

## ARTICLE 3

# (FG) EXCLUSIVE FARM USE-GRAZING

### SECTION 3.3.000 Purpose

The purpose and intent of the Exclusive Farm Use-Grazing zone is to provide areas for the continued practice of agriculture and permit the establishment of only those new uses which are compatible with agricultural activities. The minimum property size established by this zone is intended to promote commercial agricultural pursuits, such as grazing, rangeland and other less intensive agricultural uses.

It is the purpose of this zone classification to provide the automatic farm use valuation for farms which automatically qualify under the provisions of ORS 308. Therefore, the Exclusive Farm Use Zone is to be applied to all lands designated "Agriculture" in the Comprehensive Plan in accordance with LCDC Goal No. 3 and the Douglas County Agricultural Element.

The Exclusive Farm Use Zone is intended to guarantee the preservation and maintenance of the areas so classified for farm use free from conflicting nonfarm uses and influences.

### SECTION 3.3.050 Permitted Uses

In the FG zone, the following uses and activities and their accessory buildings and uses are permitted subject to the general provisions and exceptions set forth by this ordinance:

1. Farm uses (except as provided in §3.3.100).
2. The propagation or harvesting of a forest product.
3. Other buildings and accessory uses customarily provided in conjunction with farm use.
4. Operations for the exploration of geothermal resources as defined by ORS 522.005.
5. Water impoundments with less than 1000 acre feet of storage capacity, in conjunction with beneficial uses of water customarily associated with farm or forest uses or as a source of water for domestic use, provided that necessary state and federal permits have been issued.
6. Operations for the exploration for minerals as defined by ORS 517.750.
7. Farm stands as described in ORS 215.283.

8. Alteration, restoration or replacement of a lawfully established dwelling that:
- a. Has intact exterior 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 for interior lights;
  - d. Has a heating system; and
  - e. In the case of replacement, the dwelling to be replaced shall be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. An "Accessory farm dwelling" that was approved under §3.45.200.1.b.(3) may only be replaced by a manufactured dwelling.
  - f. A replacement dwelling may be located on any part of the same lot or parcel so long as it complies, where practicable, with all applicable siting standards.
  - g. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned EFU, then the applicant shall, as a condition of approval, record a deed restriction prohibiting the future siting of a dwelling on that non-EFU portion of the lot or parcel. The deed restriction shall be noted on Planning Department records. A release from the deed restriction may only occur if the statute regarding replacement dwellings changes or if there is a change in the Plan and Zone designation.
  - h. Deferred replacement: Upon request from an applicant, a deferred replacement may be authorized, allowing the replacement dwelling to be constructed or placed at any time in the future. The deferred replacement allows a property owner to remove a dwelling meeting the criteria of 8.a.-d. above with the guarantee that the removed dwelling can be replaced at any time in the future, subject to the siting standards of 8.e.-g. A deferred replacement is subject to the following:
    - 1) The dwelling to be replaced shall be removed or demolished within three months after the deferred placement is issued. Conversion to a non-residential use shall not be permitted. Documentation (photos, contractors written statement, or other suitable evidence) that the dwelling has been removed or demolished shall be submitted by the applicant within the three month period. If the dwelling to be replaced is not removed or demolished within the three month period, the deferred replacement authorization shall become void.

- 2) When constructed or placed, the deferred replacement dwelling shall comply with the building and sanitation codes that are applicable at the time of construction or placement.
  - 3) A deferred replacement authorization may be transferred, but only to the applicant's spouse or children.
9. Model aircraft take-off and landing sites as provided in ORS 215.283(1).
  10. Fire service facilities providing rural fire protection services.
  11. Irrigation canals, delivery lines and those structures and accessory operational facilities associated with an irrigation district, drainage district, water improvement district, or water control district (as those terms are defined in ORS 540).
  12. Establishment of a Wildlife Habitat Conservation and Management Plan.

### **SECTION 3.3.075 Uses Permitted with Standards**

In the FG zone, the following uses and activities are permitted subject to specified standards and the general provisions and exceptions set forth by this Ordinance.

1. One single-family dwelling customarily provided in conjunction with farm use on a property meeting the requirements of Article 45.
2. "Owner of Record" dwelling subject to the standards in 3.3.125.
3. "Relative Dwelling" -- A second single-family dwelling on real property used for farm use and meeting the notice and process requirements of §3.45.100.1 through 4:
  - a. If the dwelling is:
    - i. located on the same lot or parcel as the dwelling of the farm operator; and
    - ii. occupied by a relative, which means a child, parent, step-parent, grandchild, grandparent, step-grandparent, sibling, step-sibling, niece, nephew or first cousin of the farm operator or the farm operator's spouse, whose assistance in the management and farm use of the existing commercial farming operation is or will be required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm.
  - b. Except as provided in ORS 215.283(1), establishment of the second dwelling may not be used for future justification of land division; and

- c. The County must find, based on the farm operators statement, that the second dwelling is necessary for the farm operation and that the farm operator fully understands the conditions under which the building permit is being approved.
4. Accessory farm dwellings on a property meeting the requirements of Article 45.
5. Churches, subject to §2.065.2, provided that they are not within 3 miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4. Existing churches may be maintained, enhanced or expanded on the same tract without an exception. New churches are not allowed on high value farmland. Division of land for a new church or cemetery in conjunction with a church, as provided in ORS 215.263, shall not exceed five acres, and the remaining parcel must either meet the minimum parcel size or, if less than the minimum parcel size, be consolidated with an adjoining parcel.
6. Onsite filming and related accessory uses may be conducted without prior approval provided the use does not exceed 45 days.
7. Parking of up to seven log trucks unless the County determines that log truck parking on a particular lot or parcel will:
  - a. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
  - b. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
8. One single family dwelling in conjunction with a wildlife habitat conservation and management plan that has been approved by the State Department of Fish and Wildlife, provided that:
  - a. the proposed dwelling will be situated on a lot or parcel legally created prior to November 5, 1993; and
  - b. the subject lot or parcel qualifies for a farm or non-farm dwelling under current standards (except that farm assessment disqualification shall not be required); and
  - c. the proposed dwelling will not be established on a lot or parcel that is predominantly composed of class I or II, or prime or unique soils as identified by the U.S. Natural Resources Conservation Service; and
  - d. the governing body or its designee finds that the proposed dwelling will not:

- (1) force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
  - (2) significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
  - (3) The standards of this subsection may be satisfied through the imposition of clear and objective conditions; and
- e. The proposed dwelling will be the only dwelling situated on the subject lot or parcel.
9. Single-family residential dwelling not provided in conjunction with farm use, subject to Sections 2.060.1 and 3.43.100.
10. Utility facility service lines as defined in Section 1.090.
11. Utility facilities necessary for public service, including wetland waste treatment systems, subject to Section 2.060.1 and provided the standards in Section 3.3.170 are met. This use does not include commercial facilities for the purpose of generating electrical power for public use by sale, or transmission towers over 200 feet in height.
12. A facility for the processing of farm crops or the production of biofuel, provided that:
- 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 preparation, storage or other farm use; or, if an existing farm building is used, no more than 10,000 square feet shall be devoted to processing activities within that building; and
  - c. A land division separating the processing facility from the farm operation on which it is located shall not be permitted.

### **SECTION 3.3.100 Buildings and Uses Permitted Conditionally**

In the FG zone, the following uses and activities and their accessory buildings and uses are permitted subject to the provisions of §2.060.1 and Article 39 of this chapter:

- 1. Commercial activities that are in conjunction with farm use.
- 2. Operations conducted for:

- a. Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005.
  - b. Mining of 1,000 cubic yards or more of aggregate and other mineral and other subsurface resources or excavation preparatory to mining of a surface area of more than one acre. However, a permit for mining aggregate shall be issued only for a site included on the county inventory.
  - c. Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement, except no application shall be approved to allow batching of mineral and aggregate into asphalt cement within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more.
  - d. Processing of other mineral resources and other subsurface resources.
3. Private parks, playgrounds, hunting and fishing preserves, and campgrounds, except that such new uses shall not be permitted on land predominantly composed of high value farmland as defined in OAR 660-33. Hunting preserves licensed under ORS 497.248, and which existed prior to July 29, 2003, are not subject to local land use approval, except that complaints against the hunting preserve shall be processed in the manner described in ORS 215.296. Private campgrounds shall be subject to the following:
- a. 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 660-004;
  - b. A private campground shall be 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;
  - c. A private 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. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites; and
  - e. For campgrounds approved under this section, overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

4. Public parks and playgrounds, except that public parks shall be subject to OAR 660-034.
5. Community centers owned by a governmental agency or a nonprofit community organization operated primarily by and for residents of the local rural community. A community center existing on January 1, 2006, 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 (but excluding direct delivery of the listed referral services).
6. Golf courses as defined in OAR 660 Division 33, on land determined not to be high-value farmland, as defined in ORS 195.300.
7. Commercial utility facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height. A power generating facility shall not preclude more than 20 acres (or 12 acres on high value farmland) from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR 660, Division 4.
8. Personal use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal use airport as used in this section means an airstrip restricted except for aircraft emergencies, to use by the owner and, on an infrequent and occasional basis, by his 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 Aeronautics Division in specific instances. A personal use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.
9. Home occupation as a use accessory to an existing dwelling.
10. A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2). Such a facility may be approved for a one year period which is renewable. These facilities are intended to be only portable or temporary in nature. 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 property or land contiguous to the location of the primary processing facility.
11. Solid waste disposal site as provided in ORS 215.283.

12. Dog Kennels, including the breeding, kenneling and training of greyhounds for racing, except that, on high value farmland, new kennels may not be established. Existing kennels on high value farmland may be maintained, enhanced or expanded on the same tract.
13. The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission, or insect species, as provided in ORS 215.283(2).
14. Hardship dwelling meeting criteria of Article 46.
15. Onsite filming and related activities, subject to the provisions of §3.3.150, if the activity exceeds 45 days on any site within a one-year period or involves erection of sets that would remain in place for longer than 45 days. These activities may include office administrative functions such as payroll and scheduling, and the use of campers, trailers or similar temporary facilities, or other temporary facilities to be used as temporary housing for security personnel.
16. Operations for the extraction and bottling of water.
17. Composting facilities on land not defined as high value farmland and as provided in OAR 660-033-0130.
18. Living history museum as defined in ORS 215.283(2)
19. A landscape contracting business or a business providing landscape architecture services, as defined in ORS 671, provided that the business is part of an operation involved in the growing and marketing of nursery stock on land that constitutes farm use.
20. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located, and provided they are consistent with the siting standards of OAR 660 Division 33. New facilities are not allowed on high-value farmland.
21. A school formerly permitted under ORS 215.283 may be expanded, subject to the requirements of Article 39, if:
  - a. The use was established on or before January 1, 2009; and
  - b. The expansion occurs on:
    - (1) The tax lot on which the use was established on or before January 1, 2009; or
    - (2) A tax lot that is contiguous to the tax lot described in (1) above and that was owned by the applicant on January 1, 2009.

**Section 3.3.125 Standards for "Owner of Record" Dwellings**

A dwelling on a lot or parcel that was lawfully created and was acquired and has been owned continuously by the current owner since prior to January 1, 1985, or acquired by devise or intestate succession from an owner who acquired and had owned the property continuously since prior to January 1, 1985 may be allowed after notifying the County Assessor, and subject to the following:

1. For the purposes of this provision, "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, grandchild, of the owner or a business entity owned by any one or combination of these family members.
2. The tract on which the dwelling will be sited:
  - a. does not include a dwelling, and
  - b. if the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
3. The land in the tract is not either:
  - a. Characterized by predominantly irrigated prime, unique or Class I or II soils or non-irrigated prime, unique or Class I or II soils, as designated by the Natural Resources Conservation Service (NRCS) of the U.S. Department of Agriculture (formerly the Soil Conservation Service); or
  - b. Planted with "specified perennials" grown for market or research purposes including but not limited to nursery stock, berries, fruits, nuts, Christmas trees or vineyards, but not including seed crops, hay pasture or alfalfa (as demonstrated by the most recent aerial photograph of the Agricultural Stabilization and Conservation Service prior to November 4, 1993).
  - c. The soil class, soil rating, or soil designation of a specific lot or parcel may be changed if the property owner:
    - (1) Submits a statement of agreement from the NRCS that the soil data should be adjusted based on new information; or
    - (2) Submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and

- (3) Submits a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in subparagraph 2) above and finds the analysis in the report to be soundly and scientifically based.
4. The location of the homesite is consistent with the wildlife habitat requirements in Article 32.
5. When the lot or parcel where the dwelling is to be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel as a condition of approval.
6. If a single family dwelling is established under this section, no additional dwellings may be sited later under the nonfarm dwelling criteria.
7. An Owner of Record Dwelling approval may be transferred by a person who has qualified under this section to any other person after the effective date of the land use decision.
8. Owner of Record Dwelling on High Value Farmland: If the tract on which the dwelling will be sited is composed predominately of high value farmland soils as defined in OAR 660-33, then subsection 3.3.125.3.a) and b) do not apply and the approval is subject to the following additional criteria:
  - a. Notice, pursuant to §2.065.12, is provided to the State Department of Agriculture; and
  - b. The hearings body, pursuant to §2.060.3, finds that:
    - (1) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity.
    - (2) The proposed dwelling will not:
      - (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
      - (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
    - (3) The dwelling will not materially alter the stability of the overall land use pattern in the area.

### **SECTION 3.3.150 Conditional Use Approval Standards**

The Approving Authority shall consider the following additional criteria which must be met prior to the approval of a conditional use:

The use would not:

- a. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- b. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

The Approving Authority shall also impose any conditions necessary to meet the applicable criteria so as to preserve agricultural land. Nothing herein shall be construed to require the granting of a conditional use permit. The criteria set forth in this Section shall not apply to farm or forest uses conducted within: parcels with a single family residential dwelling approved under ORS 215.284; an exception area approved under ORS 197.732; or, an acknowledged urban growth boundary.

### **SECTION 3.3.160 Siting Standard for Dwellings**

The following siting standard shall apply to all new dwellings and other specified uses for the purpose of preserving resource lands for resource purposes.

1. To ensure that forest operations and accepted farming practices will not be curtailed or impeded, a nonexclusive resource management covenant shall be filed by the property owner with the County Clerk prior to development authorization for a dwelling or other use where specified. Such covenant shall specify that owners of adjacent and nearby land shall have: 1) the right to conduct forest operations consistent with the Forest Practices Act and Rules; 2) the right to conduct normal farming practices; and, 3) the right to extract aggregate or rock resources on their properties and that the owner (and subsequent owners) of the subject property waive all rights to object to legal resource management activities.

### **SECTION 3.3.170 Standards for Authorization of Utility Facility Necessary for Public Service**

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:

1. The applicant must show that reasonable alternatives have been considered.
2. The applicant must show that the facility needs to be sited in an exclusive farm use zone due to one or more of the following factors:

- a. Technical and engineering feasibility;
  - b. 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;
  - c. Lack of available urban and nonresource lands;
  - d. Availability of existing rights of way;
  - e. Public health and safety; or
  - f. Other requirements of state or federal agencies.
3. Costs associated with any of the factors listed above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.
  4. The owner of the utility facility shall submit an agreement that establishes the utility facility as the responsible party for restoring to its former condition those agricultural lands and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility.
  5. Clear and objective conditions shall be applied 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 the surrounding farmlands.
  6. Where linear utility facilities (which transfer a utility product in bulk from a point of origin or generation, or between transfer stations, to the point at which the utility product is transferred to distribution lines for delivery to end users), are proposed to pass through high value farmland, the utility provider shall provide the Approving Authority with documentation of consultation notice to record owners of high value farmland, as provided in ORS 215.275, prior to final approval of the utility facility.

Subsections 1 and 2 above shall not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

**SECTION 3.3.200 Property Development Standards**

1. **Property Size:** The creation of a unit of land shall be subject to the following:
  - a. The minimum parcel size shall be 80 acres.
  - b. The following exceptions may apply:
    - (1) Parcel size for non-farm uses, except dwellings, set out in ORS 215.283(2), may be less than the designated minimum parcel size upon a finding that the parcel is not larger than the minimum size necessary for the use, adequate sanitation facilities may be accommodated and negative impacts to surrounding farm or forest lands do not occur.
    - (2) Division of land for public park uses provided that:
      - i. The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and
      - ii. If one of the resulting parcels contains a dwelling, that parcel shall be large enough to support continued residential use of the parcel.
      - iii. The parcel created for park or open space uses shall not contain a dwelling, and:
        - 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 forest lands 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 a least 2,000 acres of open space or park property.
    - (3) Nonresource divisions for a non-farm dwelling may be less than the minimum parcel size subject to the provisions of Article 44.
  - c. Land partitions which create parcels greater than 80 acres in size shall be reviewed by the Director as a ministerial action to ensure conformance with the provisions of this ordinance.
2. **Coverage:** No standard established.
  3. **Setbacks:** No structure other than a fence or sign shall be located closer than 30 feet from the right-of-way of a public road and 10 feet from all other property lines.
  4. **Height:** No standard established.
  5. **Signs:**
    - a. Signs shall not extend over a public right-of-way or project beyond the property line.
    - b. Signs shall not be illuminated or capable of movement.
    - c. The total sign area of all signs on the property shall be limited to thirty-two square feet.
  6. **Parking:** Off street parking shall be provided in accordance with Article 35.