

FILED
WASCO COUNTY

2010 JUL -7 P 1:32

KAREN LEBRETON COATS
COUNTY CLERK

IN THE BOARD OF COUNTY COMMISSIONERS
OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF THE WASCO COUNTY PLANNING)	
& DEVELOPMENT DEPARTMENT'S REQUEST TO)	
APPROVE AMENDMENTS TO THE LAND USE AND)	ORDINANCE
DEVELOPMENT ORDINANCE TO UPDATE THE)	#10-004
EXCLUSIVE FARM USE ZONE TO CREATE)	
CONSISTENCY WITH STATE REGULATIONS)	
PURSUANT TO CHANGES RESULTING FROM HB 3099)	
OF THE 2009 OREGON LEGISLATIVE SESSION. (FILE)	
NUMBER PLALEG-10-05-0001))	

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2 NOW ON THIS DAY, the above-entitled matter having come on regularly for
3 consideration, said day being one duly set in term for the transaction of public business
4 and a majority of the Board of County Commissioners being present; and

5 WHEREAS, HB 3099 of the 2009 Oregon Legislative Session made mandatory
6 changes to regulations effecting Wasco County's Exclusive Farm Use Zone and on or
7 before December 31, 2010, Wasco County is required to incorporate those changes into
8 the Wasco County Land Use and Development Ordinance; and

9 WHEREAS, if the Department of Land Conservation and Development (DLCD)
10 has confirmed in writing that the only effect of the proposed amendments is to conform
11 the county's land use regulations to the amendments made by HB 3099, the bill allows

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1 counties to make these required amendments without holding a public hearing and
2 without adopting findings notwithstanding contrary provisions of state law or county
3 rules relating to public hearings on amendments to an ordinance; and

4 WHEREAS, The Wasco County Planning & Development Department sent
5 notification to DLCDD pursuant to ORS 197.610 on May 12, 2010; and

6 WHEREAS, That on July 7, 2010 at the hour of 10:00 AM in Room 202 of the
7 Wasco County Courthouse the Board of County Commissioners met to review the
8 proposed amendments as a non-hearing agenda item consistent with HB 3099. The
9 Board of County Commissioners reviewed the proposed amendments, heard the Staff
10 recommendation, deliberated and, on a vote of 3-0 approved the recommendation
11 made by staff on the above matter as laid out in Attachment A; and

12 THE WASCO COUNTY BOARD OF COUNTY COMMISSIONERS ORDAINS AS
13 FOLLOWS: That the request by the Planning and Development Department for a
14 legislative text amendment to the Land Use and Development Ordinance to update the
15 Exclusive Farm Use Zone to create consistency with State Regulations pursuant to
16 changes resulting from HB 3099 of the 2009 Oregon Legislative Session is approved.

17 SIGNED this 7th day of July, 2010.

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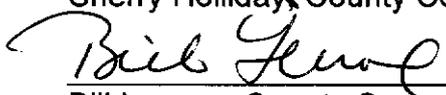
WASCO COUNTY BOARD
OF COMMISSIONERS



Dan Ericksen, Chair of Commission

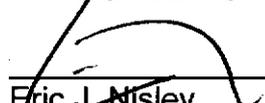


Sherry Holliday, County Commissioner



Bill Lennox, County Commissioner

APPROVED AS TO FORM:



Eric J. Nisley
Wasco County District Attorney

**ATTACHMENT A
PLALEG-10-05-0001
Amendments to EFU Zone**

**Final Updated Version of the Following Sections of the
Land Use and Development Ordinance**

Title Page: This has been updated to reflect a new amendment date for the ordinance.

Chapter 3 - Section 3.210: This includes all of amendments within the Exclusive Farm Use Zone.

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WASCO COUNTY

LAND USE AND DEVELOPMENT ORDINANCE

ADOPTED

June, 1985

EFFECTIVE

July, 1989

January, 1992

May, 1993

September, 1993

January, 1995

April, 1995

December, 1996

September, 1997

June, 1998

September, 1999

November 16, 1999

January 19, 2000

February 1, 2000

February 2, 2004

January 17, 2006

November 22, 2006

February 5, 2007

July 8, 2009

July 22, 2009

December 16, 2009

June 1, 2010

July 28, 2010

PREPARED BY THE

Wasco County Planning and Development Office

STAFF

Todd R. Cornett	Director of Planning
A. Gary Nychyk	Senior Planner
Brenda Jenkins	Planning Coordinator
Dawn M. Baird	Associate Planner
Jeanette Montour	Associate Planner
Keith Cleveland	Code Compliance Officer

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SECTION 3.210 EXCLUSIVE FARM USE ZONE**A. Purpose**

The purpose of the Exclusive Farm Use Zone is to preserve and maintain agricultural lands for farm use consistent with historical, existing and future needs, including economic needs that pertain to the production of agricultural products. And to permit the establishment of only those uses that are compatible with agricultural activities consistent with the applicable Statutory and Administrative Rule provisions of ORS Chapter 215 and OAR Chapter 660, Division 33.

Uses, buildings or structures hereafter erected, structurally altered, enlarged or moved and land hereafter used in the Exclusive Farm Use zone shall comply with the following regulations. If these regulations are preempted by mandatory ORS's or OAR's those shall be applied directly pursuant to ORS 197.646.

B. Uses Permitted Without Review

The following uses may be allowed on lands designated Exclusive Farm Use without review.

FARM/FOREST USES

1. Farm use as defined by Section 1.090, Definitions and ORS 215.203 that is non-discretionary.
2. Propagation and harvesting of a forest product.

NATURAL RESOURCE

3. Creation, restoration or enhancement of wetlands that do not include development as defined by Section 3.741 in a FEMA designated Flood Zone. If the project is located wholly or partially within a FEMA designated Flood Zone and includes structural development it shall be subject to Section D(11) below.

MINERAL, AGGREGATE, SOIL & GAS

4. 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(1)(a) or (b).
5. 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. (Processing of said resources is a conditional use.)

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TRANSPORTATION FACILITIES

6. Climbing and passing lanes within a highway right of way existing as of July 1, 1987.
7. 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 additional travel lanes, where no removal or displacement of buildings would occur and not resulting in any new land parcels.
8. Temporary public road and highway detours that will be abandoned and restored to original condition when no longer needed.
9. Minor betterment of existing public roads 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.

UTILITY/DISPOSAL FACILITIES

10. 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:
 - a. A public right of way;
 - b. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
 - c. The property to be served by the utility.
11. Transport of biosolids to tract of land for application. Pursuant to ORS 215.247 if biosolids are transported 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.

The application of biosolids which do not meet these criteria is subject to Section D(2) below.

12. Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

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COMMERCIAL USES

13. An outdoor gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three month period.

14. Minor Home occupation that:

- a. Is carried on within a lawfully established dwelling only by members of the family who reside in the dwelling;
- b. Does not serve clients or customers on-site;
- c. Does not produce odor, dust, glare, flashing lights or noise;
- d. Does not occupy more than 25 percent of the floor area of the dwelling; and
- e. Does not include the on-premises display or sale of stock in trade.

Any Home Occupation that exceeds these standards is Major and subject to Section E(27) below.

C. Uses Permitted Subject to Property Development Standards

The following uses and activities may be allowed subject to a Type I Review on a legal parcel designated Exclusive Farm Use subject to the Subsection F - Property Development Standards, Chapter 10 - Fire Safety Standards and any other listed standards.

1. Agricultural Structure: Buildings and structures other than dwellings customarily provided in conjunction with farm use subject to meeting the definition in Section 1.090, Definitions.
2. Accessory Structure: Buildings and structures accessory to a legally established dwelling not provided in conjunction with farm use subject to meeting the definition in Section 1.090, Definitions.
3. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as an historic property and is listed on the National Register of Historic Places. The application shall include a Farm Management Plan documenting how the replacement dwelling will be used in conjunction with a farm use.

D. Uses Permitted Subject to Standards

The following uses and activities may be allowed subject to a Type II Review on a legal parcel designated Exclusive Farm Use subject to the Subsection F - Property Development Standards, H - Agricultural Protection, Chapter 10 - Fire Safety Standards, as well as any other listed, referenced or applicable standards.

FARM USES

1. Farm use as defined by Section 1.090, Definitions and ORS 215.203 that is discretionary.
2. Land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone, 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 must be reviewed subject to Section J(11), Additional Standards below.

COMMERCIAL USES RELATED TO FARM USE

3. A winery subject to Section J(6), Additional Standards below and the applicable provisions of Chapter 20, Site Plan Review:
4. A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141 subject to the applicable provisions of Chapter 20, Site Plan Review following:
 - a. The farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility.
 - b. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for the preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm use.
 - c. 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. No division of a lot or parcel shall be approved to separate a processing facility from the farm operation on which it is located.
5. Farm stands subject to Section J(12), Additional Standards below and the applicable provisions of Chapter 20, Site Plan Review:

RESIDENTIAL USES

6. Farm Dwelling: One single family dwelling customarily provided in conjunction with farm use, subject to Section J(5), Additional Standards below.
7. Accessory Farm Dwelling(s): An accessory farm dwelling is a single family dwelling occupied by a person or persons 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. Accessory farm dwelling includes all types of

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residential structures allowed by applicable state building code. Accessory farm dwellings are also subject to Section J(2), Additional Standards below.

8. Relative Farm Dwelling: A single family dwelling on property used for farm use, to be occupied by a relative of the farm operator or farm operator's spouse and located on the same lot or parcel as the farm operator's dwelling, subject to the following standards:
 - a. The relative is a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of the farm operator or the farm operator's spouse;
 - b. The farm operator does, or will require the assistance of the relative in the management of the farm use;
 - c. 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; and
 - d. The farm operator shall submit a farm management plan documenting how the relative dwelling is necessary for maintaining the farm use.
9. Lot of Record Dwelling: One single family dwelling on a lot or tract of record less than 80 acres, which does not otherwise qualify for a dwelling Subject to Section E(5) (Non-Farm Dwelling) below and also subject to Section J(4), Additional Standards below.
10. Alteration, restoration relocation, or replacement of a lawfully established dwelling subject to Section J(3), Additional Standards below.

NATURAL RESOURCE

11. Creation, restoration or enhancement of wetlands that includes development as defined by Section 3.741 in a FEMA designated floodplain subject to Section 3.740, Flood Hazard Overlay.

UTILITY/ENERGY FACILITIES

Pursuant to Section 4.070, General Exceptions to Building Height Requirements, these uses do not require a variance if they exceed 35 feet in height.

12. Utility facilities "necessary" for public service, including wetland waste treatment systems, but not including commercial utility facilities for the purpose of generating electrical power for public use by sale, or transmission towers over 200 feet in height, subject to Section J(8), Additional Standards below and the applicable provisions of Chapter 20, Site Plan Review.

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13. A Transmission Facility under 200 feet in height subject to J(8)(a)(1) – (6) below and the applicable Subject to Standards criteria of Chapter 19.
14. A Wind Facility, Wind Energy Conversion System (WECS) or Wind Measurement Device pursuant to the applicable Subject to Standards criteria of Chapter 19.
15. A Hydroelectric Facility pursuant to the applicable Subject to Standards criteria of Chapter 19.

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

16. Model Aircraft take-off and landing sites including such buildings or facilities as may be reasonably necessary, subject to the following standards and the applicable standards of Chapter 20, Site Plan Review:
 - a. Buildings and facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use.
 - b. The site shall not include an aggregate surface or hard surface area unless the surface pre-existed the use.
 - c. An owner of property used for this purpose 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 operators cost to maintain the property, buildings and facilities.
 - d. "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.
17. Churches and cemeteries in conjunction with churches consistent with ORS 215.441, except that no such use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4, and further that no such use may be authorized on high value farmland. Existing facilities wholly within a farm zone may be maintained, enhanced or expanded on the same tract. This use is subject to the applicable standards of Chapter 20, Site Plan Review.

MISCELLANEOUS USES

18. On-site filming and related accessory uses may be conducted provided the use does not exceed 45 days, subject to Section J(15), Additional Standards below. On-site filming in excess of 45 days is a conditional use.

E. Conditional Uses

The following uses and activities may be allowed subject to a Type II or Type III Review on a legal parcel designated Exclusive Farm Use subject to Subsection F - Property Development Standards, H - Agricultural Protection, Chapter 5 - Conditional Use Review, Chapter 10 - Fire Safety Standards as well as any other listed, referenced, or applicable standards.

FARM/FOREST USES

1. Propagation, cultivation, maintenance, and harvesting of aquatic or insect species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. Notice of all applications under this shall be sent to the State Department of Agriculture at least 20 calendar days prior to any administrative decision or initial public hearing on the application.
2. Primary processing of forest products, subject to the following:
 - a. Such facility does not seriously interfere with accepted farming practices and is compatible with farm uses as defined.
 - b. Such facility may be approved for a one-year period which is renewable.
 - c. The facility is intended to be only portable or temporary in nature.
 - d. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of 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.

COMMERCIAL USES RELATED TO FARM USE

3. Commercial activities in conjunction with farm use as defined in ORS 215.203, including the processing of farm crops into biofuel not otherwise allowed in the definition of farm use or by Section D(4) above, subject to Section J(16), Additional Standards below and the applicable standards of Chapter 20, Site Plan Review.
4. Farm ranch recreation including but not limited to hunting preserves, fishing, fly fishing and tying clinics, trap and skeet range, archery range, ranch skills, horsemanship, equine eventing, habitat improvement, wildlife viewing, and outdoor schools in conjunction with a commercial farming operation subject to Section J(7), Additional Standards below and Sections 20.010 - 20.090 of Chapter 20, Site Plan Review.

In season fee hunting shall not be included in Farm Ranch Recreation unless it

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includes lodging or is part of a larger farm ranch recreation operation.

RESIDENTIAL USES

5. Non-Farm Dwelling: One single family dwelling not provided in conjunction with farm use, subject to Section J(1), Additional Standards, below.
6. A temporary medical hardship dwelling for the term of hardship suffered by the existing resident or relative subject to Section 8.070, Temporary Use of a Mobile Home (Family Hardship):
7. Residential home which means a residential treatment or training or adult foster home in an existing dwelling licensed by or under the authority of the department, as defined in ORS 443.400, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related (or as further defined in ORS 197.660) subject to the applicable standards of Chapter 20, Site Plan Review.

ENERGY/UTILITY/SOLID WASTE DISPOSAL FACILITIES

8. Commercial utility facilities (Wind, Hydroelectric or Other) for the purpose of generating power for public use by sale. This use is subject to the applicable provisions of Chapter 19, Standards for Energy Facilities and Commercial Energy Facilities and Chapter 20, Site Plan Review. A wind power generation facility shall also be subject to Section J(17), Additional Standards below
9. Transmission towers greater than 200 feet in height and transmission facilities pursuant to the applicable provisions of Chapter 19, Standards for Energy Facilities and Commercial Energy Facilities.
10. A site for disposal of solid waste approved by a city or county governing body and for which a permit has been granted by the Department of Environmental Quality under ORS 459.245, including the equipment, facilities, and building necessary for its operation, except that such uses are prohibited on high value farmland subject to the applicable provisions of Chapter 20, Site Plan Review.
11. Composting facilities (excluding non-green feedstocks) for which a permit has been granted by DEQ under ORS 459.245 and OAR 340-96-020 subject to Section J(10), Additional Standards below and the applicable provisions of Chapter 20, Site Plan Review.

MINERAL/AGGREGATE/GEOTHERMAL USES

12. Aggregate: Operations conducted for the mining, crushing or stockpiling of mineral, aggregate and other subsurface resources subject to Section J(9),

Additional Standards below, Section 3.800, Mineral & Aggregate Overlay and the applicable provisions of Chapter 20, Site Plan Review.

13. Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement, except that asphalt production shall not be permitted within two miles of a producing orchard or vineyard, which is planted as of the date that the application for asphalt production is filed, and subject to WCLUDO Section 3.800, Mineral and Aggregate Overlay and the applicable provisions of Chapter 20, Site Plan Review.
14. Processing of other mineral resources and other subsurface resources.
15. Mining and processing of geothermal resources as defined in ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted in Section B(5) above and the applicable provisions of Chapter 20, Site Plan Review.

TRANSPORTATION

16. Personal use airports for airplanes and helicopter pads, including associated hangars, maintenance and service facilities. A personal-use airport, means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.
17. Construction of additional passing and travel lanes requiring the acquisition of right of way, but not resulting in the creation of new land parcels.
18. Reconstruction or modification of public roads and highways involving the removal or displacement of structures but not resulting in the creation of new land parcels.
19. 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.
20. Roads, highways and other transportation facilities and improvements not otherwise allowed by this ordinance subject to:
 - a. Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply;
or

- b. ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.

PARKS/PUBLIC/QUASI-PUBLIC FACILITIES

- 21. Fire service facilities providing rural fire protection services subject to the applicable standards of Chapter 20, Site Plan Review.
- 22. Community centers owned by a government agency or a nonprofit organization and operated primarily by and for residents of the local rural community subject to the applicable standards of Chapter 20, Site Plan Review.

A community center authorized under this section may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

- 23. Parks and playgrounds A public park includes only the uses specified under OAR 660-034-0035 or 660-034-0040 whichever is applicable and may only be established subject to the applicable provisions of Chapter 20, Site Plan Review and ORS 195.120,
- 24. Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210 subject to the applicable provisions of Chapter 20, Site Plan Review.
- 25. Any gathering subject to review by a county planning commission under the provisions of ORS 433.76. These gatherings and any part of which is held in open spaces are those of more than 3,000 persons which continue or can reasonably be expected to continue for more than 120 hours within any three-month period subject to the applicable provisions of Chapter 20, Site Plan Review.
- 26. Public or private schools for kindergarten through grade 12, including all building essential to the operation of a school, primarily for residents of the rural area in which the school is located, subject Chapter 20, Site Plan Review and the following:
 - a. New schools may not be established on high-value farmland. Existing schools on high-value farmland may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
 - b. No new school may be established within three miles of an urban growth

boundary of a city unless an exception is approved pursuant to OAR Chapter 660, Division 004.

- c. Existing schools not on high-value farmland that are primarily for residents of the rural area in which the school is located may be maintained, enhanced, or expanded.
- d. 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.

COMMERCIAL USES

27. Major Home occupation subject to the applicable provisions of Chapter 20, Site Plan Review. Construction of a structure that would not otherwise be allowed in the zone is not permitted.

28. Home Occupation with Room and Board or (Bed and Breakfast) arrangements in an existing residence, but may not be sited adjacent to or on high value lands within two (2) miles of the National Scenic Area Boundary subject to the applicable provisions of Chapter 20, Site Plan Review and the following.

a. Room and board arrangements shall:

(1) Not exceed accommodations for five unrelated persons beyond the inhabitants of the house; and

(2) Include month to month rental with food contract.

b. Bed and breakfast arrangements shall:

(1) Not exceed five rooms;

(2) Limit occupation by guests to no more than 30 consecutive days; and

(3) Only allow breakfast to be served to guests and no other meals.

29. Home Occupation to Host Commercial Events: The commercial events are associated with a farm use, lawfully approved winery, bed and breakfast or farm ranch recreation and includes weddings, receptions, parties, bicycle races confined to the subject parcel(s) and other small-scale gatherings hosted for a fee that are incidental and subordinate to the primary use of the parcel. The use is subject to the applicable provisions of Chapter 20, Site Plan Review. Construction of a structure that would not otherwise be allowed in the zone is not permitted.

If the commercial event is in conjunction with a farm use, the applicant shall

submit a Farm Management Plan which includes documentation that the property is capable of meeting the Farm Dwelling income test in Section J(5)(b) below.

30. Dog Kennels, except that such uses are prohibited on high value farmland, subject to the applicable provisions of Chapter 20, Site Plan Review.
31. Private parks, playgrounds, and campgrounds, as defined in Section 1.090, Definitions, except that such uses are prohibited on high value farmland, subject to Section J(14) Additional Standards below and the applicable provisions of Chapter 20, Site Plan Review.
32. Golf courses: A 9 or 18 hole regulation golf course or a combination 9 and 18 hole regulation golf course except that such uses are prohibited on high value farmland, as defined in ORS 195.300, subject to Section J(13), Additional Standards below and the applicable provisions of Chapter 20, Site Plan Review.
33. Operations for the extraction and bottling of water subject to applicable provisions of Chapter 20, Site Plan Review.
34. On-site filming if the activity exceeds 45 days on any site within a one-year period or involves the erection of sets that would remain in place for longer than 45 days. These activities may include administrative or security functions and may include the use of campers, trailers, or similar temporary facilities. This use is also subject to Section J(15), Additional Standards below and the applicable provisions of Chapter 20, Site Plan Review.

F. Property Development Standards

Property development standards are designed to preserve and protect the character and integrity of agricultural lands, and minimize potential conflicts between agricultural operations and adjoining property owners. A variance subject to WCLUDO Chapter 6, or Chapter 7 may be utilized to alleviate an exceptional or extraordinary circumstances that would otherwise preclude the parcel from being utilized. A variance to these standards is not to be used to achieve a preferential siting that could otherwise be achieved by adherence to these prescribed standards.

1. Setbacks

a. Property Line

(1) All dwellings (farm and non farm) and accessory structures not in conjunction with farm use, shall comply with the following property line setback requirements:

(a) If adjacent land is being used for perennial or annual crops, the setback shall be a minimum of 200 feet from the property line.

(b) If adjacent land is being used for grazing, is zoned Exclusive Farm Use

and has never been cultivated or is zoned F-1 or F-2, the setback shall be a minimum of 100 feet from the property line.

- (c) If the adjacent land is not in agricultural production and not designated Exclusive Farm Use, F-1 or F-2, the setback shall be a minimum 25 Feet from the property line.
 - (d) If any of the setbacks listed above conflict with the Sensitive Wildlife Habitat Overlay the following shall apply and no variance shall be required:
 - i. The structure shall be set back a minimum of 25 feet from the road right of way or easement;
 - ii. The structure shall be located within 300 feet of the road right of way or easement pursuant Section 3.920(F)(2), Siting Standards; and
 - iii. As part of the application the applicant shall document how they are siting the structure(s) to minimize impacts to adjacent agricultural uses to the greatest extent practicable.
- (2) Farm structures shall be set back a minimum of 25 feet from the property line.
- (3) Additions, modifications or relocation of existing structures shall comply with all EFU setback standards. Any proposal that cannot meet these standards is subject to the following:
- (a) Dwellings: The proposed addition modification or relocation shall not result in nonconformity or greater nonconformity to property line setbacks or resource buffer requirements unless the addition will extend a structure further away from and perpendicular to the property line or resource. Any proposal that would place a relocated dwelling or extend an existing dwelling into or further toward the property line or resource, or expand an existing dwelling parallel into a setback or buffer shall also be subject to Chapters 6 & 7, Variances and any other applicable review criteria.
 - (b) Farm & Non-Farm buildings and structures: The proposed addition, modification or relocation shall not result in nonconformity or greater nonconformity to property line setbacks or resource buffer requirements. If the building or structure currently conforms to all setback standards and the proposal would result in non-conformity a Chapter 6 or 7 variance will be required. If the building or structure currently does not conform to all setback standards and the proposal would increase the non-conformity it shall be subject to the applicable provisions of Chapter 13, Nonconforming Uses, Buildings and Lots.

- (4) Property line setbacks do not apply to fences, signs, roads, or retaining walls less than four (4) feet in height.

Front yard (road) property line setbacks do not apply to parking areas for farm related uses. However, parking areas for farm related uses must meet side and rear yard property line setbacks.

b. Waterways:

- (1) Resource Buffers: All bottoms of foundations of permanent structures, or similar permanent fixtures shall be setback from the high water line or mark, along all streams, lakes rivers, or wetlands.

(a) A minimum distance of one hundred (100) feet when measured horizontally at a right angle for all waterbodies designated as fish bearing by any federal, state or local inventory.

(b) A minimum distance of fifty (50) feet when measured horizontally at a right angle for all waterbodies designated as non fish bearing by any federal, state or local inventory.

(c) A minimum distance of twenty five (25) feet when measured horizontally at a right angle for all waterbodies (seasonal or permanent) not identified on any federal, state or local inventory.

(d) If the proposal does not meet these standards it shall be subject to Section (a)(3), Additions or Modifications to Existing Structures, above.

(e) The following uses are not required to meet the waterway setbacks, however they must be sited, designed and constructed to minimize intrusion into the riparian area to the greatest extent possible:

(i) Fences;

(ii) Streets, roads, and paths;

(iii) Drainage facilities, utilities, and irrigation pumps;

(iv) Water-related and water-dependent uses such as docks and bridges;

(v) Forest practices regulated by the Oregon Forest Practices Act;

(vi) Agricultural activities and farming practices, not including the construction of buildings, structures or impervious surfaces; and

(vii) Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area.

- (2) Floodplain: Any development including but not limited to buildings, structures or excavation, proposed within a FEMA designated flood zone, or sited in an area where the Planning Director cannot deem the development reasonably safe from flooding shall be subject to Section 3.740, Flood Hazard Overlay.

c. Irrigation Ditches:

All dwellings and structures shall be located outside of the easement of any irrigation or water district. In the absence of an easement, all dwellings and structures shall be located a minimum of 50 feet from the centerline of irrigation ditches and pipelines which continue past the subject parcel to provide water to other property owners. Substandard setbacks must receive prior approval from the affected irrigation district. These setbacks do not apply to fences and signs.

d. Wasco County Fairground

- (1) Front Yard - No structure other than a fence or sign shall be located closer than ten (10) feet from the rights-of-way of a public road.
- (2) Side Yard - No structure other than a fence or sign shall be located closer than seven (7) feet for buildings not exceeding two and one-half (2 & 1/2) stories in height; for buildings exceeding two and one-half stories in height, such side yard shall be increased three (3) feet in width for every story or portion thereof that such buildings' height exceeds two and one-half stories.
- (3) Rear Yard - No structure other than a fence shall be located closer than ten (10) feet from the rear yard property line.
- (4) RV Spaces - RV spaces are subject to the setback requirements of Chapter 17, Recreational Vehicle Parks.
- (5) Existing & Replacement Structures - All lawfully established structures which do not conform to current setback standards shall be allowed to be expanded, or replaced and expanded into the required setback as long as the expansion does not encroach upon the required setback more than the existing structure.
2. Height: Except for those uses allowed by Section 4.070, General Exception to Building Height Requirements, no building or structure shall exceed a height of 35 feet. Height is measured from average grade.
3. Vision Clearance - Vision clearance on corner properties shall be a minimum of thirty (30) feet.

4. Signs:

- a. Permanent signs shall not project beyond the property line.
- b. Signs shall not be illuminated or capable of movement.
- c. Permanent signs shall describe only uses permitted and conducted on the property on which the sign is located.
- d. Size and Height of Permanent Signs:
 - (1) Freestanding signs shall be limited to twelve square feet in area and 8 feet in height measured from natural grade.
 - (2) Signs on buildings are permitted in a ratio of one square foot of sign area to each linear foot of building frontage but in no event shall exceed 32 square feet and shall not project above the building.
- e. Number of permanent signs:
 - (1) Freestanding signs shall be limited to one at the entrance of the property. Up to one additional sign may be placed in each direction of vehicular traffic running parallel to the property if they are more than 750 feet from the entrance of the property.
 - (2) Signs on buildings shall be limited to one per building and only allowed on buildings conducting the use being advertised.
- f. Temporary signs such as signs advertising the sale or rental of the premise are permitted provided the sign is erected no closer than ten feet from the public road right-of-way.

5. Lighting: Outdoor lighting shall be sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways and waterways. Shielding and hooding materials shall be composed of nonreflective, opaque materials.

6. Parking - Off street parking shall be provided in accordance with Chapter 20.

7. New Driveways: All new driveways and increases or changes of use for existing driveways which access a public road shall obtain a Road Approach Permit from the appropriate jurisdiction, either the Wasco County Public Works Department or the Oregon Dept. of Transportation.

G. Property Size Standards

Subdivisions and Series Partitions pursuant to ORS 92.010 - 92.190, and 92.305-92.495: Subdivisions are prohibited in the Exclusive Farm Use Zone. Series Partitions for non-farm uses are prohibited in the Exclusive Farm Use Zone.

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1. Farm Divisions:

- a. 40 Acre: There shall be a 40 acre minimum land division for farm parcels in the A-1(40) zone.
- b. 80 Acre: There shall be a 80 acre minimum land division for farm parcels in the A-1(160) zone to allow for land divisions around higher value per acre crops. All proposed farm parcels at least 80 acres but less than 160 acres shall meet the following standards:

(1) A farm management plan shall be submitted with the application. The farm management plan shall also include an evaluation of the following:

(a) The property size shall be large enough to keep commercial farms and ranches in the area successful and not contribute to their decline. This evaluation shall include the potential negative impacts such as increasing traffic on farm to market roads or adding practices or uses that would conflict with existing accepted farming practices on adjacent farms.

(b) Determine the nature of this type of commercial agricultural enterprise in the county, or within the surrounding area.

(2) The proposed farm parcel or parcels have been planted in a higher value per acre crop adequate to meet the income requirement in (3) below;

(3) Income Test

The proposed farm parcel or parcels are each capable of producing \$250,000 in gross annual income (2009 dollars adjusted for inflation at an annual rate of *2.375%) from the sale of farm products.

Capability of producing the gross annual income described above shall be shown in one of two ways.

(a) Documentation of actual gross income received during the last two years or three of the last five years.

(b) Documentation that the current amount of acreage planted on the proposed farm parcel or parcels are each capable of producing the gross income described above. This documentation shall be prepared by a professional with the credentials to make such a determination such as a representative of the Oregon Department of Agriculture or Oregon State Extension Office. The documentation shall include the following:

(i) Identify the type(s) and size(s) of viable farms that comprise this

commercial agricultural enterprise in the county, or within the surrounding area which meet or exceed the gross income described above.

- (ii) Identify soils, topography, land forms, slopes, solar access, irrigation, rainfall, sunlight of viable farms that comprise this type of commercial enterprise and compare those to the proposed property.
- (iii) Is there an identified industry with infrastructure for this type of commercial enterprise within the county or surrounding area? If so, how will this operation contribute to that enterprise? If not, will it be viable on its own?

Approval of a request to divide agricultural land to the 80-acre minimum does not necessarily guarantee a farm dwelling. Any subsequent request for a farm dwelling will have to meet applicable standards set forth in Section D(5), Farm Dwelling above.

*It is the intention of the Wasco County Court to reevaluate the validity of this inflationary adjustment percentage by 2014.

- c. 160 Acre: There shall be a 160 acre minimum land division for all parcels in the Exclusive Farm Use Zone that are not within the A-1(40) zone and cannot meet the 80 acre minimum test in b above.

2. Non-Farm Divisions (Part of Parcel)

a. Non-Farm Dwelling & Non-Farm Use Divisions

(1) A one time division of land to create:

- (a) Up to two new parcels no less than 2 acres in size and no greater than 20 acres in size, each to contain a dwelling not provided in conjunction with farm use, only if the dwelling has been authorized in accordance with Section E(5), Non-Farm Dwelling above; or
- (b) A parcel to contain a nonfarm use, except dwellings, listed in Section (E), Conditional Uses above, unless otherwise precluded by statute. The parcel shall be the minimum size needed to accommodate the use in a manner consistent with other provisions of law;

(2) The parcel(s) are divided from a lot or parcel that was lawfully created in its current configuration prior to July 1, 2001. This date applies to properties even if they were created after July 1, 2001 pursuant to this section;

(3) The parcel(s) are divided from a lot or parcel that exceeds 160 acres and which will continue to meet or exceed 160 acres after the division;

- (4) The parcel(s) are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land; and
 - (5) The parcels for the nonfarm dwellings are not located in the "A-1(40)" zone.
 - (6) The non-farm parcels shall be disqualified from special assessment pursuant to Section J(1)(g) below.
 - (7) The non-farm parcels do not have established water rights for irrigation.
- b. Park and Open Space Divisions: A land division 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:
- (1) A parcel created by the land division that already contains a dwelling is large enough to support continued residential use of the parcel; and
 - (2) A parcel created pursuant to this subsection that does not contain a dwelling:
 - (a) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - (b) May not be considered in approving or denying an application for siting any other dwelling;
 - (c) May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
 - (d) 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.

H. Agricultural Protection: The uses listed in Section D, Uses Allowed Subject to Standards and E, Conditional Uses must meet the following standards:

1. Farm-Forest Management Easement: The landowner is required 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 case of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
2. Protection for Generally Accepted Farming and Forestry Practices - Complaint and Mediation Process: The landowner will receive a copy of this document.

I. Challenging Soil Class Rating

1. Lot of Record: For the purposes of approving a Lot of Record application under Section D(9) above, the soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner:
 - a. 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
 - b. Submits the following:
 - (1) Report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and
 - (2) Statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in subparagraph (1) above of this section and finds the analysis in the report to be soundly and scientifically based.
2. All Other: The soil class or soil rating or other soil designation of a specific lot or parcel on lands other than Lot of Record as specified above, or High Value soils as specified by NRCS, may be changed if the property owner:
 - a. Submits a report to the Wasco County Planning Department from an accredited soils scientist, certified by ARCPACS that the soil class, soil rating or other soil designation should be changed and the rationale for the soil class change. The report will include the following technical data:
 - (1) Copy of the most current National Cooperative Soil Survey map(s) for the specified area;
 - (2) Methods used by the Soil Scientist;

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- (3) Level of order of survey used in field survey, scale, type of maps, number of sample locations and observation points all confirming or disagreeing with the NRCS mapping units;
 - (4) Methods used for observations (backhoe, auger, shovel, etc.) and methods used for documentation;
 - (5) Notation of any limitations encountered;
 - (6) Results, findings and decisions;
 - (7) Overview of geology, parent material, and related factors;
 - (8) Description of landforms, topography, confirming relationship of landforms to soil mapping units;
 - (9) Description of on-site and adjacent hydrology, including surface and subsurface features;
 - (10) Description of revised soil mapping units;
- b. Acquires Wasco County Planning Department administrative approval of soils class change, in conjunction with land use application request.

J. Additional Standards

1. Non-Farm Dwelling:

- a. The parcel is not within the A-1(40) Zone.
- b. There is no other dwelling on the parcel;
- c. The site shall have appropriate physical characteristics such as adequate drainage, proper sanitation and water facilities to accommodate a residence or other non-farm use;
- d. Criteria for Farmland within the EFU Zone:

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, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. 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.

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 can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not

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"generally unsuitable." A lot or parcel is presumed to be suitable if it is composed predominantly of Class I - VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use.

The term "generally unsuitable" is vague. The following criteria define and specify in clear, objective, measurable means what is generally unsuitable land for agriculture in Wasco County.

(1) On parcels less than 80 acres that were created prior to January 1, 1993, and parcels created pursuant to the Non-Farm Division (Part of Parcel) provisions when the entire parcel is found to be generally unsuitable. That is, over 50% of the parcel is a Class VII or poorer soil as determined by the NRCS Soil Survey for Wasco County, and (one) 1 of the criterion listed in (3) below.

(2) On parcels at least 80 acres but less than 160 acres that were created prior to January 1, 1993, a portion of the parcel that is identified for the dwelling site is a Class VII soil or poorer as determined by the NRCS Soil Survey for Wasco County, and (one) 1 of the criterion listed in (3) below.

(3) Generally Unsuitable Criteria:

(a) predominantly greater than 40 % slope, or

(b) produces less than 25 bushels per acre wheat or cereal grains crop, or less than 1 ton per acre of alfalfa or other type of hay as per Farm Service Agency (FSA) registered field crop information. Averages shall be based on acres in production, or

(c) never been cropped according to the ASCS (FSA) aerial photos and records, and requires more than 5 acres per AUM based on the soil productivity as shown in the most up to date soils survey or on a field determination conducted by an authorized professional using Natural Resource Conservation RCS standards.

e. Criteria for Forested land within the EFU zone

(1) If the parcel is unsuitable for agricultural use and 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".

- (2) If a lot or parcel is under forest assessment, it is presumed unsuitable if it is composed predominantly of soils capable of producing less than 20 cubic feet of wood fiber per acre per year and may qualify for a dwelling if it can be found that:
 - (a) The dwelling is compatible; and
 - (b) The dwelling does not seriously interfere with forest or farm uses on surrounding land and it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land; and
- f. Cumulative Impact: The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, consideration shall be given to the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the following standards:
 - (1) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm 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;
 - (2) 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, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under current regulations, 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 nonfarm dwellings. 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 nonfarm dwellings;
 - (3) Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use

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pattern will be materially altered if the cumulative effect of existing and potential nonfarm 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 study area;

- (4) In addition to (1) – (3), if the application involves the creation of a new parcel for a nonfarm dwelling, consideration shall be given to whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying (1) – (3) above.

g. Disqualification of Special Assessment:

The owner of the parcel shall provide evidence that:

1. The County Assessor has been notified that the proposed non-farm parcel or parcel to contain the non-farm dwelling is no longer being used as farmland; and
2. A Request has been made in writing to the County Assessor to disqualify the parcel from special assessment; and
3. Prior to receiving zoning approval on a building permit application or a final plat map, the non-farm parcel has been disqualified from special assessment pursuant to ORS 215.236 and any additional tax imposed upon disqualification from special assessment have been paid; and
4. Record on the Property Deed the following: This parcel (legal description) has been disqualified from special assessment and may not re-qualify for special assessment unless, when combined with another contiguous lot or parcel, it constitutes a qualifying parcel by meeting the minimum lot size for commercial agriculture enterprises within the area.

2. Accessory Farm Dwelling:

- a. 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. The applicant shall submit a Farm Management Plan to provide evidence of this;
- b. The accessory farm dwelling will be located:
 - (1) On the same lot or parcel as the dwelling of the primary farm dwelling; or

- (2) 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
- (3) 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 and a deed restriction is filed with the county clerk. The deed restriction shall 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 reapproved under these rules; or
- (4) 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 ranch operation registered with the Dept. of Consumer & Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. Accessory farm dwellings approved Section H. shall be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or
- (5) 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 Section G(1) below, Farm Divisions and the lot or parcel complies with the gross farm income requirements in subsection d below..
- c. There is no other dwelling on the 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 and that could reasonably be used as an accessory farm dwelling;
- d. In addition to the requirements in subsection a - c. of this section, the primary farm dwelling to which the proposed dwelling would be accessory satisfies the following:
- (1) The principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in Section 1.090 and ORS 215.203, and produced in the last two years or three of the last five years, one (1) of the following:
- (a) On land not identified as high-value farmland at least *\$55,000 (2009 dollars adjusted for inflation at an annual rate of 2.375%) in gross annual income from the sale of farm products.
- (b) On land identified as high-value farmland, and produced at least (*\$110,000 (2009 dollars adjusted for inflation at an annual rate of 2.375%) in gross annual income

and,

(2) In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

- e. Wasco county shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section.

If it is determined that an accessory farm dwelling satisfies the requirements Section D(6) above, One Single Family Dwelling Customarily Provided in Conjunction with Farm Use, a parcel may be created consistent with the minimum parcel size requirements in Section G(1), Farm Divisions; and

- f. An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to Section E(5), One Single Family Dwelling Not Provided in Conjunction with a Farm Use.

*It is the intention of the Wasco County Court to reevaluate the validity of this inflationary adjustment percentage by 2014.

3. Alteration, restoration, relocation or replacement of a lawfully established dwelling:

- a. Has intact interior walls and roof structure;
- b. Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
- c. Has interior wiring or interior lights;
- d. Has a heating system;
- e. In the case of replacement, is removed, demolished or converted to a permitted nonresidential use within 90 days of completion of the replacement dwelling;
- f. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall 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 that portion of the lot or parcel; and
- g. Be subject to all applicable siting requirements.

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4. Lot of Record Dwelling:

- a. The lot or parcel on which the dwelling is to be sited was lawfully created prior to January 1, 1985 and was acquired and owned continuously by the present owner:
 - (1) Since before January 1, 1985; or
 - (2) By device or by intestate succession from a person who acquired and had owned continuously the lot or parcel since before January 1, 1985.
- b. The tract upon which the dwelling is to be sited does not include another dwelling;
- c. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, and no dwelling exists on another lot or parcel that was part of that tract;
- d. The tract on which the dwelling is to be sited is not high value farmland as defined in Section 1.090, Definitions.
- e. If the tract on which the dwelling is to be sited consists of more than one lot or parcel, all lots and parcels within the tract shall be consolidated into a single lot or parcel;
- f. The director or the director's designee shall notify the county assessor of any decision to permit a lot of record dwelling;
- g. As used in this zone, "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 niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members; and
- h. Land use approval for a lot of record dwelling may be transferred one time to any other person, prior to issuance of building permit.

5. Farm Dwelling:

- a. Large Lot: a dwelling may be considered customarily provided in conjunction with farm use subject to the following:
 - (1) The land on which the dwelling to be sited is not identified as high-value farmland;
 - (2) The parcel on which the dwelling will be located is at least 160 acres;

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(3) The subject tract is currently employed for farm use, as defined in Section 1.090 and ORS 215.203 as evidenced by a Farm Management Plan

(4) The dwelling will be occupied by an owner or 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. If the owner is not principally engaged in the day to day farm operation, no Accessory Farm Dwelling for farm help may be authorized pursuant to Section D(7) above; and

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

b. Income Test (for Parcels Less than 160 acres) subject to the following and Subsection 3 below:

(1) Meets either (a) or (b) below:

(a) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if the subject tract is currently employed for farm use, as defined in Section 1.090 and ORS 215.203, as evidenced by a Farm Management Plan, that produced at least at least *\$55,000 (2009 dollars adjusted for inflation at an annual rate of 2.375%) in gross annual income from the sale of farm products in the last two or three of the last five years; or

(b) On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if the subject tract is currently employed for the farm use, as defined in Section 1.090 and ORS 215.203, as evidenced by a Farm Management Plan, that produced at least *\$110,000 (2009 dollars adjusted for inflation at an annual rate of 2.375%) in gross annual income from the sale of farm products in the last two or three of the last five years; and

(2) In determining the gross income required by this subsection:

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

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

(c) 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

(3) 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

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OAR 660-006-057 owned by the farm or ranch operator or on the farm or ranch operation; and

- (4) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income.
- (5) Prior to issuance of zoning approval on a building permit application, a Notice of Decision shall be recorded in the deed records with the Wasco County Clerk for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:
 - (a) 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
 - (b) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
- (6) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by the Wasco County Judge;
- (7) Enforcement of the covenants, conditions and restrictions may be undertaken by the Dept. of Land Conservation & Development or Wasco County;
- (8) The Planning Director shall maintain a copy of the Notice of Decisions 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 shall be readily available to the public in the Planning Office.

6. Winery:

- a. The winery is a facility that produces wine with a maximum annual production of:
 - (1) Less than 50,000 gallons and it:
 - (a) Owns an on-site vineyard of at least 15 acres;
 - (b) Owns a contiguous vineyard of at least 15 acres;
 - (c) Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
 - (d) Obtains grapes from any combination of subparagraph (a), (b) or (c) of this paragraph; or

- (2) At least 50,000 gallons and no more than 100,000 gallons and that:
 - (a) Owns an on-site vineyard of at least 40 acres;
 - (b) Owns a contiguous vineyard of at least 40 acres;
 - (c) Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery; or
 - (d) Obtains grapes from any combination of subparagraph (a), (b) or (c) of this paragraph.
- b. The winery described in subsection (a)(1) or (2) above shall allow only the sale of:
 - (1) Wines produced in conjunction with the winery; and
 - (2) Items directly related to wine, the sales of which are incidental to retail sale of wine on-site. Such items include individually portioned prepackaged foods prepared from an approved source by a commercial processor and nonperishable beverages or any items additionally allowed by a limited service restaurant defined in ORS 624.010.
- c. Prior to the issuance of zoning approval to establish a winery under this section, the applicant shall show that vineyards, described in subsection (a)(1) and (2) of this section, have been planted or that the contract has been executed, as applicable.
- d. Siting Standards to limit conflicts with accepted farming or forest practices on adjacent lands include:
 - (1) Establishment of a setback, not to exceed 100 feet, from all property lines for the winery and all public gathering places; and
 - (2) Provision of direct road access, internal circulation and parking.
- e. If a Home Occupation to host Commercial Events such as weddings, receptions or parties is desired, that use must be applied for under Section E(28). Failure to apply under Section E(28) for such a use will result in the hosting of any such events to be considered a land use violation.

7. Farm Ranch Recreation:

- a. The tract or parcel is currently employed in a commercial agricultural operation as defined in Section 1.090 and ORS 215.203 as evidenced by a Farm Management Plan.

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If the Farm Ranch Recreation utilizes agricultural operations on a tract to meet the commercial agricultural operation standards they will be required to own and operate the tract. If portions of the tract used to justify the commercial agricultural operation are sold the Farm Ranch Recreation approval will automatically become void and the owner will cease to operate within 60 days of selling the property.

- b. The Farm Management Plan shall also include the Farm Ranch Recreation proposal including the number of acres devoted to the recreational use, proposed or existing buildings involved in the use, hours and days of operation, and anticipated usage (number of visitors). Additionally, it must be demonstrated how the Farm Recreation activities are compatible with the commercial farming operation.
- c. The Farm Ranch Recreation proposal shall not be the primary use of the tract, but shall be subordinate to the commercial agricultural operation in scope, scale and impact, however, income generated from the farm ranch recreation use does not have to be subordinate to income generated by the commercial agricultural operation. Scope, scale and impact shall take into consideration the number of acres/area devoted to the farm ranch recreation use, anticipated usage of the use, days and hours of operation.
- d. New Farm Ranch Recreation structures shall be located on land that is "generally unsuitable" as defined in Section J(1)(d), Non-Farm Dwelling, where practicable. If the proposal is to not locate Farm Ranch Recreation structures on land that is "generally unsuitable", the application shall explain why and how the proposal best protects agricultural lands.
- e. Recreational uses such as fly fishing and hunting off of the parcel or tract shall be allowed. However, the primary portion of the Farm Ranch Recreation use, excluding lodging, shall occur on the parcel or tract.
- f. Overnight lodging units in new or existing structures may be permitted in conjunction with the Farm Ranch Recreation operation. Lodging unit means an individual guest room in a lodge, bunkhouse, cottage, cabin, tent or licensed recreational vehicles used only for transient lodging and not for a permanent residence. No more than 10 lodging units are allowed. No kitchen facilities are permitted in individual lodging units. All overnight facilities shall comply with Oregon Dept. of Environmental Quality and/or Wasco County Health Dept. requirements for sanitary sewage disposal.
- g. In addition to overnight lodging units a separate kitchen area, rest rooms, storage or other shared indoor space shall be allowed.
- h. Food services shall be incidental to the operation of the guest ranch and shall be provided only for the guests of the farm ranch recreation, individuals accompanying the guests and individuals attending a special event at the farm ranch recreation site. The cost of meals, if any, provided to guests of the

farm ranch recreation, individuals accompanying the guests and individuals attending a special event at the farm ranch recreation may be included in the fee to visit or stay at the farm ranch recreation site. A farm ranch recreation may not sell individual meals to an individual who is not a guest of the farm ranch recreation, an individual accompanying a guest or an individual attending a special event at the farm ranch recreation site. Kitchen facilities associated with the farm ranch recreation shall comply with Oregon Dept. of Environmental Quality and/or Wasco County Health Dept. requirements.

- h. The Approving Authority shall place reasonable no-shooting buffers (setbacks from property lines) for hunting preserves, with the ability to have a minimum one foot (1') buffer.
- i. There shall be a two mile radius for public notification in the application of public or private target or shooting courses. There shall be a one-half mile radius for public notification in the application of a hunting preserve.

8. Utility Facility:

- a. A utility facility is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(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 rights of way;

(5) Public health and safety; and

(6) Other requirements of state and federal agencies.

- b. Costs associated with any of the factors listed in a. 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.
- c. The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural

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land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

- d. The governing body of the County or its designee shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, 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 surrounding farm lands.
- e. In addition to a. through d. of this section, 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.
- f. The provisions of a. through d. do not apply to interstate natural gas pipelines and associated facilities authorized by an subject to regulation by the Federal Energy Regulatory Commission.

9. Aggregate

- a. A land use permit is not required for mining less than 1,000 cubic yards of material or excavation preparatory to mining of a surface area of less than one acre.
- b. A land use permit for mining of aggregate shall be issued only for a site included on an inventory in an acknowledged comprehensive plan.
- c. "Mining" includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads.
- d. "Mining" does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or nonsurface impacts of underground mines.

10. Composting facilities:

- a. Composting operations and facilities allowed on land not defined as high-value farmland shall be limited to the composting operations and facilities

allowed by OAR 660-033-0130(29)(a) or that require a permit from the Department of Environmental Quality under OAR 340-093-0050. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.

- b. Composting operations and facilities allowed on high-value farmland are limited to those that are exempt from a permit from the Department of Environmental Quality (DEQ) under OAR 340-093-0050, only require approval of an Agricultural Compost Management Plan by the Oregon Department of Agriculture, or require a permit from the DEQ under OAR 340-093-0050 where the compost is applied primarily on the subject farm or used to manage and dispose of by-products generated on the subject farm. 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.

11. Land application of reclaimed water, agricultural process or industrial process water or biosolids.

- a. A determination by the Department of Environmental Quality, in conjunction with the department's review of a license, permit or approval, that the application rates and site management practices for the land application of reclaimed water, agricultural or industrial process water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not reduce the productivity of the tract.
- b. The use of a tract of land on which the land application of reclaimed water, agricultural or industrial process water or biosolids has occurred under this section may not be changed to allow a different use unless:
 - (1) The tract is included within an acknowledged urban growth boundary;
 - (2) The tract is rezoned to a zone other than an exclusive farm use zone;
 - (3) The different use of the tract is a farm use as defined in ORS 215.203; or
 - (4) The different use of the tract is a use allowed under:
 - (a) ORS 215.213 (1)(c), (e) to (g), (k), (m) to (q), (s) to (u), (x), (z) or (aa);
 - (b) ORS 215.213 (2)(a) to (c), (i), (m) or (p) to (r);
 - (c) ORS 215.283 (1)(c), (e), (f), (k) to (o), (q) to (s), (u), (w) or (x); or
 - (d) ORS 215.283 (2)(a), (j), (L) or (p) to (s).

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- c. An evaluation of the alternatives to application and the reason for not using these alternatives.
- d. The uses allowed under this section include:
 - (1) The treatment of reclaimed water, agricultural or industrial process water or biosolids that occurs as a result of the land application;
 - (2) The establishment and use of facilities, including buildings, equipment, aerated and nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and reasonably necessary for the land application to occur on the subject tract;
 - (3) The establishment and use of facilities, including buildings and equipment, that are not on the tract on which the land application occurs for the transport of reclaimed water, agricultural or industrial process water or biosolids to the tract on which the land application occurs if the facilities are located within:
 - (a) A public right of way; or
 - (b) Other land if the landowner provides written consent and the owner of the facility complies with ORS 215.275 (4); and
 - (4) The transport by vehicle of reclaimed water or agricultural or industrial process water to a tract on which the water will be applied to land.
- e. Uses not allowed under this section include:
 - (1) The establishment and use of facilities, including buildings or equipment, for the treatment of reclaimed water, agricultural or industrial process water or biosolids other than those treatment facilities related to the treatment that occurs as a result of the land application; or
 - (2) The establishment and use of utility facility service lines allowed under B(10) above.
- f. A division of land for the land application of reclaimed water, agricultural or industrial process water or biosolids shall not be allowed.

12. Farm stands:

- a. The structures are designed and used for 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 sales of the incidental items and fees

from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand;

- b. The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment;
- c. "Farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items; and
- d. "Local agricultural area" includes Oregon or an adjacent county in Washington.

13. Golf Courses

- a. 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;
- b. A regulation 9 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;
- c. Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in Section 1.090, including but not limited to executive golf courses, Par 3 golf courses, pitch and putt golf courses, miniature golf courses and driving ranges;
- d. Accessory uses provided as part of a golf course shall be consistent with the following standards:
 - (1) 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. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not

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include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing.

- (2) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings.
- (3) 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 designed for or include structures for banquets, public gatherings or public entertainment.

14. Private Parks, Playgrounds and Campgrounds

- a. The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.
- b. 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 4.
- c. 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.
- d. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
- e. Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by subsection f below.
- f. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

As used in this paragraph, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or

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internal cooking appliance.

15. On Site Filming

- a. No filming shall occur without written permission of the landowner.
- b. Filming may be restricted during the hours between 10 p.m. and 8 a.m. if nearby residents would be disturbed by noise, lights or any other filming activity.
- c. Filming shall not create traffic hazards.
- d. Prior to filming, written authorization shall be obtained from the applicable fire department for the use of any fire-related activities, such as welding or cutting equipment, pyrotechnical devices or related activities.
- e. All federal, state and county aircraft regulations shall apply. It is the responsibility of the applicant to be aware of all regulations.
- f. All structures shall be self-supporting. Digging or construction of permanent foundations will not be allowed.
- g. Weekly garbage pickup shall be provided and any garbage or debris gathered daily.
- h. All garbage, debris, sets, or other equipment or props must be removed and properly disposed of within 24 hours of completion of filming.
- i. All food concessions shall obtain a permit from the Wasco County Health Department.
- j. It is the responsibility of the applicant to provide proper sanitation, potable water, off-road parking, and security.
- k. No mammals, fish, reptiles, or other animals shall be released into the environment during or after filming.
- l. All animals shall be tethered, leashed or caged when not immediately required for filming.

16. Commercial Activities in Conjunction with Farm Use - The processing, packaging, treatment and wholesale distribution and storage of a product primarily derived from farm activities on the premises. Also, retail sales of agricultural products, supplies and services directly related to the production and harvesting of agricultural products. Such uses include the following:

-Storage, distribution and sale of feed, fertilizer, seed, chemicals, and other products used for commercial agriculture.

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-Farm product receiving plants, including processing, packaging, and reshipment facilities. (revised 2-89)

-Livestock feed or sales yards.

-Storage, repair, or sale of fencing, irrigation, pipe, pumps, and other commercial farm-related equipment and implements.

-Farm equipment storage and repair facilities.

-Bulk storage and distribution facilities for fuels, pesticides, and fertilizers.

-Veterinarian clinic.

-Horticultural specialties such as nurseries or greenhouses for retail sales of plants and products.

-Slaughtering of animals, including attendant retail and wholesale sales, which may be conducted outside an enclosed building.

-Wineries for production from fruits, a portion of which are grown on the property, including retail sales.

-And other such uses which may be construed as similar to the above listed uses.

The Approving Authority shall consider among other relevant criteria the Land Conservation and Development Commission decision No. 79-003.

17. Wind Power Generation Facility: For purposes of this section a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances.

a. For high-value farmland soils described in ORS 195.300(10), it must be found that all of the following are satisfied:

(1) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:

(a) Technical and engineering feasibility;

(b) Availability of existing rights of way; and

(c) The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under paragraph (2) of this subsection.

(2) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils.

(3) Costs associated with any of the factors listed in paragraph (1) of this subsection may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary.

(4) The owner of a wind power generation facility approved under Section (a) above shall be responsible for restoring, as nearly as possible, to its former condition 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 facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(5) The criteria in Section (b), below are satisfied.

b. For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described in ORS 195.300(10), it must be found that:

(1) The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices; and

(2) The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will

be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval; and

- (3) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and
 - (4) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.
- c. For nonarable lands, meaning lands that are not suitable for cultivation, it must be found that the requirements of Subsection (b)(4) above are satisfied.
 - d. In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in Sections (b) and (c) above, the approval criteria of Section (b) shall apply to the entire project.