aligned with the road or stream;

11 (B) At least three other dwellings existed on January 1, 1993, on the other lots or
12 parcels described in subparagraph (A) of this paragraph. At least one of the three dwellings
13 shall be on the same side of road or stream as the subject tract, and shall be either within the
14 160 acre rectangle or within 1/4 mile of the edge of the subject tract but not outside the length
15 of the 160 acre rectangle; and

16 (C) If a road crosses the subject tract, at least one of the three required dwellings shall
17 be on the same side of the road as the proposed dwelling.

18 (d) Lots or parcels within urban growth boundaries shall not be counted toward
19 satisfying the qualification requirements for any dwelling permitted under this subsection.

20 (e) No dwelling may be permitted under this subsection on any tract which includes a
21 dwelling.

1 (f) If the lot or parcel upon which a dwelling permitted under this subsection is to be
2 sited is part of a tract, no additional dwellings may be permitted on any other lot or parcel
3 within the tract. Deed restrictions shall be established pursuant to and in accordance with
4 subsection (6) of this section.

5 **(g) All dwellings permitted under this subsection shall be located on a lawfully**
6 **created lot or parcel.**

7 (6) General Requirements for All Dwellings:

8 In addition to the other applicable requirements of this chapter and this section, all
9 dwellings authorized in the T-C zone shall be subject to the following conditions:

10 (a) The director shall notify the county assessor of any decision to approve a dwelling
11 in the T-C zone.

12 (b) Approval of a dwelling requires the owner of the tract to plant a sufficient number
13 of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of
14 Forestry stocking requirements at the time specified in Department of Forestry administrative
15 rules.

16 (c) The planning department shall notify the county assessor of the above condition at
17 the time the dwelling is approved.

18 (d) The property owner shall submit a stocking survey report to the county assessor and
19 the assessor shall verify that the minimum stocking requirements have been met by the time
20 required by Department of Forestry Rules. The assessor shall inform the Department of

1 Forestry in cases where the property owner has not submitted a stocking survey report or
2 where the survey report indicates that minimum stocking requirements have not been met.

3 (e) Upon notification by the assessor the Department of Forestry shall determine
4 whether the tract meets minimum stocking requirements of the Forest Practices Act. If the
5 department determines that the tract does not meet those requirements, the department shall
6 notify the owner and the assessor that the land is not being managed as forest land. The
7 assessor shall then remove the forest land designation pursuant to ORS 321.359 and impose
8 the additional tax pursuant to ORS 321.372.

9 (f) The applicant shall provide evidence to the governing body that the domestic water
10 supply is from a source authorized in accordance with the Water Resources Department's
11 administrative rules for the appropriation of ground water or surface water and not from a
12 Class II stream as defined in the Forest Practices Rules, OAR chapter 629. For purposes of
13 this subsection, evidence of a domestic water supply means:

14 (A) Verification from a water purveyor that the use described in the application will be
15 served by the purveyor under the purveyor's rights to appropriate water;

16 (B) A water use permit issued by the Water Resources Department for the use
17 described in the application; or

18 (C) Verification from the Water Resources Department that a water use permit is not
19 required for the use described in the application. If the proposed water supply is from a well
20 and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the
21 well constructor's report to the county upon completion of the well.

1 (g) If road access to the dwelling is by a road owned and maintained by a private party
2 or by the Oregon Department of Forestry, the United States Bureau of Land Management, or
3 the United States Forest Service, then the applicant shall provide proof of a long-term road
4 access use permit or agreement. The road use permit may require the applicant to agree to
5 accept responsibility for road maintenance.

6 (h) For dwellings which are approved on a tract consisting of more than one lot or
7 parcel, the applicant shall provide copies of covenants and restrictions which:

8 (A) Are set forth on a form prescribed by the division and recorded in the deed records
9 of the county;

10 (B) Prohibit the location of any additional dwellings on any lot or parcel which is a part
11 of the tract; and

12 (C) Are irrevocable, unless a statement of release is signed by the director and the
13 Director of the Department of Land Conservation and Development.

14 (i) Enforcement of the covenants and restrictions required by this section may be
15 undertaken by the Department of Land Conservation and Development or by Lincoln County.

16 (j) Failure to follow the covenants and restrictions requirements of this section shall not
17 affect the validity of the transfer of property or the legal remedies available to the buyers of
18 property which is subject to the covenants and restrictions.

19 (k) The director shall maintain a copy of the covenants and restrictions filed in the
20 county deed records pursuant to this section and a map or other record depicting tracts which

1 do not qualify for the siting of a dwelling under the covenants and restrictions. This map or
2 other record shall be available to the public in the division office.

3 (7) Siting and Fire Protection Standards for Dwellings:

4 The following siting fire protection standards shall apply to all new dwellings:

5 (a) Dwellings and structures shall be sited on the subject lot or parcel so that:

6 (A) They have the least impact on nearby or adjoining forest lands;

7 (B) The siting ensures that adverse impacts on forest operations and accepted farming
8 practices on the tract will be minimized;

9 (C) The amount of forest land used to site access roads, service corridors, the dwelling
10 and structures is minimized; and

11 (D) The risks associated with wildfire are minimized. The division or commission may
12 impose conditions on any dwelling approval which are deemed necessary to ensure
13 conformance with the standards contained in this paragraph, including, but not limited to,
14 requiring increased setbacks from adjoining properties, siting on that portion of a property least
15 suitable for growing trees, or clustering near existing dwellings or roads.

16 (b) Dwellings shall have fire retardant roofs conforming to the requirements of Section
17 R 221.4.2.1 of the State of Oregon One and Two Family Dwelling Specialty Code, 1993
18 Edition.

19 (c) Dwellings shall be sited on slopes of 40 percent or less.

20 (d) A primary fire break no less than 30 feet wide shall be provided and maintained.

21 The primary firebreak may include a lawn, ornamental shrubbery or individual or groups of

1 trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15
2 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels
3 shall be removed.

4 (e) A secondary firebreak cleared of all dead fuels shall be provided and maintained.

5 The size of the secondary firebreak shall be:

6 (A) On slopes of less than 10 percent, 50 feet beyond the primary firebreak.

7 (B) On slopes of 11 to 25 percent, 75 feet beyond the primary firebreak.

8 (C) On slopes of 26 to 40 percent, 100 feet beyond the primary firebreak.

9 (D) On slopes greater than 40 percent, 150 feet beyond the primary firebreak.

10 (f) All chimneys shall be equipped with a spark arrester.

11 (g) If a dwelling is to be located on a parcel that is not within a fire protection district,
12 the applicant shall provide evidence that the applicant has asked to be included in the nearest
13 such district.

14 (h) If a dwelling is to be located on a lot or parcel that is not within a fire protection
15 district, either:

16 (A) The applicant shall provide evidence that residential fire protection is provided to
17 the property by contract and that such contracted service is comparable to that generally
18 provided by fire protection districts in the rural areas of the county; or

19 (B) On site fire protection means are provided. Such means shall consist of:

20 (i) Fire sprinkling system or systems;

1 (ii) On-site water storage and pumping equipment. Such a water supply shall consist of
2 a swimming pool, pond, lake or similar body of water and at all times contains at least 4,000
3 gallons or a stream with a minimum flow of one CFS. Road access shall be provided to within
4 15 feet of the water's edge for fire fighting equipment and shall provide a turnaround for fire
5 fighting equipment; or

6 (iii) Other methods which provide at least a comparable level of protection to that
7 contained in subsubparagraphs (i) and (ii) of this subparagraph, and which are reasonable given
8 site conditions.

9 (8) Fire Safety Design Standards for Roads:

10 The following standards apply to all roads and driveways which access uses permitted
11 under subsection (1) of this section or approved under subsection (2) of this section, except for
12 private roads accessing only commercial forest uses:

13 (a) Width: Access roads serving three or fewer dwellings shall have a 12 foot
14 improved width and a 20 foot horizontal clearance. Access roads serving more than three
15 dwellings shall have a 16 foot improved width and a 20 foot horizontal clearance.

16 (b) Construction: Access roads must be improved with an all weather surface. Roads,
17 bridges and culverts shall be designed and maintained to support a minimum gross vehicle
18 weight (GVW) of 50,000 pounds. If bridges or culverts are involved in the construction of a
19 road or driveway, written verification of compliance with the 50,000 pound GVW standard
20 shall be provided by a professional engineer, registered in Oregon.

1 (c) Vertical Clearance: Access roads shall have an unobstructed vertical clearance of
2 not less than 13.5 feet.

3 (d) Turnarounds: Dead end roads over 150 feet in length shall provide a turnaround
4 adequate for emergency vehicles.

5 (e) Turnouts: Access roads greater than 400 feet in length shall have turnouts at a
6 maximum spacing of one-half the length of the access road or 400 feet, whichever is less.
7 Turnouts shall be required more frequently where visibility is limited. Turnouts shall be an all
8 weather surface at least 10 feet wide and 40 feet long.

9 (f) Road Grade: Road grades shall not exceed 12 percent, except that a maximum of
10 15 percent may be permitted on pitches less than 200 feet long. Variations from these
11 standards may be granted by the fire service having responsibility for the area when
12 topographic conditions make these standards impractical and where the local fire protection
13 district states that their fire fighting equipment can negotiate the proposed road grades.

14 (g) The applicant shall provide an as-built certification stamped by a licensed
15 professional engineer registered in the State of Oregon verifying that road safety design
16 standards set forth in this section have been met.

17 (9) Dimensional Standards:

18 (a) The front yard shall be a minimum of 20 feet.

19 (b) Each side yard shall be a minimum of five feet, or one foot for each three feet of
20 building height, whichever is greater.

1 (c) The rear yard shall be a minimum of 10 feet, except for that on a corner lot the rear
2 yard shall be a minimum of either five feet, or one foot for each three feet of building height,
3 whichever is greater.

4 (d) No structure shall be located closer than 30 feet from the right of way of any state
5 highway, and no structure shall be located closer than 30 feet from the right of way of any
6 arterial or collector street which has a right of way width of less than 60 feet.

7 (e) No dwelling or residential accessory structure shall exceed a height of 30 feet.

8 **SECTION 4.**

9 Subsections (52) and (67) of LCC 1.1115 is amended to read:

10 **1.1115 Definitions**

11 As used in this Chapter:

12 * * *

13 (52) "Lot," as used in LCC 1.1101 through 1.1999, **but excepting LCC 1.1371 to**
14 **1.1375,** means an area of land with fixed boundaries, used or intended to be used by a single
15 use and its accessory uses and not divided by any public road or alley. "Lot," as used in LCC
16 1.3210 through 1.3270, means a unit of land created by a division of land.

17 (a) A "corner lot" is a lot abutting on two or more streets, other than an alley, at their
18 intersections.

19 (b) An "interior lot" is a lot other than a corner lot.

20 (c) A "lot area" is the total horizontal area within the lot lines of a lot exclusive of
21 public roads.

1 (d) A "lot depth" is the average horizontal distance between the front lot line and the
2 rear lot line.

3 (e) A "lot width" is the average horizontal distance between the side lot lines,
4 ordinarily measured parallel to the front lot line.

5 * * *

6 (67) "Partition land" means to divide an area or land into two or three parcels within a
7 calendar year *[when such an area or exists as a unit or contiguous at the beginning of such*
8 *year]*. "Partition land" does not include *[divisions]*:

9 (a) **A division or divisions** of land resulting from lien foreclosures, divisions of land
10 resulting from foreclosure of recorded contracts for the sale of real property and divisions of
11 land resulting from the creation of cemetery lots. *"Partition land" further does not include*
12 *any*;

13 (b) **An adjustment of a [lot or parcel] property** line by the relocation of a common
14 boundary where an additional parcel is not created and where the existing *[parcel] unit of*
15 **land** reduced in size is not reduced below the minimum lot size established by the applicable
16 use zone *[. Partition land does not include the sale of a lot in a recorded subdivision, even*
17 *though the lot may have been acquired prior to the sale with other contiguous lots or property*
18 *by a single owner.]*;

19 (c) **The division of land resulting from the recording of a subdivision or**
20 **condominium plat; or**

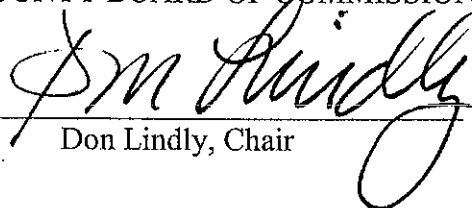
1 (d) A sale or grant to a public agency or public body for state highway, county
2 road, city street or other right-of-way purposes, if the road or right-of-way complies
3 with the comprehensive plan and ORS 215.283(2)(p) through (r). However, any
4 property divided by the sale or grant of property for state highway, county road, city
5 street or other right of way purposes shall continue to be considered a single unit of
6 land until such time as the property is further subdivided or partitioned.

7 **SECTION 5.**

8 This Ordinance being necessary for the immediate preservation of the public peace,
9 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon
10 its passage.

DATED this 19 day of July, 2000.

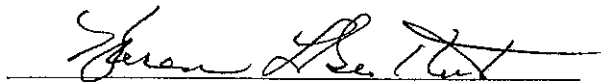
LINCOLN COUNTY BOARD OF COMMISSIONERS



Don Lindly, Chair

excused

Jean Cowan, Commissioner



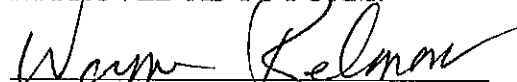
Karen L. Gerttula, Commissioner

ATTESTED TO:



Susan Kays, Recorder

APPROVED AS TO FORM:



Wayne Belmont, County Counsel