

Marion County, Oregon Code

Title 17 RURAL ZONING

Chapter 17.136 - EFU (EXCLUSIVE FARM USE) ZONE

This section revised 3/19; current through July 22, 2020

Sections:

- 17.136.010 Purpose.
- 17.136.020 Permitted uses.
- 17.136.030 Dwellings permitted subject to standards.
- 17.136.040 Uses permitted subject to standards. Revised 3/19
- 17.136.050 Conditional uses. Revised 3/19
- 17.136.060 Conditional use review criteria.
- 17.136.070 Non-farm dwelling requirements.
- 17.136.080 Existing dwellings and other structures.
- 17.136.090 Minimum parcel size, divisions of land, and property line adjustments.
- 17.136.100 Development requirements.
- 17.136.110 Contiguous ownership.
- 17.136.120 Permit expiration dates.
- 17.136.130 Consideration of soil classification changes for non-farm dwellings.
- 17.136.140 Definition of terms used in this chapter.

17.136.010 Purpose.

The purpose of the EFU (exclusive farm use) zone is to provide areas for continued practice of commercial agriculture. It is intended to be applied in those areas composed of tracts that are predominantly high-value farm soils as defined in OAR 660-033-0020(8). These areas are generally well suited for large-scale farming. It is also applied to small inclusions of tracts composed predominantly of non-high-value farm soils to avoid potential conflicts between commercial farming activities and the wider range of non-farm uses otherwise allowed on non-high-value farmland. Moreover, to provide the needed protection within cohesive areas it is sometimes necessary to include incidental land unsuitable for farming and some pre-existing residential acreage.

To encourage large-scale farm operations the EFU zone consolidates contiguous lands in the same ownership when required by a land use decision. It is not the intent in the EFU zone to create, through land divisions, small-scale farms. There are sufficient small parcels in the zone to accommodate those small-scale farm operations that require high-value farm soils. Subdivisions and planned developments are not consistent with the purpose of this zone and are prohibited.

To minimize impacts from potentially conflicting uses it is necessary to apply to non-farm uses the criteria and standards in OAR 660-033-0130 and in some cases more restrictive criteria are applied to ensure that adverse impacts are not created.

The EFU zone is also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county.

Non-farm dwellings generally create conflicts with accepted agricultural practices. Therefore, the EFU zone does not include the lot of record non-farm dwelling provisions in OAR 660-033-0130(3). The provisions limiting non-

farm dwellings to existing parcels composed on Class IV – VIII soils [OAR 660-033-0130(4)] are included because the criteria adequately limit applications to a very few parcels and allow case-by-case review to determine whether the proposed dwelling will have adverse impacts. The EFU zone is intended to be a farm zone consistent with OAR 660, Division 033 and ORS 215.283.

[Ord. 1369 § 4 (Exh. B), 2016; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.010.]

17.136.020 Permitted uses.

Within an EFU zone no building, structure or premises 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), provided a medical marijuana producer as defined in MCC 17.110.378 shall have visible grow lights turned off between the hours 7:00 p.m. and 7:00 a.m. and all activity shall take place indoors.
- B. The propagation or harvesting of a forest product.
- C. Buildings, other than dwellings, customarily provided in conjunction with farm use.
- D. Alteration, restoration, or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.136.100(C), when the dwelling:
 - 1. Is assessed in the current county assessor's records as a site-built dwelling or manufactured home.
 - 2. The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
 - a. Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
 - b. If the dwelling to be replaced is in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and
 - c. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.
 - 3. The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted to a nonresidential use.
 - 4. Replacement dwellings may sited on any part of the same lot or parcel. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned EFU, SA (special agriculture) or FT (farm/timber), 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 of dwellings have changed to allow the siting of another dwelling.
 - 5. Replacement under this section includes a dwelling replaced pursuant to MCC 17.136.080(C) when a fire report is provided at the time building permits are applied for.

E. Operations for the exploration for geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators, and customary production equipment for an individual well adjacent the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732.

F. Operations for the exploration for minerals as defined by ORS 517.750.

G. 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 publicly owned property utilized to support the operation and maintenance of public streets.

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

I. On-site filming and activities accessory to filming, as defined in MCC 17.136.140(A), if the activity would involve no more than 45 days on any site within a one-year period.

J. 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 least 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.

K. Single agri-tourism or other commercial event, excluding events that promote the sale of marijuana products or extracts, subject to MCC 17.125.130.

[Ord. 1372 § 4 (Exh. A), 2016; Ord. 1369 § 4 (Exh. B), 2016; Ord. 1330 § 4 (Exh. A), 2013; Ord. 1326 § 4 (Exh. A), 2012; Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.020.]

17.136.030 Dwellings permitted subject to standards.

The following dwellings may be established in the EFU zone with filing of the declaratory statement in MCC 17.136.100(C), subject to approval by the director, based on satisfaction of the standards and criteria listed for each type of dwelling pursuant to the procedures in Chapter 17.115 MCC.

A. Primary Farm Dwellings. A single-family dwelling 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 17.136.140(D) and satisfies the following standards:

a. There is no 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, not including marijuana. 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 (A)(1)(b) of this section;

d. The proposed dwelling will be occupied by a person or persons who produced the commodities which generated the income in subsection (A)(1)(b) of this section; or

2. It is not located on high-value farmland as defined in MCC 17.136.140(D) 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 the farm products, not including marijuana. In determining gross income, 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 (A)(2)(b) of this subsection;

d. The dwelling will be occupied by a person or persons who produced the commodities which generated the income required in subsection (A)(2)(b) of this subsection; or

3. It is not located on high-value farmland, as defined in MCC 17.136.140(D), 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, other than marijuana production;

- 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 for seasonal farmworker housing approved prior to 2001, 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 468B.200 through 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 subsection (A)(1) or (2) of this section, 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 subsection (A)(1) or (2) of this section, whichever is applicable; and
 - ii. At least the size of the applicable minimum lot size in this chapter; and:
 - (A) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract; and
 - (B) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in subsection (A)(2)(b) of this section;
 - (C) In determining the gross income required by subsections (A)(5)(a) and (b) 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 is located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

B. Secondary Farm Dwellings. Secondary (accessory) dwellings customarily provided in conjunction with farm use. The dwelling will be considered customarily provided in conjunction with farm use 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-round assistance in the management of the farm uses, 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 EFU, SA or FT zone 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 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 (B)(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 (B)(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 gross annual income from the sale of farm products, not including marijuana, 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, not including marijuana, 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 this chapter; 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 468B.200 through 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 (B)(4)(a) and (b) of this section, 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 filed with the county clerk requiring removal of the manufactured home or removal, demolition or conversion to a nonresidential 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.

C. A secondary single-family dwelling on real property used for farm use 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, step-parent, child, step-child, brother, sister, step-sibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use.
2. The farm operator shall continue to play the predominant role in management and 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 subsection (A)(1)(b) of this section, 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 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 is located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

D. Dwelling Alteration and Replacement. Alteration, restoration, or replacement of a lawfully established dwelling with filing of the declaratory statement in MCC 17.136.100(C), other than as permitted in MCC 17.136.020(D), when the dwelling:

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

- a. Intact exterior walls and roof structure;
- b. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- c. Interior wiring for interior lights; and
- d. A heating system; and

2. The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from the time the dwelling was established; and

3. If the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling had to have been assessed as a dwelling until such time as the value of the dwelling was eliminated:

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

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

- a. Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
 - b. If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and
 - c. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location;
5. The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted;
6. As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, Chapter 462, Section 2 and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling;
7. A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling;
8. When a dwelling formerly had the features described in subsection (D)(1) of this section or was removed from the tax roll as described in subsection (D)(3)(a) of this section, then the replacement dwelling must be sited on the same lot or parcel consistent with the following:
- a. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and
 - b. If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure;
9. Replacement dwellings that currently have the features described in subsection (D)(1) of this section and that have been on the tax roll as described in subsection (D)(2) of this section may be sited on any part of the same lot or parcel;
10. The approval to replace a dwelling under this section shall expire on January 1, 2024.

[Ord. 1372 § 4 (Exh. A), 2016; Ord. 1369 § 4 (Exh. B), 2016; Ord. 1326 § 4 (Exh. A), 2012; Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.030.]

17.136.040 Uses permitted subject to standards. Revised 3/19

The following uses may be permitted in the EFU zone subject to approval of the request by the planning director, based on satisfaction of the standards and criteria specified for each use, pursuant to Chapter 17.115 MCC:

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

1. The structures shall be designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the state of Oregon, including processed food items, and the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand; and
2. Annual sales of the incidental items and fees from promotional activity, sales of farm crops produced outside the state of Oregon, and sales of prepared food items together cannot make up more than 25 percent of the total annual sales of the farm stand; and
3. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment;
4. As used in this section, "processed food items" means farm crops and livestock that have been converted into other products through canning, drying, baking, freezing, pressing, butchering or other similar means of adding value to the farm product, such as jams, syrups, apple cider, and similar animal products, but not prepared food items;
5. As used in this section, "prepared food items" means food products that are prepared for immediate consumption, such as pies, shortcake, milk shakes, smoothies, and baked goods;
6. Adequate off-street parking shall be provided and all vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways;
7. No farm stand building or parking is permitted within the right-of-way;
8. Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips;
9. Approval is required from the county public works department regarding adequate egress and access including compliance with vision clearance standards. All egress and access points shall be clearly marked;
10. All outdoor light fixtures shall be directed downward, and have full cutoff and full shielding to preserve views of the night sky and to minimize excessive light spillover onto adjacent properties, roads and highways;
11. Signs are permitted consistent with Chapter 17.191 MCC;
12. All required permits shall be obtained from the Marion County health department or the Department of Agriculture, as required;
13. When requested by the planning director, the farm stand operator/landowner shall submit a statement demonstrating how the farm stand complies with this policy, certified by the landowner's/operator's accountant or attorney as being accurate and complete;
14. A farm stand may not be used for the sale of marijuana products or to promote the sale of marijuana products or extracts.

B. Winery. A winery subject to the standards in MCC 17.125.030 or 17.125.035.

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 subsection 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 17.136.140(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 subsections (C)(1)(b)(i) through (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 17.136.140(F) in existence on May 5, 2010.

c. New schools must be determined to be consistent with the provisions contained in MCC 17.136.060(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 17.136.060(A)(1).
- c. Existing enclosed structures within three miles of an urban growth boundary may not be expanded beyond the limits in subsections (D)(1)(b)(i) through (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 subsections (D)(1)(b)(i) through (iii) of this section.

E. Filming Activities. On-site filming and activities accessory to filming, and defined in MCC 17.136.140(A), 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. Facilities for Processing Farm Crops. A facility for processing of farm crops, an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038, or the production of biofuel as defined in ORS 315.141, subject to the following:

1. Except for an establishment for the slaughter, processing or selling of poultry or poultry products, the farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility. For an establishment for the slaughter, processing or selling of poultry or poultry products, all of the poultry must have been raised on the farm operation consistent with ORS 603.038.
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 nor 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 it is located shall not be approved.
5. A medical marijuana processor as defined in MCC 17.110.376 shall:
 - a. Be conducted entirely indoors; and
 - b. Emit no light visible to adjacent neighboring property owners or the public; and
 - c. Ensure odors are not detectable on adjacent neighboring properties.

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 associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility 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 subsection 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. *Repealed by Ord. 1397.*

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 EFU 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 EFU zone due to one or more of the following factors as found in OAR 660-033-0130(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 exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
3. Lack of available urban and nonresource lands;
4. Availability of existing right-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 upon a contractor the responsibility for restoration.
 - c. The applicant shall address the requirements of MCC 17.136.060(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 an exclusive farm use 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 this subsection (l) 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.

7. An associated transmission line shall be considered necessary for public service solely based on the criteria below:

a. "Associated transmission line" means a new transmission line constructed to connect an energy facility to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.

b. An associated transmission line is necessary for public service if it is demonstrated to meet either subsection (l)(7)(b)(i) or (ii) of this section:

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

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

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

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

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

ii. After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to subsections (1)(7)(b)(iii) and (iv) of this section, two or more of the following criteria:

(A) Technical and engineering feasibility;

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

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

(D) Public health and safety; or

(E) Other requirements of state or federal agencies.

iii. As pertains to subsection (1)(7)(b)(ii) of this section, the applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.

iv. The governing body of a county or its designee may consider costs associated with any of the factors listed in subsection (1)(7)(b)(ii) of this section, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.

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 land devoted to farm or forest use.

K. Fire service facilities providing rural fire protection services.

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

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

1. A public right-of-way;

2. Land immediately adjacent to a public right-of-way, provided the written consent of all adjacent property owners has been obtained; or

3. The property to be served by the utility.

N. Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids, or the on-site treatment of septage prior to the land application for biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter. For the purposes of this section, on-site treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.

O. 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.

P. Cider business. A cider business is subject to the standards in MCC 17.125.140.

[Ord. 1397 § 4 (Exh. B), 2019; Ord. 1372 § 4 (Exh. A), 2016; Ord. 1369 § 4 (Exh. B), 2016; Ord. 1330 § 4 (Exh. A), 2013; Ord. 1326 § 4 (Exh. A), 2012; Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.040.]

17.136.050 Conditional uses. Revised 3/19

The following uses may be permitted in an EFU zone subject to obtaining a conditional use permit and satisfying the criteria in MCC 17.136.060(A), and any additional criteria, requirements, and standards specified for the use:

A. Single-family dwelling or manufactured home not in conjunction with farm use, subject to the criteria and standards in MCC 17.136.060(B), 17.136.070 and 17.136.100.

B. Temporary residence for hardship purposes subject to the requirements of MCC 17.120.040 with filing of the declaratory statement in MCC 17.136.100(C).

C. Portable or temporary facility for primary processing of forest products subject to MCC 17.136.060(E).

D. The following commercial uses:

1. Home occupations, including bed and breakfast inns, subject to the criteria in MCC 17.136.060(C) with filing of the declaratory statement in MCC 17.136.100(C).

2. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under MCC 17.136.040(F), and subject to MCC 17.136.060(D), but including a winery not

permitted under MCC 17.136.040(B), but not including a medical marijuana processor as defined in MCC 17.110.376, subject to MCC 17.136.060(D).

3. Expansion of a lawfully established dog kennel with filing of the declaratory statement in MCC 17.136.100(C).

4. Room and board arrangements for a maximum of five unrelated persons in existing dwellings with filing of the declaratory statement in MCC 17.136.100(C).

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 MCC 17.136.020(J) 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 340-096-0060, subject to compost facility operators preparing, implementing and maintaining a site-specific odor minimization plan that:

- i. Meets the requirements of OAR 340-096-0150;
- ii. Identifies the distance of the proposed operation to the nearest residential zone;
- iii. Includes a complaint response protocol;
- iv. Is submitted to the DEQ with the required permit application; and
- v. May be subject to annual review by the county to determine if any revisions are necessary.

b. New composting operations and facilities that do not meet MCC 17.136.020(J) may be established on land not defined as high-value farmland subject to the following:

- i. Meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060; and
- ii. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility; and
- iii. On-site sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle;
- iv. Compost facility operators must prepare, implement and maintain a site-specific odor minimization plan that:
 - (A) Meets the requirements of OAR 340-096-0150;
 - (B) Identifies the distance of the proposed operation to the nearest residential zone;

(C) Includes a complaint response protocol;

(D) Is submitted to the DEQ with the required permit application; and

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

8. Operations for the extraction and bottling of water, except in the sensitive groundwater overlay zone.

9. Agri-tourism events and activities excluding events that promote the use or sale of marijuana products or extracts, subject to the requirements in MCC 17.120.090.

10. Dog training classes or testing trials not permitted under MCC 17.136.040(O).

E. The following mining and processing activities:

1. Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 and MCC 17.120.410 through 17.120.480.

2. 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 by ORS 517.750, of aggregate into asphalt or portland cement subject to MCC 17.120.410 through 17.120.480 and 17.136.060(H)(1).

4. Processing of other mineral resources and other subsurface resources subject to MCC 17.120.410 through 17.120.480.

F. The following utility uses:

1. Commercial utility facilities for the purpose of generating power, other than wind power generation or photovoltaic solar power generation, for public sale, subject to MCC 17.136.060(F).

2. Wind power generation facilities subject to MCC 17.120.100.

3. *Repealed by Ord. 1387.*

4. Transmission towers over 200 feet in height.

G. Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities as defined in ORS 215.283(2)(g).

H. The following recreation uses subject to MCC 17.136.060(I):

1. Expansion of a lawfully established private park, playground, hunting and fishing preserve or campground subject to MCC 17.136.060(G) with filing of the declaratory statement in MCC 17.136.100(C).

2. Expansion of a lawfully established community center, 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 nonprofit community organization with filing of the declaratory statement in MCC 17.136.100(C).

3. Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035 or 660-034-0040, whichever is applicable, and consistent with ORS 195.120 and with filing of the declaratory statement in MCC 17.136.100(C).

4. Expansion of a lawfully established golf course on the same tract consistent with definitions in MCC 17.136.140(C), and with filing of the declaratory statement in MCC 17.136.100(C).

5. Living history museum subject to MCC 17.136.060(H)(2), and with filing of the declaratory statement in MCC 17.136.100(C).

I. Expansion of a lawfully established solid waste disposal site together with facilities and buildings for its operation (see specific conditional uses, MCC 17.120.310 through 17.120.380).

J. The following transportation uses:

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

2. Reconstruction or modification of public streets involving the removal or displacement of buildings but not resulting in the creation of new land parcels.

3. Improvement of public street related facilities, such as maintenance yards, weigh stations and rest areas where additional property or right-of-way is required but not resulting in the creation of new land parcels.

4. Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 12.

K. A replacement dwelling to be used in conjunction with farm use with filing of the declaratory statement in MCC 17.136.100(C), 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.

L. Residential home or adult foster home, as defined in ORS 197.660 and MCC 17.110.477, in an existing dwelling and with filing of the declaratory statement in MCC 17.136.100(C).

M. A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(2).

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 17.136.060(I).

[Ord. 1397 § 4 (Exh. B), 2019; Ord. 1387 § 4 (Exh. A), 2018; Ord. 1372 § 4 (Exh. A), 2016; Ord. 1369 § 4 (Exh. B), 2016; Ord. 1330 § 4 (Exh. A), 2013; Ord. 1326 § 4 (Exh. A), 2012; Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.050.]

17.136.060 Conditional use review criteria.

The uses identified in MCC 17.136.050 shall satisfy criteria in the applicable subsections below:

A. The following criteria apply to all conditional uses in the EFU zone:

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. Adequate fire protection and other rural services are, or will be, available when the use is established.
3. The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.
4. Any noise associated with the use will not have a significant adverse impact on nearby land uses.
5. 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 dwelling requests:

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 17.136.130.
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 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 non-farm dwellings on other lots or parcel in the area similarly situated shall be considered. To address this standard, the following information shall be provided:
 - a. Identify a study area for the cumulative impact analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;
 - b. Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm dwellings that could be approved under MCC 17.136.050(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 dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern. 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, or lease farmland, or acquire waste 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.

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

1. A home occupation or bed and breakfast inn shall be operated by a resident of the dwelling on the property on which the business is located. Including residents, no more than five full-time or part-time persons shall work in the home occupation ("person" includes volunteer, nonresident employee, partner or any other person).
2. It shall be operated substantially in:
 - a. The dwelling; or
 - b. Other buildings normally associated with uses permitted in the zone in which the property is located.
3. It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
4. A home occupation shall not be authorized in structures accessory to resource use 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 off-site 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. 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.

E. Forest Products Processing Facility. 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 forest products, as used in this section, means the use of a 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.

F. Power Generation Facility. A power generation facility shall not preclude more than:

1. 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.
2. 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.

G. Private Parks and Campgrounds. Private parks, playgrounds, hunting and fishing preserves, and campground expansions 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 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.

H. Other Uses.

1. 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.
2. 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 an exclusive farm

use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one-quarter mile of an urban growth boundary.

As used in this subsection:

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

I. The following criteria apply to those uses identified in MCC 17.136.050:

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 17.136.140(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.

[Ord. 1330 § 4 (Exh. A), 2013; Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.060.]

17.136.070 Non-farm dwelling requirements.

The following regulations shall apply to non-farm dwellings:

A. Special Setbacks.

1. Dwellings. A special dwelling setback of 200 feet from any abutting parcel in farm use or timber production is required.
2. Accessory Buildings. A special setback of 100 feet is required for buildings accessory to a dwelling from any abutting parcel in farm use or timber production.
3. Adjustments. The special setbacks in subsections (A)(1) and (2) of this section may be reduced if it is determined, concurrently with any land use application or as provided in Chapter 17.116 MCC, that a lesser setback will meet the following review criteria for alternative sites:
 - 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.

4. The special setback in subsection (A)(1) of this section shall not be applied in a manner that prohibits dwellings approved pursuant to ORS 195.300 through 195.336 nor should the special setback in subsection (A)(1) of this section prohibit a claimant's application for homesites under ORS 195.300 through 195.336.

B. Fire Hazard Reduction. As a condition of approval for any non-farm dwelling located closer than 200 feet to timber, the owner shall be required to maintain a primary and secondary fuel-free break area 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.

C. Prior to issuance of any residential building permit for an approved non-farm dwelling under MCC 17.136.050(A), evidence shall be provided 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 308A.724 or 321.359(1)(b), 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.

[Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.070.]

17.136.080 Existing dwellings and other structures

For the purpose of regulating dwellings and structures at the time the EFU zone is applied, the following regulations shall apply:

A. Legally established dwellings existing when the EFU zone is applied shall be considered in conformance with the EFU zone and may be repaired, altered, enlarged or replaced pursuant to MCC 17.136.020(D) or 17.136.030(D).

B. Legally established structures accessory to a dwelling, farm or forest use, or other authorized use existing when the EFU zone is applied shall be considered in conformance with the EFU zone and may be repaired, altered, or enlarged unless conditions applied to the use require that changes to the structure be reviewed.

C. Notwithstanding MCC 17.114.070, if a legally established non-resource use exists in the EFU 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, ordinance and permit requirements. Efforts to reestablish the use shall commence within one year of destruction of the use or structure.

[Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.080.]

17.136.090 Minimum parcel size, divisions of land, and property line adjustments.

The following regulations apply when property line adjustments and partitioning of land within an EFU zone subject to the provisions of Chapter 17.172 MCC are proposed:

A. Minimum Parcel Size for Newly Created Parcels.

1. Farm Parcels. The minimal parcel size for new farm parcels shall be calculated as follows:
 - a. All parcels wholly or in part within 500 feet of the subject parcel shall be identified.
 - b. The average (mean) size of all parcels larger than 40 acres identified in subsection (A)(1)(a) of this section shall be determined.
 - c. The acreage size calculated in subsection (A)(1)(b) of this section, rounded to the nearest 10 acres, is the minimum parcel size unless such parcel size is less than 80 acres, in which case the minimum parcel size is 80 acres.
2. Non-Farm Parcels. A new non-farm parcel created pursuant to subsection (B) of this section shall only be as large as necessary to accommodate the use and any buffer area needed to ensure compatibility with adjacent farm uses.

B. Requirements for Creation of New Non-Farm Parcels.

1. A new non-farm parcel may be created for uses listed in MCC 17.136.040(C) and (K) and MCC 17.136.050, except the residential uses in MCC 17.136.050(A) and (B).
2. The criteria in MCC 17.136.060 applicable to the use shall apply to the parcel.
3. A non-farm parcel shall not be approved before the non-farm use is approved.
4. A division of land for non-farm use shall not be approved unless any additional tax imposed for the change has been paid, or payment of any tax imposed is made a condition of approval.
5. 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 criteria:
 - 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 forest lands or farmlands 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.

6. A division of land smaller than the minimum lot or parcel size described in subsections (A) and (B) of this section 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 17.136.040(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 subsections (A) and (B) of this section either by itself or after it is consolidated with another lot or parcel.

7. A portion of a lot or parcel that has been included within an urban growth boundary and redesignated for urban uses under the applicable acknowledged comprehensive plan may be divided off from the portion of the lot or parcel that remains outside the urban growth boundary and zoned for resource use even if the resource use portion is smaller than the minimum lot or parcel size established under ORS 215.780, subject to the following:

- a. The partition must occur along the urban growth boundary; and
- b. If the parcel contains a dwelling, the parcel must be large enough to support continued residential use;
- c. If the parcel does not contain a dwelling, the parcel:
 - 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; and
 - iii. May not be considered in approving a redesignation or rezoning of forestlands under the acknowledged comprehensive plan and land use regulations, except for a redesignation or rezoning to allow a public park, open space or other natural resource use;
- d. The owner of the parcel shall record with the county clerk an irrevocable deed restriction prohibiting the owner and all successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

C. 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 subsection (A)(1) of this section, 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. If the minimum parcel size in subsection (A)(1) of this section is larger than 80 acres, and a lot or parcel subject to property line adjustment is smaller than the minimum parcel size but larger than 80

acres, the lot or parcel shall not be reduced in size through property line adjustment to less than 80 acres.

3. Any property line adjustment shall result in a configuration of lots or parcels that are at least as suitable for commercial agriculture as were the parcels prior to the adjustment.

4. 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;

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; or

d. Adjust a property line that resulted from a subdivision or partition authorized by a Measure 49 waiver so that any lawfully established unit of land affected by the property line adjustment is larger than the size granted by the waiver.

5. 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 17.136.030(A) so long as the adjustment:

a. Does not increase any adverse impacts on the continued practice of commercial agriculture on the resulting parcels;

b. Does not increase the potential number of dwellings on the resulting parcels; and

c. Does not 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.

[Ord. 1369 § 4 (Exh. B), 2016; Ord. 1330 § 4 (Exh. A), 2013; Ord. 1326 § 4 (Exh. A), 2012; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.090.]

17.136.100 Development requirements.

The following standards apply to development in an EFU zone:

A. Maximum Height.

1. Dwellings: 35 feet.

2. Farm-related structures on farm parcels: none.

3. Nonresidential and non-farm structures: 35 feet unless they are in conjunction with conditional uses allowed in MCC 17.136.050, and a greater height is requested and approved as part of the conditional use permit.

B. Minimum Setbacks. Except as required in MCC 17.136.070(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 ordinance 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).

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

The property herein described is situated in or near a farm or forest zone or area in Marion County, Oregon, where the intent is to encourage, and minimize conflicts with, farm and forest use. Specifically, residents, property owners and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws that ordinarily and necessarily produce noise, dust, smoke and other impacts. The grantors, including their heirs, assigns and lessees do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling, structure or use in this area, and acknowledge the need to avoid activities that conflict with nearby farm and 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.

[Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.100.]

17.136.110 Contiguous ownership.

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

B. Where a land use action prior to June 29, 1994, required that contiguous lots or parcels be considered a single lot or parcel, they shall continue to be considered a single lot or parcel for land use purposes.

[Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.110.]

17.136.120 Permit expiration dates.

A. Notwithstanding other provisions of this title, a discretionary decision, except for a land division, approving a proposed development in the EFU 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 as 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 EFU 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 17.136.020(D), 17.136.030(D) and 17.136.050(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.

[Ord. 1313 § 4 (Exh. A), 2011; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.120.]

17.136.130 Consideration of soil classification changes for non-farm dwellings.

For purposes of approving an application for a dwelling not in conjunction with farm use under MCC 17.136.050(A), the soil class, soil rating, or other soil designation of a specific lot or parcel may be changed if the property owner submits a soil assessment prepared by a professional soil classifier that has been reviewed and approved by the Department of Land Conservation and Development as meeting the requirements in OAR 660-033-0045.

[Ord. 1369 § 4 (Exh. B), 2016; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.130.]

17.136.140 Definition of terms used in this chapter.

The following terms apply to this chapter and have no relevance to the same terms used in other chapters of this title unless specifically stated:

A. **Filming Activities.** On-site filming and activities accessory to on-site filming include filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming.

Production of advertisements, documentaries, feature films, television services and other film production that rely on the rural qualities of an EFU 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.

B. "Commercial dairy farm" means a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by MCC 17.136.030(A)(1) or (2).

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

D. "High-value farmland" means a tract composed predominantly 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).

E. Seasonal Farm Worker. Any person who, for an agreed remuneration or rate of pay, performs temporary labor for another to work in production of farm products or planting, cultivating or harvesting of seasonal agricultural crops or in forestation or reforestation of lands, including but not limited to the planting, transplanting, tubing, pre-commercial thinning and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash and other related activities.

F. Tract. One or more contiguous lots or parcels under the same ownership.

[Ord. 1326 § 4 (Exh. A), 2012; Ord. 1271 § 5, 2008; Ord. 1204 § 4, 2004; Ord. 1180 § 4, 2003; Ord. 1168 § 5, 2002; Ord. 1125 § 8, 2000. RZ Ord. § 136.140.]

Link to Code Text:

<https://www.codepublishing.com/OR/MarionCounty/#!/MarionCounty17/MarionCounty17136.html#17.136>