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## EFU, EXCLUSIVE FARM USE ZONE

### *Sub-Sections*

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### **§ 152.055 DESCRIPTION AND PURPOSE.**

The purposes of the EFU, Exclusive Farm Use Zone, are to preserve and maintain agricultural lands for farm use, including range and grazing uses, consistent with existing and future needs for agricultural products, forest and open spaces; to conserve and protect scenic resources; to maintain and improve the quality of air, water and land resources of the county and to establish criteria and standards for farm and non-farm uses and related and supportive uses which are deemed appropriate. It is also the purpose of this use zone to provide the automatic farm use valuation for farms, which qualify under the provisions of [ORS Chapter 308](#).

The provisions in this use zone are subject to automatic legislative amendments as described in [§152.004](#). (Ord. [2005-02](#), passed 1-5-05; Ord. [2012-02](#) passed 1-26-12)

### **§ 152.056 USES PERMITTED OUTRIGHT.**

In an EFU zone, the following uses and their accessory uses are permitted without a zoning permit, pursuant to [§ 152.007](#):

(A) Farm use, as defined in [ORS 215.203](#) and set out in [§ 152.003](#), except the dwellings and other buildings customarily provided in conjunction with farm use referred to in [ORS 215.283\(1\)](#). For the purpose of this section, farm use does not include customary accessory uses and structures (e.g. corrals, pens, barns, sheds, maintenance buildings, farm owned or personal use grain bins or elevators and chemical storage), which are permitted subject to approval of a zoning permit per [§ 152.026](#).

Notwithstanding (A) above, the following are not permitted uses in the EFU Zone:

- (1) A new dwelling used in conjunction with a marijuana crop;
- (2) A farmstand in conjunction with a marijuana crop; and
- (3) A commercial activity carried on in conjunction with a marijuana crop.

(B) The propagation or harvesting of a forest product.

(C) Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in [ORS 215.306](#).

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

(E) Projects specifically identified in the Transportation System Plan as not requiring further land use regulation. (Projects not specifically identified in TSP shall follow procedures for the Comprehensive Plan Amendment process, and the applicable land use approval.)

(F) Landscaping as part of a transportation facility

(G) Emergency measures necessary for the safety and protection of property.

(H) Construction of a road as part of an approved land partition and consistent with the applicable land division regulations.

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

(1) A public right of way;

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

(3) The property to be served by the utility.

(J) Maintenance or minor betterment of existing transmission lines and facilities of utility companies and agencies.

(K) The transport of biosolids by vehicle to a tract on which the biosolids will be applied to the land under a license, permit or approval issued 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](#). The transport and the land application are allowed outright.

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

(M) Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in [ORS 540.505](#).

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

(Ord. [2002-08](#), passed 8-14-02; Ord. [2005-02](#), passed 1-5-05; Ord. [2008-09](#), passed 6-16-08; Ord. [2009-09](#), passed 12-8-09; Ord. [2012-02](#) passed 1-26-12, Ord. [2015-07](#), passed 9-22-15)

**§ 152.057 USES PERMITTED WITH A FARM USE EXEMPT PERMIT. [Section Deleted]**

(Ord. [2005-02](#), passed 1-5-05; deleted Ord. [2008-09](#) passed 6-16-08)

**§ 152.058 USES PERMITTED WITH A ZONING PERMIT.**

In an EFU zone, the following uses and their accessory uses are permitted upon the issuance of a zoning permit, pursuant to §§ [152.007](#), [152.025](#), and the regulations in §§

[152.010](#) through [152.017](#) and §§ [152.545](#) to [152.562](#):

(A) Activities within parks that are considered minor betterment or repair as outlined in Recreational Policy 11 in the Comprehensive Plan.

(B) Operations for the exploration for and production of geothermal resources as defined by [ORS 522.005](#) and oil and gas as defined by [ORS 520.005](#), including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.

(C) Operations for the exploration for minerals as defined by [ORS 517.750](#). Any activities or construction relating to such operations shall not be a basis for an exception under [ORS 197.732 \(2\)\(a\) or \(b\)](#).

(D) A winery, as described in [ORS 215.452](#).

(E) Farm stands if:

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

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

gatherings or public entertainment.

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

(1) Has intact exterior walls and roof structures;

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

(3) Has interior wiring for interior lights;

(4) Has a heating system; and

(5) In the case of replacement, the dwelling to be replaced is removed, demolished or converted to an allowable nonresidential use within 1 year from the date of certification of occupancy, or 90 days if the dwelling being replaced is determined to be a nuisance. The property owner must execute and record in the deed records of the county a statement that the dwelling which qualified for replacement has been removed, demolished or converted to an allowable non-residential use;

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

(7) A replacement dwelling may be located on any part of the same lot or parcel so long as it complies, where practicable, with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling.

(8) If the dwelling to be replaced is located on a portion of the lot or parcel not zoned EFU, then the applicant shall, as a condition of approval, execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on the EFU portion of the lot or parcel. A release from the deed restriction may occur if the statute regarding replacement dwellings changes or if there is a change in the Plan and Zone designation. The county Planning Department shall maintain a copy of the deed restriction or release statement filed under this section.

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

(10) A Covenant Not to Sue with regard to normal farming practices shall be recorded as a requirement for approval.

(11) A replacement dwelling permit issued under this section does not expire.

(G) Signs: Type 2, 4, 5, 6 as defined in § [152.546](#);

(H) Buildings and structures accessory to dwellings (e.g. garages, storage sheds, carports, swimming pools);

(I) Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in [ORS 215.306](#).

(J) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.

Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface pre-existed the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(K) Fire service facilities providing rural fire protection services.

(L) A gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three month period is not a "land use decision" as defined in [ORS 197.015 \(10\)](#) or subject to review under [OAR 660 Division 33](#).

(M) Creation of, restoration of or enhancement of wetlands.

(N) Climbing and passing lanes for public roads and highways, within the right of way existing as of July 1, 1987.

(O) Buildings and structures accessory to a farm use (i.e. barns, shops, etc.)

(P) Meteorological Towers less than 200 feet in height. Temporary met towers must be removed within two years from the date of a zoning permit; an extension of one year may be requested prior to the permit

expiration.

(Q) Home occupations as provided in § [152.573](#);

(R) Agri-Tourism or other commercial event or activity, Expedited. The County may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. An active conditional use permit for a single or multiple (6 events) agri-tourism or other commercial event or activity on the same tract precludes the issuance of an expedited single-event license. A decision concerning an expedited, single-event license is not a land use decision, as defined in [ORS 197.015](#). To approve an expedited, single-event license, the governing body of the County or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

(1) Must be related to and supportive of agriculture as well as incidental and subordinate to existing farm use on the tract;

(2) May not begin before 6 a.m. or end after 10 p.m.;

(3) May not involve more than 100 attendees or 50 vehicles;

(4) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;

(5) May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism

or other commercial event or activity;

(6) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and

(7) Must comply with applicable health and fire and life safety requirements.

(S) Dog training classes or testing trials conducted outdoors or in farm buildings that existed on January 1, 2013, as described in ORS 215.283 (1) (x).

(T) Alteration, restoration or replacement of a lawfully established dwelling that has been removed or destroyed by fire or natural hazard within one year of the date of application, as provided in § [152.617 \(II\) \(8\)](#).

(Ord. [83-4](#), passed 5-9-83; Ord. [2005-02](#), passed 1-5-05; Ord. [2008-09](#), passed 6-16-08; Ord. [2009-09](#), passed 12-8-09; Ord. [2010-01](#), passed 3-11-10; Ord. [2011-02](#), passed 3-17-11; Ord. [2012-02](#), passed 1-26-12; Ord. [2013-02](#), passed 1-29-13; Ord. [2014-04](#), passed 7-2-14; Ord. [2016-02](#), passed 3-16-16; Ord. [2020-01](#), passed 2-19-20)

#### § 152.059 LAND USE DECISIONS.

In an EFU zone the following uses may be permitted through a land use decision via administrative review (§ [152.769](#)) and subject to the applicable criteria found in § [152.617](#). Once approval is obtained a zoning permit (§ [152.025](#)) is necessary to finalize the decision.

(A) [Item Deleted]

(B) Churches and a cemetery in

conjunction with a church provided the church is not within 3 miles of an urban growth boundary unless an exception is approved pursuant to [ORS 197.732](#) and [OAR 660, Division 004](#). Existing church facilities may be maintained, enhanced or expanded on the same tract without an exception. New facilities are not allowed on high value farmland as provided in § [152.617 \(II\) \(2\)](#) and/or [\(3\)](#).

(C) 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 or communication towers over 200 feet in height. A utility facility necessary for public service may be established as provided in [ORS 215.275](#) and in § [152.617 \(II\) \(7\)](#).

(D) A facility for the primary processing of forest products as provided in § [152.617 \(II\) \(4\)](#).

(E) Continuation, maintenance, enhancement, or expansion of a fire arms training facility in existence on September 9, 1995 and meeting the intent and purposes in [ORS 197.770\(2\)](#) and as provided in § [152.617 \(II\) \(5\)](#). (Ord. [2015-03](#), passed 4-28-15)

(F) A facility for the processing of farm crops, or the production of bio-fuel, located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall

comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility as provided in § [152.617 \(II\) \(1\)](#).

(G) The land application of reclaimed water, agricultural or industrial process water or 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. 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 as provided in [ORS 215.246](#) to [215.251](#).

(H) Alteration, restoration or replacement of a lawfully established dwelling that has been removed or destroyed by fire or natural hazard beyond one year of the date of application, as provided in § [152.617 \(II\) \(8\)](#).

(I) [Item Deleted]

(J) [Item Deleted]

(K) DWELLINGS.

Quick Links to the dwelling types:

- (1) [Primary Farm Dwelling on High Value Farmland](#)
- (2) [Primary Farm Dwelling on Non-High Value Farmland](#)
- (3) [Lot of Record Dwelling on High Value Farmland](#)
- (4) [Lot of Record Dwelling on Non-High Value Farmland](#)
- (5) [Accessory Farm Dwelling](#)
- (6) [Farm Relative Dwelling](#)
- (7) [Forest Use Dwelling](#)
- (8) [Non-Farm Dwelling](#)
- (9) [Conversion of an existing farm related dwelling to a non-farm dwelling](#)

- (10) [Impact Test](#)
- (11) [Covenant Not to Sue](#)

The following permanent, single family dwellings may be authorized in an EFU zone. The dwellings may be conventional “stick built,” modular homes, manufactured homes or mobile homes meeting the definition of a dwelling and the standards in § [152.013\(B\)](#) (5). All farm dwelling applications are subject to review and comment by the Department of Land Conservation and Development.

When a dwelling is approved through a land use decision in this section, the applicant or landowner must obtain a zoning permit pursuant to § [152.612](#) (D). The zoning permit will be a condition of the approval; all land use decision conditions of approval must be met within two years of the date of the signed final findings, pursuant to § [152.613](#) (A).

A zoning permit issued for a dwelling approved under this land use decision section is authorized for four years from the date of the signed final findings and may be extended, but not for more than a total of six years from the date of the signed final findings. The date the final findings are signed signifies the final decision unless appealed as provided in § [152.769](#) (12).

*(1) Primary Farm Dwelling on High Value Farmland.*

A Primary Farm Dwellings customarily provided in conjunction with farm use may be allowed on high value farmland as defined in § [152.003](#) if the following standards (income test) are met:

(a) The subject tract is currently employed for farm use that produced at least \$80,000 in gross annual income from the sale of farm products in each of the last two

years, in at least three of the last five years, or based on the average farm income earned on the tract in the best three of the last five years; and

(b) Except as permitted in [ORS 215.283](#) (1) (p), there is no other dwelling on lands designated for exclusive farm use pursuant to [ORS Chapter 215](#) or for mixed farm/forest use pursuant to [OAR 660-006-0057](#) owned by the farm or ranch operator or on the farm or ranch operation;

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the farm income required by this division;

(d) In determining the gross income required by this division;

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

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

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

(e) When calculating the income test for a primary farm dwelling on high value farmland, noncontiguous lots or parcels zoned for farm use in Umatilla County or contiguous counties may be used to meet the gross income requirements. When a farm or ranch operation has lots or parcels in both “Western” and “Eastern” Oregon, lots or parcels in Eastern or Western Oregon may not be used to qualify

a dwelling in the other part of the state.

(f) Prior to the final approval for a dwelling authorized by this division that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form has been recorded with the county clerk of Umatilla County or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:

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

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

(g) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Umatilla County or counties, where the property subject to the covenants, conditions and restrictions is located.

(h) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by Umatilla County or counties where the property subject to the covenants, conditions and restrictions is located;

(i) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property, which is subject to the covenants, conditions and restrictions required by this division;

(j) The County Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(k) Sign and record a Covenant Not to Sue as provided in § [152.059 \(K\) \(11\)](#).

*(2) Primary Farm Dwelling on Non-High Value Farmland.*

A Primary Farm Dwellings customarily provided in conjunction with farm use may be allowed on non-high value farmland as defined in § [152.003](#) if the following standards are met:

(a) *Size Test.* The parcel on which the dwelling will be located is at least 160 acres. A dwelling may be considered customarily provided in conjunction with farm use if:

(i) The subject tract is currently employed for farm use as defined in § [152.003](#) of this chapter;

(ii) 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;

(iii) There are no other dwellings on the subject tract.

(iv) The parcel on which the dwelling will be located is at least 160 acres.

(v) Sign and record a Covenant Not to Sue as provided in § [152.059 \(K\) \(11\)](#).

(b) *Income Test.* A dwelling may be considered customarily provided in conjunction with farm use if:

(i) The subject tract is currently employed for farm use that produced at least \$40,000 in gross income from the sale of farm products in each of the last two years in at least three of the last five years, or based on the average farm income earned on the tract in the best three of the last five years;

(ii) There is no other dwelling on lands designated exclusive farm use or mixed farm/forest use owned by the farm or ranch operator or the farm or ranch operation; and

(iii) The dwelling will be occupied by a person or persons, who produced the commodities which grossed the income;

(iv) In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

(v) Only gross income from

land owned, not leased or rented, shall be counted; and

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

(vii) For a non-high value farmland income test, noncontiguous lots or parcels zoned for farm use in Umatilla County or contiguous counties may be used to meet the gross income requirements. When a farm or ranch operation has lots or parcels in both “Western” and “Eastern” Oregon, lots or parcels in Eastern or Western Oregon may not be used to qualify a dwelling in the other part of the state.

(viii) Prior to the final approval for a dwelling authorized by this division that requires one or more contiguous or noncontiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form has been recorded with the county clerk of Umatilla County or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:

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

2. The use of any gross farm income earned on the lots or parcels to

qualify another lot or parcel for a primary farm dwelling.

(ix) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Umatilla County or counties, where the property subject to the covenants, conditions and restrictions is located.

(x) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the Umatilla County or counties where the property subject to the covenants, conditions and restrictions is located;

(xi) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property, which is subject to the covenants, conditions and restrictions required by this division;

(xii) The County Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(xiii) Sign and record a Covenant Not to Sue as provided in § [152.059 \(K\) \(11\)](#).

*(3) Lot of Record Dwelling on High Value Farmland.*

A Lot of Record Dwelling under this division may be allowed on high value farmland as defined in § [152.003](#), if the following standards are met:

(a) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner. Owner includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.

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

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

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

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

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

(e) When the dwelling will be sited in an area designated in the acknowledged Comprehensive Plan as

“critical winter range” the requirements of that zone also apply (see §§ [152.455](#) through [152.458](#));

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

(g) To site a Lot of Record Dwelling on high value farmland, the Planning Commission, or the designated Hearings Officer in the county, must determine that:

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

(ii) The Lot of Record Dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(iii) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in the impact test § [152.059 \(K\) \(10\)](#).

(h) A dwelling under this section may be denied if the county determines that approval of the dwelling would:

(i) Exceed the facilities and service capabilities of the area;

(ii) Materially alter the

stability of the overall land use pattern in the area; or

(iii) Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged Comprehensive Plan or land use regulations.

(i) An approved Lot of Record Dwelling application may be transferred by a person(s) who has qualified under this division to any other person(s) after the final approval of the Lot of Record Dwelling decision;

(j) The county assessor will be notified when a Lot of Record Dwelling is approved;

(k) The soil class, soil rating or other soil designation set forth by the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture of a specific lot or parcel may be challenged if the property owner goes through the process as outlined in [OAR 660-033-0045](#).

(l) The County shall provide notice of all applications for Lot of Record Dwellings on high value farmland to the State Department of Agriculture. Notice shall be provided in accordance with the County’s land use regulations but shall be mailed at least 20 calendar days prior to the public hearing before the Planning Commission.

(m) Sign and record a Covenant Not to Sue as provided in § [152.059 \(K\) \(11\)](#).

*(4) Lot of Record Dwelling on Non-High Value Farmland.*

A Lot of Record Dwelling under this division may be allowed on non-high value farmland as defined under § [152.003](#) if the following standards are met:

(a) The lot or parcel in which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner. Owner includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.

(i) Prior to January 1, 1985;

or

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

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

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

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

(e) When the lot or parcel on which the dwelling will be sited lies in an area designated in the acknowledged

Comprehensive Plan as “critical winter range” the requirements of that zone also apply (see §§ [152.455](#) through [152.458](#));

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

(g) A dwelling under this section may be denied if the county determines that the dwelling would:

(i) Exceed the facilities and service capabilities of the area;

(ii) Materially alter the stability of the overall land use pattern in the area.

(iii) Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged comprehensive plan or land use regulations.

(h) The county assessor shall be notified that the Lot of Record dwelling is intended to be approved.

(i) An approved application for a Lot of Record Dwelling may be transferred one time by a person(s) who has qualified under this division to any other person(s) after the effective date of or final approval of the lot of record dwelling decision;

(j) For the purposes of approving a land use application under this division, the soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner:

(i) Submits a statement of agreement from the Natural Resources

Conservation Service of the United States Department of Agriculture that the soil class, soil rating or other soil designation should be adjusted based on new information; or

(ii) Submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture stating that the soil class, soil rating or other soil designation should be changed; and submits a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report and finds the analysis in the report to be soundly and scientifically based.

(k) Sign and record a Covenant Not to Sue as provided in § [152.059 \(K\) \(11\)](#).

(5) *Accessory Farm Dwelling.*

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

(a) The accessory farm dwelling will be located:

(i) On the same lot or parcel as the primary farm dwelling; or

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

(iii) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the Records Office and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is re-approved under these rules; or

(iv) On a lot or parcel on which the primary farm dwelling is not located, 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 labor housing as existing farm labor housing on the farm or ranch operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under [ORS 658.750](#). A county shall require all accessory farm dwellings approved under this subparagraph to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or

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

(b) In addition to the requirements above in (a) of this section, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(i) On land not identified as high value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in § [152.003](#), and produced at least \$40,000 in gross annual income from the sale of farm products in each of the last two years, in at least three out of the last five years, or based on the average farm income earned on the tract in the best three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

(ii) On land identified as high value farmland as defined in § [152.003](#), the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in § [152.003](#), and produced at least \$80,000 in gross annual income from the sale of farm products in each of the last two years, in at least three of the last five years, or based on the average farm income earned on the tract in the best three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;

(iii) It is located on a commercial dairy farm as defined by [OAR 660-033-0135 \(8\)](#); and

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

2. The Oregon Department of Agriculture has approved a permit for a “confined animal feeding operation” under [ORS 468B.050](#) and [ORS 468B.230](#); and a Producer License for the sale of dairy products under [ORS 621.072](#).

(c) There is no other dwelling on lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch that could reasonably be used as an accessory farm dwelling; and

(d) An accessory farm dwelling approved pursuant to this division cannot later be used to satisfy the requirements for a non-farm dwelling.

(e) Sign and record a Covenant Not to Sue as provided in § [152.059 \(K\) \(11\)](#).

(6) *Farm relative dwelling.*

(a) A dwelling on real property used for farm use, if the dwelling is located on the same lot or parcel as the dwelling of the farm operator; and occupied by a relative, which means grandparent, grandchild, parent, child, sibling, stepparent, step-grandparent, stepsibling, niece, nephew or first cousin of either the farm operator or the farm operator's spouse, whose assistance in the management of the farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. 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.

(b) Sign and record a Covenant Not to Sue as provided in § [152.059 \(K\) \(11\)](#).

(7) *Forest Use Dwelling.*

A dwelling on a parcel or tract determined to have a predominate forest use as of January 1, 1993 and subject to criteria in the Grazing/Farm zone, § [152.084](#)(K).

(8) *Non-farm dwelling.*

A non-farm dwelling permitted in [ORS 215.284](#) and subject to the following criteria:

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

(b) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of tract.

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

(ii) A lot or parcel or portion of a lot or parcel is not generally unsuitable simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as part of a commercial farm or ranch, then the lot or parcel or portion of the lot or parcel is not generally unsuitable. A lot or parcel or portion of a lot or parcel is presumed to be

suitable if it is composed predominately of Class I - VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

(iii) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not generally unsuitable simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not generally unsuitable. If a lot or parcel is under forest assessment, it is presumed suitable if, in Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;

(c) The dwelling will not materially alter the stability of the overall land use pattern of the area;

(i) In determining whether a proposed non-farm dwelling will alter the stability of the overall land use pattern of the area, a county shall consider the cumulative impact of non-farm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in § [152.059 \(K\) \(10\)](#) ([OAR 660-033-0130 \(4\)\(a\)\(D\)](#).) If

the application involves the creation of a new parcel for the non-farm dwelling, a county shall consider whether creation of the parcel will lead to creation of other non-farm parcels, to the detriment of agriculture in the area by applying the standards (impact test) set forth in § [152.059 \(K\) \(10\)](#).

(ii) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(d) New easements, private roads or public right-of-ways, must meet at a minimum, the Option 1 design standard as depicted in the County Transportation Plan Figure 7-2A and defined in § [152.648 \(D\)](#) (30 foot right of way with 16 foot travel lane). Whenever possible, new roads should not be placed upon agricultural land as defined by prior policies;

(e) The parcel upon which a non-resource dwelling is located and being valued at true cash value for farm use under [ORS 308.370](#) shall meet the requirements in [ORS 215.236](#), including but not limited to:

(i) The site shall be disqualified for farm deferral; and

(ii) The tax penalty shall be paid prior to final approval;

(f) If the non-farm dwelling site is being created by a land division, the parcel shall comply with the access, improvement requirements, and follow the procedures for land divisions set forth in § [152.710 \(D\)](#), and shall comply with the applicable dimensional standards of § [152.063](#);

(g) If the request involves the

creation of a new parcel containing historic property as defined in [ORS 358.480](#), the original parcel may be reduced below the minimum lot size standard, including an 11% standard deviation;

(h) Sign and record a Covenant Not to Sue as provided in § [152.059 \(K\) \(11\)](#).

(i) The dwelling will be sited on a lot or parcel created before January 1, 1993. (This date only applies to the placement of a non-farm dwelling on an existing, lawfully created lot or parcel.)

(j) If a single-family dwelling is established on a lot or parcel as set forth in § 152.059 (K) (3) or (4), Lot of Record Dwelling, no additional dwelling may later be sited under the provisions of this subsection.

*(9) Conversion of an existing farm related dwelling to a non-farm dwelling.*

An existing farm related dwelling converted to a farmer retirement dwelling or a non-farm dwelling shall be subject to the following criteria:

(a) Meets the non-farm dwelling criteria in this section except § [152.059 \(K\) \(8\) \(b\)](#).

(b) The provisions of § [152.710 \(D\)](#) are applicable if a non-farm parcel will be created for the non-farm dwelling.

*(10) Impact Test.*

In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of possible new non-farm dwellings and



parcels on other lots or parcels in the area similarly situated.

(a) The county shall identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 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 area. 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 non-resource uses shall not be included in the study area.

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

(c) Determine whether approval

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

(11) *Covenant Not to Sue.*

All dwellings approved within the EFU zone require the landowners to sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under [ORS 30.936 or 30.937](#). (Ord. [2005-02](#), passed 1-5-05; Ord. [2008-09](#), passed 6-16-08; Ord. [2009-09](#), passed 12-8-09; Ord. [2010-01](#), passed 3-11-10; Ord. [2011-02](#), passed 3-17-11; Ord. [2012-02](#), passed 1-26-12; Ord. [2013-02](#), passed 1-29-13; Ord. [2014-04](#), passed 7-2-14); Ord. [2015-03](#), passed 4-28-15; Ord. [2016-02](#), passed 3-16-16; Ord. [2020-01](#), passed 2-19-20)

**§ 152.060 CONDITIONAL USES PERMITTED.**

In an EFU zone the following uses may be permitted conditionally via administrative review (§ [152.769](#)), subject to the requirements of this section, the applicable criteria in § [152.061](#), §§ [152.610](#) through [152.615](#), [152.617](#) and §§ [152.545](#) through [152.562](#). A zoning permit is required following the approval of a conditional use pursuant to § [152.025](#). Existing uses classified as conditional uses and listed in this section may be expanded subject to administrative review and subject to the requirements listed in [OAR 660, Division 033](#).

(A) Commercial activities in conjunction with farm uses including the processing of farm crops into biofuel not permitted under [ORS 215.283 \(1\) \(u\)](#) and provided in § [152.617 \(I\) \(B\)](#).

(B) Operations as provided in § [152.617 \(I\) \(K\)](#) conducted for:

(1) Mining and processing of geothermal resources as defined by [ORS 522.005](#) and oil and gas as defined by [ORS 520.005](#) not otherwise permitted under § [152.058](#) (E).

(2) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to [ORS 215.298](#);

(3) Processing, as defined by [ORS 517.750](#), of aggregate into asphalt or portland cement as provided in § [152.617 \(I\) \(A\)](#). 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; and

(4) Processing of other mineral resources and other subsurface resources.

(C) Private parks, private playgrounds, private hunting and fishing preserves and private campgrounds on a parcel or tract not meeting the definition of high value farmland as provided in § [152.617 \(I\) \(O\)](#).

(D) Public parks. A public park may be established consistent with the provisions of [ORS 195.120](#), and includes only the uses specified under [OAR 660-034-0035](#) or [OAR 660-034-0040](#), whichever is applicable as provided in § [152.617 \(I\) \(Q\)](#).

(E) Golf courses and their permitted accessory uses on a parcel or tract not meeting the definition of high value farmland as defined in [ORS 195.300](#); meeting limitations pertaining to accessory uses in [OAR 660 33 130\(20\)](#), and subject to expansion limitations in [OAR 660 33 130\(18\)](#). Non regulation golf courses are not permitted in an EFU Zone as provided in § [152.617 \(I\) \(G\)](#).

(F) Commercial utility facilities for the purpose of generating power for public use by sale as provided in § [152.617 \(I\) \(C\)](#). (For specific criteria for Wind Power Generation see § [152.617 \(I\) \(W\)](#))

(G) Personal use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities as provided in § [152.617 \(I\) \(N\)](#).

(H) Home occupations operated by a resident or employee of a resident of the property on which the business is located as an accessory use within the dwelling or other buildings customarily provided in

conjunction with farm use as provided in § [152.617 \(I\) \(H\)](#).

(I) Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community as provided in § [152.617 \(I\) \(D\)](#).

(J) One manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building in conjunction with an existing dwelling allowed in the EFU zone as a temporary use for the term of the hardship suffered by the existing resident or relative of the resident as provided in § [152.617 \(I\) \(V\)](#).

(K) Commercial dog boarding kennels or day training classes or testing trials that cannot be established under ORS 215.283 (1) (x) may be conditionally permitted as provided in § [152.617 \(I\)\(I\)](#). (Working dogs associated with farm and ranch operations on the premises of EFU and GF zoned lands are not commercial kennels.)

(L) A site for the disposal of solid waste approved by the governing body of the County for which a permit has been granted under [ORS 459.245](#) by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation on a parcel or tract not meeting the definition of high-value farmland and may be maintained, enhanced or expanded on the same tract subject to §[152.061](#) and as provided in § [152.617 \(I\) \(S\)](#).

(M) The propagation, cultivation, maintenance and harvesting of aquatic species as provided in § [152.617 \(I\) \(P\)](#).

(N) Construction of additional passing and travel lanes on public roads and

highways requiring the acquisition of right of way but not resulting in the creation of new land parcels.

(O) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.

(P) Improvement of public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required, but not resulting in the creation of new land parcels. Improvements may be limited when located on land composed of high-value soils.

(Q) A destination resort which is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort on a parcel or tract not meeting the definition of high-value farmland as provided in § [152.617 \(I\) \(F\)](#).

(R) Living History Museum. A living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society as depicted in [OAR 660-033-0130 \(21\)](#) and as provided in § [152.617 \(I\) \(J\)](#).

(S) Operations for the extraction and bottling of water as provided in § [152.617 \(I\) \(M\)](#).

(T) On site filming and activities accessory to on site filming for more than 45 days provided for in [ORS 215.306](#) as provided in § [152.617 \(I\) \(L\)](#).

(U) Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are: (1) not

improvements designated in the Transportation System Plan or (2) not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review, shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For State projects that require an Environmental Impact Statement (EIS) or EA (Environmental Assessment), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:

(1) The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.

(2) The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.

(3) The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.

(4) Project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan and other requirements of this ordinance.

(V) Residential homes as defined in [ORS 197.660](#), in existing dwellings and subject to administrative review procedures in § [152.769](#) and subject to § [152.059 \(K\) \(11\)](#) and in § [152.617 \(I\) \(R\)](#).

(W) Transmission or communication towers over 200 feet in height as provided in § [152.617 \(I\) \(T\)](#).

(X) Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to [ORS 565.210](#).

(Y) Room and board arrangements for a maximum of five unrelated persons in an existing residence and subject to § [152.059 \(K\)\(IX\)](#).

(Z) A wildlife habitat conservation and management plan pursuant to [ORS 215.800](#) to [215.808](#).

(AA) An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possess a wholesaler's permit to sell or provide fireworks.

(BB) Composting facilities for which a permit has been granted by the Department of Environmental Quality under [ORS 459.245](#) and [OAR 340-96](#), and which are not facilities that are a "farm use" as defined [OAR 660-033-0020\(7\)](#) and as provided in § [152.617 \(I\) \(E\)](#).

(CC) If review under this Section indicates that the use or activity is inconsistent with the Transportation System Plan, the procedure for a comprehensive plan amendment shall be undertaken prior to or in conjunction with the conditional permit review.

(DD) Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located as provided in § [152.617 \(I\) \(U\)](#). Provided the school is not within 3 miles of an urban growth boundary unless an exception is

approved pursuant to [ORS 197.732](#) and [OAR 660, Division 4](#). New facilities are not allowed on high value farmland.

(EE) Agri-tourism or other commercial event or activity as provided by § [152.617 \(I\) \(X\)](#).

(FF) Photovoltaic solar power generation facility as provided in [OAR 660-033-0130 \(38\)](#).

(Ord. [2002-08](#), passed 8-14-02; Ord. [2003-02](#), passed 3-11-03; Ord. [2005-02](#), passed 1-5-05; Ord. [2008-09](#), passed 6-16-08; Ord. [2010-01](#), passed 3-11-10; Ord. [2012-02](#), passed 1-26-12; Ord. [2013-02](#), passed 1-29-13; Ord. [2016-02](#), passed 3-16-16;)

#### **§ 152.061 STANDARDS FOR ALL CONDITIONAL USES.**

The following limitations shall apply to all conditional uses in an EFU zone. Uses may be approved only where such uses:

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

(B) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use. (Ord. [2005-02](#), passed 1-5-05)

#### **§ 152.062 PARCEL SIZES.**

In all EFU zones, (EFU, EFU-10, EFU-20 and EFU-40) the following standards shall apply for the creation of new parcels:

(A) *Farm parcels*. Parcels of 160 acres or larger may be established through §

[152.710 \(B\)](#), Type IV, Review I Land Division application process. An 11% deviation allowance standard is provided outright to compensate for irregularities due to the government land survey system, roads and other rights of way.

(B) *Farm parcels*. Parcels of 80 to 160 acres may be established through § [152.710 \(C\)](#), Type IV, Review II Land Division application process.

(C) *Creation of a non-farm dwelling parcel*. A parcel may be established for a new non-farm dwelling or for an existing farm related dwelling to be converted to a non-farm dwelling if the proposed parcel meets the criteria in § [152.059 \(K\)](#) (8) and/or (9) and follows the procedures and complies with the standards in § [152.710 \(D\)](#), Type IV, Review III Land Division application process.

(D) *Creation of other non-farm and conditional use parcels*. The minimum lot area for other “non-farm” uses permitted as conditional uses in an EFU zone shall be the size necessary to accommodate the use and may be established through § [152.710 \(E\)](#), Type IV, Review IV Land Division application process.

(E) *Go-Below Areas*. Parcels within an approved “go-below” area designated by the Comprehensive Plan may be established to a size below the 160-acre minimum parcel size. Parcels within an approved “go-below” area may be established through § [152.710 \(C\)](#), Type IV, Review II Land Division application process.

(F) *UGB Areas*. Parcels of less than 160 acres in size may be created where portions of the lawfully established parcel are located within the UGB. The new parcels may be established through the § [152.710 \(F\)](#), Type

IV, Review V Land Division application process.

(Ord. [83-4](#), passed 5-9-83; Ord. [2007-01](#), passed 2-7-07; Ord. [2008-09](#), passed 6-16-08; Ord. [2013-02](#), passed 1-29-13; Ord. [2016-02](#), passed 3-16-16;)

## § 152.063 DEVELOPMENT STANDARDS.

In the EFU zone, the following dimensional and development standards shall apply:

(A) *Minimum parcel frontage.* A parcel shall have a minimum street or road frontage of 30 feet.

(B) *Front yard setbacks.* All buildings shall be set back from front property lines and side or rear property lines adjoining county roads, public roads, state highways, or public or private access easements as follows:

(1) At least 30 feet from the property line or easement boundary; or

(2) At least 60 feet from the center line of the road, highway, or easement, whichever is greater.

(C) *Side and rear yard setbacks.* Except as provided in division (B) above, the following standards shall apply for side and rear yard setbacks:

(1) The minimum yard setback for farm or non-farm dwellings shall be 20 feet.

(2) The minimum yard setback for accessory buildings or structures, for both farm and non-farm uses, shall be five feet, except as otherwise provided in applicable conditions of approval, or as constrained by

division (D) below.

(3) Special minimum yard setbacks may be established for an approved conditional use to protect the public health, safety and welfare and to mitigate possible adverse impacts to adjacent land uses.

(D) *Distance maintained from aggregate mining operations.* A dwelling shall not be located within 500 feet of an existing aggregate mining operation unless the owner of the property of the proposed dwelling:

(1) Obtains a written release from the adjacent mining operation allowing a closer setback; and

(2) Waives his or her rights to remonstrate against normal aggregate mining activities allowed by permits issued under this chapter.

(E) *Stream setback.* To permit better light, air, vision, stream pollution control, to protect fish and wildlife areas, and to preserve the natural scenic amenities and vistas along the streams, lakes, and wetlands, and to prevent construction in flood prone areas along streams not mapped as part of the National Flood Insurance Program, the following setbacks shall apply:

(1) All sewage disposal installations such as septic tanks and drainfields shall be set back from the mean water line or mark along all streams, lakes or wetlands a minimum of 100 feet, measured at right angles to the high water line or mark. In those cases, where practical difficulties preclude the location of the facilities at a distance of 100 feet, and the DEQ sanitarian finds that a chosen location will not endanger health, the Planning Director may permit the location of these facilities closer to the stream, lake, or wetland, but in no

case closer than 50 feet.

(2) All structures, buildings or similar permanent fixtures shall be set back from the high water line along all streams, lakes or wetlands a minimum of 100 feet measured at right angles to the high water line or mark, except that this setback can be reduced to 20 feet if all of the following criteria are met:

(a) The parcel contains one acre or less; and

(b) It can be shown with photographs and maps that due to topography the proposed building will be located outside of a flood-prone area; and

(c) Location of the proposed building in compliance with the 100-foot setback would be inconvenient and inefficient with respect to the location of existing buildings on the property or due to topographic constraints.

(F) *Other development standards.* All development shall be subject to the regulations contained in §§ [152.010](#) through [152.017](#), §§ [152.545](#) through [152.562](#), and to the exceptions standards of §§ [152.570](#) through [152.577](#), including but not limited to: vision clearance, signs, off street parking, access, fences, wetland drainage, and maintenance, removal and replacement of riparian vegetation.

(Ord. [2005-02](#), passed 1-5-05)