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UMATILLA COUNTY RECORDS

THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

In the Matter of Amending)
 Umatilla County Development) ORDINANCE NO. 2024-09
 Code to Update and Revise)
 Multiple Sections)

WHEREAS the Board of Commissioners has ordained Ordinance No. 83-04, adopting the County Land Development Ordinance, codified in Chapter 152 of the Umatilla County Code of Ordinances;

WHEREAS the Planning Department staff drafted a number of updates to the code affecting exclusive farm use and grazing farm zone lands incorporating legislative and administrative rules governing farm and forest zones.

WHEREAS the Umatilla County Planning Commission held a public hearing regarding the proposed amendments on June 27, 2024, and forwarded the proposed amendments to the Board of Commissioners with a recommendation for adoption;

WHEREAS the Board of Commissions held a public hearing on July 18, 2024, to consider the proposed amendments, and voted to approve the amendments to the Land Development Ordinance with revisions.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains the adoption of the following amendments to the County Land Development Ordinance, codified in Chapter 152 of the Umatilla County Code of Ordinances, to amend as follows (Strikethrough text is deleted; Underlined/Italicized text is added):

§ 152.058 (EFU) USES PERMITTED WITH A ZONING PERMIT.

(F) *Alteration, restoration or replacement dwelling.* A lawfully established dwelling may be altered, restored or replaced under ORS 215.283 (1) (p) if the county determines that the existing dwelling to be altered, restored or replaced has the following:

- (1) Intact exterior walls and roof structures;
- (2) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to

- a sanitary waste disposal system;
- (3) Interior wiring for interior lights;
- (4) A heating system; and
- (5) The existing dwelling was assessed as a dwelling for purposes of ad valorem taxation since the later of:
 - (a) ~~For the~~ The previous five property tax years before the date of the permit application; or

~~(b) From the time when The date that the dwelling was erected upon or affixed to the land and became subject to property tax assessment as described in ORS 307.10.~~

(6) The replacement dwelling:

(a) May be sited on any part of the same lot or parcel; and

(b) Must comply with all applicable siting standards, and with applicable building codes plumbing code sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.

(c) Must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction.

(d) Must comply with the construction provisions of section 8327 of the Oregon Residential Specialty Code, if:

(i) The dwelling is in an area identified as extreme or high wildfire risk on the statewide map of wild fire risk described in ORS 477.490; or

(ii) No statewide map of wildfire risk has been adopted.

(7) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use: ~~(a) Within one year~~ after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055 ~~or;~~

~~(b) If the dwelling to be replaced is in the discretion for occupancy or constitutes an attractive nuisance, on or before a date set by the county that is not less than 90 days after the replacement permit is issued.~~

~~(8) (c)~~ The property owner must execute and record in the deed records of the county a statement (covenant) that the dwelling which

qualified for replacement has been removed, demolished or converted to an allowable non-residential use.

~~(8)-(9)~~ The property owner must S-sign and record a Covenant Not to Sue with regard to normal farming practices is a requirement of the replacement dwelling approval.

~~(9)-(a)~~ (10) If the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use (split zoned property), the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and ORS 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling;

(11) ~~(b)~~ The county planning director, or the director's designee, shall maintain a record of the lots and parcels that do not qualify for the siting of a new (replacement) dwelling under this section.

(12) An application under this section must be filed within three years following the date that the dwelling last possessed all the features listed in (1) (a) of this section.

(13) Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.

~~(10)~~ (14) If an applicant is granted a deferred

replacement permit under this section, the deferred replacement permit:

- (a) Does not expire but the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and
- (b) May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

§ 152.059 LAND USE DECISIONS.

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

§ 152.0617 (II) EFU AND GF LAND USE DECISIONS.

(8) *Alteration, restoration or replacement of a lawfully established dwelling that has been removed, or destroyed by fire or natural hazard.*

(a) A lawfully established dwelling may be altered, restored or replaced under this section if the county determines based on evidence that the dwelling to be altered, restored or replaced formally had:

- (i) Intact exterior walls and roof structure;
- (ii) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- (iii) Interior wiring for interior lights; and
- (iv) A heating system; and

(B) If the value of the dwelling was eliminated as a result of destruction or demolition, was assessed as a dwelling for purposes of ad valorem taxation since the last of: removed; destroy or demolished;

(i) Five years before the date of the destruction or demolition; or The dwelling's tax lot does not have a lien for delinquent ad valorem taxes;

(ii) The date that the dwelling was erected upon or fixed to the land and became subject to property tax assessment. Any removal, destruction or demolition occurred on or after January 1, 1973;

(c) The land use permit application under this section must be filed within three years following the date that the dwelling last possessed all the features listed under (a) of this section.

~~(c)~~ (d) The replacement dwelling must be sited on the same lot or parcel:

(i) May be sited on any part of the same lot or parcel. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and

(ii) Must comply with applicable siting standards. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling; For the purpose of minimizing the adverse impacts on resource use of the land in the area, within a concentration or cluster of structures or within 500 yards of another structure; and

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

(iv) Must comply with the construction provisions of section R327 of the Oregon Residential Specialty Code, if:

1. The dwelling is in an area identified as

extreme or high wildfire risk on the statewide map of wildfire risk described in ORS 477.490: or

2. No statewide map of wildfire risk has been adopted.

(d) (e) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:

(i) Within ~~one year~~ three months after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or and

~~(ii) If the dwelling to be replaced is, in the discretion of the county, in such a state of disrepair that the structure is unsafe for occupancy r constitutes an attractive nuisance, on or before a date set by the county that is not less than 90 days after the replacement permit is issued.~~

~~(iii) (ii) The applicant must record in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted to a nonresidential use.~~

(e) (f) Covenant Not to Sue. All dwellings approved within the EFU and GF zones require the landowners to sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(f) (g) As a condition of approval, if the The dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the

director's designee, places a statement of release in the deed records of the county to the effect that the provisions of this section and ORS215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

(h) Construction of a replacement dwelling approved under this section must commence no later than four years after the approval of the application under this section becomes final.

~~(g) (i)~~ The county planning director, or the director's designee, shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under this subsection including a copy of the deed restrictions filed under this section.

(h) (j) If an applicant is granted a deferred replacement permit under this section, the deferred replacement permit:

(i) Does not expire but the permit becomes void unless the dwelling to be replaced is removed or demolished within three months after the deferred replacement permit is issued; and

(ii) May not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

§ 152.058 (EFU) USES PERMITTED WITH A ZONING PERMIT (U) A farm processing facility of less than 2,500 square feet for its processing area and complying with all applicable siting standards.

§ 152.059 LAND USE DECISIONS. (F) A facility of between 2,500 and 10,000 square feet for the processing of farm crops, as provided in §152.617(II)(1).

§ 152.617 (II) EFU AND GF LAND USE

DECISIONS.

(1) *Facility for Processing Farm Crops.*

(a) ~~A facility for Processing Farm Crops using Uses less than between 2,500 and 10,000 square feet for its processing area and complies ~~complying~~ with all applicable siting standards pertaining to floodplains, airport safety and fire siting standards;~~ ~~or~~

(b) ~~Uses more than 2,500 square feet but less than 10,000 square feet for its processing area standards and complies with all applicable siting standards;~~

(c) ~~(b)~~ "Facility for the processing of farm products" means a facility for:

(i) Processing farm crops, including the production of biofuel as defined in ORS 315.141, if at least one-quarter of the farm crops come from the farm operation containing the facility; or

(vi) Slaughtering, processing or selling poultry or poultry products. ~~rabbits or rabbit products~~ from the farm operation containing the facility and consistent with the licensing exemption for a person under ORS 603.038(2).

[The following are renumbered - no proposed changes.]

(d) (c) "Processing area" means . . .

(e) (d) The activity has . . .

(f) (e) The activity is located . . .

(g) (f) Ingress and egress are . . .

(h) (g) The operation complies with . . .

(i) (h) The building established for . . .

(j) (i) A land partition shall not . .

§ 152.060 CONDITIONAL USES PERMITTED.

(EE) Natural Hazard Temporary Harship Residence.

One recreational vehicle, or the temporary residential use of an existing building may be permitted in the EFU zone for a temporary natural hazard hardship use. To qualify for a

Natural Hazard Temporary Residence the hardship must be the result of a natural hazard that destroyed homes, caused residential evacuations, or both, and resulted in an Executive Order issued by the Governor declaring an emergency for all or parts of Oregon pursuant to ORS 401.165. A Natural Hazard Temporary Hardship Residence approval is pursuant to § 152.617 (I) (EE).

§ 152.617 (I) EFU AND GF ZONE CONDITIONAL USES

(EE) Natural Hazard Temporary Harship Residence

Purpose. The purpose of this section is to establish a temporary hardship residence in Umatilla County in an EFU or GF zone for the term of a hardship resulting from a natural hazard that destroyed homes, caused residential evacuations, or both, and resulted in an Executive Order issued by the Governor declaring an emergency for all or parts of Oregon pursuant to ORS 401.165.

(1) For a hardship based on a natural hazard event described in this section, the temporary residence may include a recreational vehicle or the temporary residential use of an existing building.

(2) The temporary hardship residence shall be connected to the same subsurface sewage disposal system used by the existing dwelling.

(3) The County may find that standards in fi 152.061 are satisfied where the temporary hardship residence is:

(a) Established within an existing building or, if a recreational vehicle, is located within 100 feet of the primary residence: or

(g) The temporary hardship residence is located further than 250 feet from adjacent lands planned and zoned EFU or GF, or both.

(4) The location of a temporary hardship residence on a parcel of EFU or GF zoned land shall not be considered a separate dwelling site and the lot area, frontage and access requirements of the applicable zoning district shall not apply.

(5) A temporary hardship residence approved under this section is not eligible for replacement under ORS 215.283 (1) (p).

(6) A land division or property line adjustment shall not be approved for a lot or parcel where the land division or adjustment would separate a temporary hardship residence from the primary dwelling located on the lot or parcel.

(7) Approval of a temporary hardship residence requires the landowner(s) to sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(8) Approval of a temporary hardship residence requires that the landowner(s) sign and record in the deed records for the County a statement binding the landowner, to remove, demolish, or return the temporary hardship residence to an allowed nonresidential use.

9) Conditional Use Permit approval for a temporary hardship residence must be reviewed and renewed every two years. This review will be used to determine whether the hardship still exists and for continued conditional use permit compliance.

(10) Within three months of the end of the hardship, the recreational vehicle shall be removed, or demolished, or, in the case of an existing building used as the temporary hardship residence, the building shall be removed, demolished, or returned to an allowed nonresidential use.

(11) As a condition of the approval,

Department of Environmental Quality building removal requirements apply.

§152.060 CONDITIONAL USES PERMITTED.

(FF) Emergency Campgrounds.

Emergency campgrounds may be authorized when a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration action, ORS 476.510

§ 152.617 (I) EFU AND GF ZONE CONDITIONAL USES

(FF) Emergency Campgrounds.

(1) An emergency campground is an area devoted to overnight temporary use for emergency purposes, but not for residential purposes.

(2) Emergency campgrounds shall be located outside of flood, geological, or wildfire hazard areas identified in adopted comprehensive plans and land use regulations to the extent possible.

(3) Emergency campgrounds may include campsites occupied by a tent, travel trailer, yurt or recreational vehicle:

(a) Separate sewer hook-ups shall not be permitted to individual campsites.

(b) As used in this section, a yurt is a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance. Yurts shall be located on the ground or on a wood floor with no permanent foundation.

(c) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people shall be approved in connection with the use within three miles of an urban growth boundary, unless a Goal exception is approved pursuant to ORS 197.732 and OAR Chapter 660, division 4.

(4) Authorized emergency campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(5) Authorized emergency campgrounds may include limited mobile commissary services scaled to meet the needs of emergency campground occupants. The application submission for approval of the emergency campground must include the type and scale of commissary services proposed.

(6) Campgrounds approved under this section must be removed or converted to an allowed use within 36 months from the date of the Governor's Executive Order.

(a) The county may grant two additional 12-month extensions upon demonstration by the applicant that the campground continues to be necessary to support the natural hazard event recovery efforts because adequate amounts of permanent housing is not reasonably available.

(b) Application made for an extension described in this section must be submitted prior to the end of the 36 months period from the date of the Governor's Executive Order. Applications for a 12-month extension are processed Administratively as provided in 152.769.

(7) Application materials for an emergency campground must include:

(a) A Plan for the removal of the emergency campground; or

(b) A Plan for the conversion of the emergency campground to a use allowed in by the property zoning where the emergency

campground is located:

(c) The Plan to remove or convert the emergency campground to an allowed use must be followed at the end of the approval time, as described in the section. The removal or conversion plan will be a condition of approval of a permit to authorize and approve an emergency campground.

(8) Applications submitted for emergency campgrounds may be found to satisfy S152.061, when the Governor has issued an Executive Order declaring an emergency for all of parts of Oregon pursuant to ORS 401.165 and where the following are met:

(a) The subject property for the emergency campground is not irrigated land;

(b) The subject property for the emergency campground is not high-value farmland;

(c) The number of proposed emergency campground campsites:

(i) Does not exceed 12 campsites; or

(ii) Proposed campsites and other campground facilities are located at 660 feet from adjacent lands planned and zoned for resource use under Goal 3, Goal 4, or both, and then the number of campsites may be up to 36 campsites.

§ 152.084 LAND USE DECISIONS

(K) DWELLINGS

(2) Template Dwelling

A Template Dwelling may be allowed if the tract of land does not include a dwelling, and lot or parcel was lawfully created where the dwelling will be sited, if and the following criteria are met:

(a) Where ~~the dwelling is~~ will be sited on a lot or parcel that is predominately composed of soils that are:

(i) Capable of producing 0 to 20 cubic feet per acre per year of wood fiber if:

a. All or part of at least three other lots or parcels that existed on January 1, 1993 are

within a 160-acre square centered on the center of the subject tract, and

b. At least three dwellings existed on January 1, 1993 on the other lots or parcels and ~~continue to exist on the other lots or parcels~~ or

(ii) Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:

a. All or part of at least seven other lots or parcels that existed on January 1, 1993 are within a 160-acre square centered on the center of the subject tract, and

b. At least three dwellings existed on January 1, 1993 on the other lots or parcels and ~~continue to exist on the other lots or parcels~~; or

(iii) Capable of producing more than 50 cubic feet per acre per year of wood fiber if:

a. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

b. At least three dwellings existed on January 1, 1993, on the other lots or parcels and ~~continue to exist on the other lots or parcels~~.

(b) If the tract under subsection (a) of this section abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

(c) ~~(iv)~~ If a tract 60 acres or larger abuts a road or perennial stream, ~~the review or analysis measurement shall be made~~ by using a 160-acre rectangle ~~or template~~ that is one-mile-long and 1/4-mile wide centered on the center of the subject tract, and that is to the maximum extent possible aligned with the road or stream. However, one of the three dwellings must be on the same side of the road or stream as the tract and: If a road crosses

~~the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling and one of the three required dwelling shall be on the same side of the road or stream as the tract;~~

~~(a)(i) Be located within a 160-acre rectangle or template that is one-mile-long and 1/4-mile wide centered on the center of the subject tract, and that is to the maximum extent possible aligned with the road or stream; or~~

~~(b) (ii) Be within 1/4-mile from the edge of the subject tract but not outside the length of the 160-acre rectangle or template, and on the same side of the road or stream as the tract.~~

~~(d) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling and one of the three required dwellings shall be on the same side of the road or stream as the tract; and as the proposed dwelling:~~

~~(v) If the tract under this division abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract, and that is to the maximum extent possible aligned with the road:~~

~~(vi) A tract shall no be considered to be less than the required acreage because it is crossed by a public road or waterway:~~

~~(b) (e) The center of the subject tract means the mathematical centroid of the tract.~~

~~(f) A proposed dwelling, under this section is allowed only if:~~

~~(i) The dwelling will comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations and other provisions of law; and~~
~~(ii) The dwelling complies with the requirements of 152.089; and~~

~~(vii) No dwellings are allowed on other lots or parcels that make up the tract and deed~~

restrictions established under ORS 215.740 (3) for the other lots or parcels that make up the tract are met.

(g) Where any property line adjustments were approved to the lot or parcel the following apply:

(i) The property line adjustment must have complied with the applicable property line adjustment provisions as provided in ORS 92.192; and

(ii) Any property line adjustments to the lot or parcel after January 1, 2019, did not have the effect of qualifying the lot or parcel for a dwelling under this section; and

(iii) If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.

§ 152.591 CHANGES IN NONCONFORMING USE.

(A) A nonconforming use may be changed only insofar as it applies to the zone in which it is located. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use;

(B) A nonconforming use shall not be altered or increased, except as provided in § 152.597 that permission to extend the use to any for such nonconforming use at the time of the passage of this chapter, may be granted as a variance to the provisions of this chapter;

(C) A nonconforming mobile home may be replaced or altered if the new mobile home or alteration does not deviate further from the standards of this chapter.

§ 152.595 RESTORATION OR REPLACEMENT OF NONCONFORMING BUILDING OR STRUCTURE ~~OR LOT~~.

~~(A) A~~ Only nonconforming buildings or structures which is damaged by fire, ~~flood~~; wind, earthquake or other calamity or natural disaster act of God or the public enemy, may be permitted to be restored or replaced if the restoration or replacement commences within one year from the date of occurrence of the fire or natural disaster. Approval of the restoration or replacement is processed through an administrative review as provided in § 152.769 and through approval upon the issuance of a zoning permit per § 152.025 and the occupancy or use of such building or structure or part thereof, which existed at the time of such partial destruction, may be resumed, provided that the restoration is commenced within a period of one year and is The permit approved for the restoration or replacement of the nonconforming use must be diligently prosecuted pursued to completion. Replacement of a resource dwelling only may be replaced where the existing dwelling meets resource zoning replacement standards in the EFU or GF zoning ordinance.

(A) (1) The restoration or reconstruction of a nonconforming building or structure damaged by fire or natural disaster may not increase the floor area or create a greater non-conformance than existed at the time of damage or destruction by fire or natural disaster; and (2) A nonconforming building or structure damaged by fire, or natural disaster only may be altered subject to 152.597.

~~(C) (B)~~ Nothing in this chapter section shall be construed to prevent the reconstruction or replacement of a preexisting conforming building or structure conforming as to use on a nonconforming lot or parcel, so long as such

the lot or parcel did not become nonconforming in violation of the provisions of this chapter.

§ 152.597 ALTERATIONS ~~OR REPAIRS~~ OF A NONCONFORMING USE.

(A) Alterations ~~or repairs~~ of a nonconforming use may be permitted to continue the use in a reasonable manner subject to land use review consistent with the intent of ORS 215.130 (5) - ~~(8)~~ (9), and the provisions of issuance approval of a zoning permit as provided in §152.025 of this chapter and consistent with the intent of ORS 215.130(5) - ~~(8)~~. Proposals for alterations of a nonconforming use are processed through administrative review (public notice) as provided in § 152.769.

§ 152.598 NONCONFORMING LOTS AND PARCELS.

(A) Any lot or parcel which is smaller than the minimum area required in any zone., except any Exclusive Farm Use or Grazing/Farm Zone lots and parcels. may be occupied by an allowed use in that zone, provided that:

- (1) The lot or parcel was a tax lot as shown on the Assessor's Rolls on the date of this chapter or a lot in a recorded subdivision; and
- (2) The use conforms to all other requirements of that zone; and
- (3) Obtains a favorable on-site septic evaluation for the installation of a septic system. Approval of the Department of Environmental Quality is obtained.

(B) A nonconforming lot or parcel of record may not be further re divided ~~or reduced in area~~ unless the property is rezoned and of adequate size to be divided. become legally dividable, except where it can be shown by a survey from a surveyor licensed in Oregon

that the survey lines do not correspond with physical boundary markers (such as fences) thought to be the true property lines by adjoining property owners, when these physical boundary markers have existed for at least 10 years, proof of which shall be provided by the person seeking the change of ~~the lot~~. A nonconforming lot of record may be reduced in area where the nonconforming lot or parcel satisfies requirements for a property line adjustment.

§ 152.600 VERIFICATION OF NONCONFORMING USE.

An applicant may make application to County Planning to verify that the use of a building, a structure or land "lawfully existed" when the zoning or land use regulations was first enacted or later amended and the structure or use existed as a lawful use and/or predated those laws.

The right to continue a use as a nonconforming use extends only to a lawful established structure or use and the applicant must include proof the structure or use existed continuously without interruption or abandonment.

The decision on an applicant's verification of nonconforming use will be made in a public hearing established under § 152.771 after public notice.

The official Umatilla County land use and zoning regulations were first adopted July 19, 1972 and revised into the Umatilla County Development Code dated April 14, 1983.

(A) Verification Approval.

The applicant:

- (1) Must provide proof that the use of the

building, structure or land existed as a "lawful" use at the time the law was enacted or changed and the applicant complied with the permit requirements, if any, to establish the structure or use.

(2) May establish a "rebuttable presumption" by submission of proof of the existence, continuity, nature and extent of the use for the 10-year period immediately preceding the date of application. Continuity means the use has continued without being interrupted or abandoned. Proof of the use for the 10-year period is sufficient to entitle the applicant to a rebuttable presumption.

(3) This presumption may be rebutted by evidence in opposition to the applicant's proof. Proof that a use "existed" 10 years ago does not mean that the use existed when the zoning or other land use regulation was first enacted more than 10 years ago or that the use existed "legally" at that time. This burden remains on the applicant and must be met by the applicant.

(4) Must comply with all other requirements applicable to nonconforming uses including satisfying other applicable agency permits.

§ 152.684 STANDARDS FOR APPROVAL.

In granting approval of a Type II Land Division, the Planning Director ~~shall~~ **must** find that the applicant has satisfactorily addressed the Type II Tentative Plan requirements and Type II Land Division standards for approval as listed in this section and required supplementary material:

(A) (B) If approved, Explain how the Type II Land Division will permit development and access on to the remainder of the property

under the same ownership, if any, or of and to adjoining lands, or access thereto, in accordance with this and other applicable ordinances;

(B) (C) Explain how the proposed parcels in the Type II Land Division C complies with the property zoning requirements including purpose, intended (permitted) uses, and parcel dimensional standards, or a proposed change thereto associated with the partition map proposal;

(A) (C) Address how the land division C complies with the applicable elements policies of the Comprehensive Plan, including, but not limited to, policies listed in the public facilities and services and the transportation elements sections of the Comprehensive Plan and Transportation System Plan, as set out in (1) through (6):

(1) (G) Municipal sewer facilities are unavailable outside of cities and most city urban growth boundaries; thus, rural parcels must rely on on-site septic systems or small community sewage systems.

(a) The applicant must obtain a septic system site evaluation (suitability) from Umatilla County Environmental Health As a condition of approval; for each parcel under four acres in size, both those partitioned, and the remnant parcel which are zoned residential, or to be used; for residential purposes, must have a site evaluation (suitability) approval from the Umatilla County Public Health Department; The applicant must provide a copy of each septic site evaluation to County Planning, as a condition of approval.

(b) A waiver of this requirement may be granted, if where the applicant makes a written request to the Planning Director and the Planning Director finds:

(1) (i) The parcel, four acres or under, is to be used for non-residential purposes and the owner's signature to this effect is on the

partition form; or

~~(2) (ii)~~ The parcel remaining has an existing dwelling and zoning densities will not permit additional dwellings.

~~(2) (E)~~ The applicant must show ~~Complies~~ compliance with provisions of §152.019, Traffic Impact Analysis, ~~when~~ where applicable.

~~(E) (3)~~ The applicant's proposed ~~R~~ roads and recorded easements for access purposes ~~are~~ must be laid out so as to conform, within the limits of the development standards, to the plats of subdivisions and ~~maps of~~ partitions ~~already~~ approved for on adjoining property, unless the Planning Director determines it is in the public interest to modify the road pattern;

~~(F) (4)~~ Recorded Proposed easements required as access to each parcel shall conform to access easement right-of-way width and road improvement standards as follows:

~~(H) (a)~~ A recorded Where a proposed access easement will ~~providing~~ access to three or fewer parcels; and ~~where the access easement~~ will not potentially serve other parcels or lots due to existing conditions such as topography, shall be required to meet the Option 1 or "P-1" County Road Standard as provided in § 152.648 (D). The access easement or right-of-way width shall be a minimum of 30-foot wide and the access road shall be improved with a road surface width at least 16-foot wide, constructed with 4 inches of nominal compacted gravel thickness and with gravel size and grading conforming to ODOT specifications; or

~~(I) (b)~~ A recorded Where a proposed access easement will ~~provide~~ ing access to four or more parcels, or ~~that~~ potentially will serve additional parcels or lots, or ~~with~~ could be an extension of a future road as specified in a ~~future road~~ the Transportation System plan, shall be required to meet the Option 2 or "P-2" County Road Standard as provided in § 152.648 (D). The access easement or right-of-

way width shall be a minimum of 60-foot wide and improved with a road surface width of at least 22-foot wide, constructed with 8 inches of nominal compacted gravel thickness, and with gravel size and grading conforming to ODOT specifications.

~~(c)~~ All ~~60-foot-wide~~ rights-of-way and/or access easements and public roads ~~may be~~ required by this section to must be named prior to final approval of the partition plat and ~~if required to be named,~~ the road name ~~must be included~~ identified on the final partition survey plat ~~map~~. Naming the roads must follow "road naming standards" in § 93.20 of the County Code of Ordinances.

The 60-foot-wide access easement and dedicated public road ~~Named roads~~ must be posted with a road name sign, at intersections with county roads, state highways, and with other existing easements or public roads within or abutting the proposed land division. All ~~proposed~~ E easements or and public roads names or numbers shall be the same as existing named or numbered county or public roads ~~if an~~ that are extensions of an such county or public existing named road must be identified on the final survey plat with the same road name. Road signs required by this section will be of a type approved by the Public Works Director and will be provided and installed by the County Public Works Department, ~~and paid for by~~ t The applicant/developer is required to pay for the road sign prior to recording the final partition plat approval.

~~(4)~~ Recorded easements or dedicated public roads established in the Type II Land Division may warrant the installation of road signs at intersections with named or numbered county roads, state highways, or with other existing easements or public roads within or abutting the partitioned land. The Public Works Director will determine if road signs are necessary at these intersections. Such signs shall be of a type approved by the Public

~~Works Director. Easement or public road names or numbers shall be the same as existing named or numbered county or public roads an extension of such county or public road. All other road names or numbers shall be selected by the Planning Director as provided in Umatilla County Code of Ordinance, Chapter 93. Road signs shall be installed by the County, provided the partitioner pays for the cost of the sign.~~

~~All other road names or numbers shall be selected by the Planning Director as provided in Umatilla County Code of Ordinance, Chapter 93. Road signs shall be installed by the County, provided the partitioner pays for the cost of the sign.~~

~~(2) (d) Partitions located within a rural fire district or within a hospital district providing emergency vehicle service to parcels where access will be provided from a All access easements which that dead-end shall are have either must be developed with circle drives (cul-de-sac) or driveway hammerhead turnarounds. The Planning Director or Public Works Director determines which type of emergency vehicle access plan is appropriate. Circle drives and turnarounds shall be improved to the same standard as the road they serve as provided in § 152.648 (D). Circle drives (cul-de-sac) and hammerhead turnarounds shall be kept clear of objects, fences, and vehicles and shall be of adequate circumference (cul-de-sac are 100-feet in diameter, hammerhead turnaround must accommodate a full-size fire truck) to provide turn around space for emergency vehicles.~~

~~(5) (e) Existing County Roads and Proposed access easements and Dedicated Public Roads shall be improved pursuant to the requirements of this chapter. Lands dedicated to the public, such as public roads, must be accepted by the County Board of Commissioners prior to recording the final survey partition plat or the instrument authorizing the approval. The Board of~~

Commissioners must sign the partition plat to accept public roads dedicated on the plat.

~~(6) (5) Parcels created through a Type II Land Division are required to have access approvals and permits from the State Highway Department onto state highways or from the County Public Works Department for access onto County Roads and public roads. The applicant shall provide copies of approved access approach permits to each proposed parcel created through a Type II Land Division. (The Oregon Department of Transportation approves and issues access approach permits to state highways and the County Public Works Department approves and issues access approach permits to County Roads and public roads. Access points onto County and public roads are reviewed for location, spacing standards, and design and improvement standards, as provided in the County Transportation System Plan and by the County Public Works Director and § 152.010.)~~

~~(F) (6) As a condition of approval, all Road improvement participation agreements are a requirement by this chapter, of the Type II Land Division for all access easements, public roads, and County roads, must be agreed to, and signed by the p Property owners and the Board of County Commissioners, as appropriate. The required sign the agreements and the agreement shall be is recorded in the County Records Office prior to, or at the time, the final plat survey is recorded. The agreements are binding to the parcels created by the partition plat.~~

~~(H) (D)~~

~~(1) The applicant shall provide a land division plan shall provide that includes proposed easements along existing irrigation ditches that traverse or abuts the partition property where easements have not been recorded. The purpose of the easement is for perpetual maintenance of the ditch, and t The easement~~

width and purpose shall be recommended by the Ditch Company, ~~where a land division or by the Irrigation District where the easements will be~~ is located within an irrigation district; ~~said easement width and purpose shall be recommended by the Irrigation District.~~

(2) Easements for utilities shall be in combination with proposed access easements. Additional utility easements may be necessary in a land division plan for other utilities serving the property including irrigation easements for access to irrigation water rights that serve the property. Utility easements shall be identified and shown in the land division plan and on the final partition plat survey.

~~(F) (E)~~ The land division plan must consider energy conservation measures (e.g. road, lot and building orientation for solar and wind usage) unless vegetation, topography, terrain, or adjacent development will not allow these energy conservation measures.

~~(K) (F)~~ The land division plan must adequately address known development limitations within the proposed Type II Land Division and provide appropriate measures to mitigate the limitation

~~(L) (G)~~ As a condition of approval, ~~t~~The applicant shall ~~work with and supply information regarding property water rights and~~ address comments ~~from made by the appropriate managing water agency where the property has a water right.~~

FURTHER by unanimous vote of ~~hose~~ present, the Board of Commissioners deems this Ordinance necessary for the immediate preservation of public peace, health, and safety; therefore, it is adjudged and decreed that an emergency does exist in the case of this Ordinance and it shall be in full force and effect from and after its adoption.

DATED this 17th day of July, 2024.


UMATILLA COUNTY BOARD OF COMMISSIONERS



John M. Shafer, Chair



Celinda A. Timmons, Commissioner



Daniel N. Dorrnan, Commissioner



**ATTEST:
OFFICE OF COUNTY RECORDS**

Steph Chamberlain

Records Officer

