

**CHAPTER 137**  
**SPECIAL AGRICULTURE ZONE**

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**137.010 PURPOSE.** The Special Agriculture (SA) zone is applied in areas characterized by small farm operations or areas with a mixture of good and poor farm soils where the existing land use pattern is a mixture of large and small farm units and some acreage homesites. The farm operations range widely in size and include grazing of livestock, orchards, grains and grasses, Christmas trees and specialty crops. The range in size of management units present no significant conflicts and allow optimum resource production from areas with variable terrain and soils. It is not deemed practical or necessary to the continuation of the commercial agricultural enterprise that contiguous ownerships be consolidated into large parcels suitable for large scale management. Subdivision and planned developments, however, are not consistent with the purpose of this zone and are prohibited.

This zone allows the flexibility in management needed to obtain maximum resource production from these lands. It emphasizes farm use but forest use is allowed and protected from conflicts. The SA zone is intended to be applied in areas designated Special Agriculture in the Marion County Comprehensive Plan.

The SA zone retains Class I through IV soils in commercial farm units comparable to those in the vicinity or in small scale or specialty commercial farms where the land is especially suited for such farming. The SA zone is intended to be a farm zone consistent with ORS 215.283.

**137.020 PERMITTED USES.** Within an SA zone no building, structure or premise shall be used, arranged or designed to be used, erected, structurally altered or enlarged except for one or more of the following uses:

- (a) Farm uses (see farm use definition).
- (b) The propagation or harvesting of a forest product.
- (c) Buildings, other than dwellings, customarily provided in conjunction with farm use.
- (d) Reserved.
- (e) Alteration, restoration, or replacement of a lawfully established dwelling with filing of the Declaratory Statement in Section 137.100(c), when the dwelling:
  - (1) Has a “Percentage Good” rating of 40 percent or more in the current County Assessor’s records.
  - (2) In the case of replacement, the replaced dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the occupancy of the replacement dwelling.
  - (3) In the case of replacement of a manufactured dwelling, the unit to be replaced is a manufactured home as defined in ORS 446.003 [manufactured after June 15, 1976].
  - (4) If the dwelling to be replaced is located on a portion of the lot or parcel not zoned SA or EFU (Exclusive Farm Use), the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.
- (f) Operations for the exploration for geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732.
- (g) Operations for the exploration for minerals as defined by ORS 517.750.
- (h) Widening of roads including public road and highway projects as follows:
  - (1) Climbing and passing lanes within the street right-of-way existing as of July 1, 1987.
  - (2) Reconstruction or modification of public streets, including the placement of utility facilities overhead and in the subsurface of public roads and highways along public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new parcels result.
  - (3) Temporary public street detours that will be abandoned and restored to original condition or use at such time as no longer needed.

- (4) Minor betterment of existing public street related facilities such as maintenance yards, weigh stations and rest areas, within rights-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public streets.
- (i) Creation of, restoration of, or enhancement of wetlands.
- (j) On-site filming and activities accessory to filming, as defined in Section 137.130(a), if the activity would involve no more than 45 days on any site within a one-year period.

**137.030 DWELLINGS PERMITTED SUBJECT TO STANDARDS.** The following dwellings may be established in the SA zone with filing of the Declaratory Statement in Section 137.100(c), subject to approval by the Director, based on satisfaction of the standards and criteria listed for each type of dwelling, pursuant to the procedures in Section 110.680.

**Primary Farm Dwellings**

- (a) A single-family dwelling customarily provided in conjunction with farm use. The dwelling will be considered customarily provided in conjunction with farm use when:
  - (1) It is located on high-value farmland, as defined in Section 137.130 (d) and satisfies the following standards:
    - (A) There is no other dwelling on the subject farm operation on lands zoned EFU, SA, or FT other than seasonal farm worker housing. The term “farm operation” means all lots or parcels of land in the same ownership that are used by the farm operator for farm use.
    - (B) The subject tract produced in the last two years or three of the last five years at least \$80,000 in gross annual income from the sale of farm products. In determining gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted.
    - (C) The subject tract is currently employed for the farm use that produced the income required in paragraph (B) of this subsection.
    - (D) The proposed dwelling will be occupied by a person or persons who produced the commodities which generated the income in paragraph (B) of this subsection; or
  - (2) It is **not** located on high-value farmland, as defined in Section 137.130 (d) subject to the following standards:
    - (A) There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term “farm operation” means all lots or parcels of land in the same ownership that are used by the farm operator for farm use
    - (B) The subject tract produced at least \$40,000 in gross annual income from the sale of farm products in the last two or three of the last five years. In determining the

gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented shall be counted.

- (C) The subject tract is currently employed for the farm use that produced the income required in paragraph (B) of this subsection.
  - (D) The dwelling will be occupied by a person or persons who produced the commodities which generated the income required in paragraph (B) of this subsection; or
- (3) It is **not** located on high-value farmland, as defined in Section 137.130 (d) and satisfies the following standards:
- (A) There is no other dwelling on the subject farm operation on lands zoned EFU, SA or FT other than seasonal farm worker housing. The term “farm operation” means all lots or parcels of land in the same ownership that are used by the farm operator for farm use
  - (B) The parcel on which the dwelling will be located is at least 160 acres.
  - (C) The subject tract is currently employed for farm use, as defined in ORS 215.203.
  - (D) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing, or caring for livestock, at a commercial scale.
- (4) It is in conjunction with a commercial dairy farm as defined in this Chapter and if:
- (A) The subject tract will be employed as a commercial dairy as defined; and
  - (B) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and
  - (C) Except as permitted by ORS 215.283 (1)(p) (1999 Edition), (Seasonal Farmworker Housing), there is no other dwelling on the subject tract; and
  - (D) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm activities necessary to the operation of the commercial dairy farm; and
  - (E) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
  - (F) The Oregon Department of Agriculture has approved the following:
    - (1) A permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to 468B.230; and

- (2) A Producer License for the sale of dairy products under ORS 621.072.
- (5) The applicant had previously operated a commercial farm use and if:
  - (A) Within the previous two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in the last five years or four of the last seven years as required by Section 137.030 (a) (1) or (2), whichever is applicable;
  - (B) The subject lot or parcel on which the dwelling will be located is:
    - (1) Currently employed for the farm use, as defined in this Ordinance, that produced in the last two years or three of the last five years the gross farm income required by Section 137.030 (a) (1) or (2), whichever is applicable; and
    - (2) At least the size of the applicable minimum lot size in this Chapter; and
      - (a) Except as permitted in ORS 215.283(1)(p)(1999 Edition) (Seasonal Farmworker Housing), there is no other dwelling on the subject tract; and
      - (b) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this section;
      - (c) In determining the gross income required by subsections (A) and (B)(1) of this section, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract, and only gross income from land owned, not leased or rented, shall be counted.
- (6) All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions: It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling. These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

**Secondary Farm Dwellings**

- (b) Secondary (accessory) dwellings customarily provided in conjunction with farm use when:
  - (1) The primary dwelling and the proposed dwelling will each be occupied by a person or

persons who will be principally engaged in the farm use of the land and whose seasonal or year-around 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.

- (2) There is no other dwelling on lands in the SA or EFU zone owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm and could reasonably be used as an additional farm dwelling.
- (3) The proposed dwelling will be located:
  - (A) On the same lot or parcel as the primary farm dwelling; or
  - (B) On the same contiguous ownership as the primary dwelling, and the lot or parcel on which the proposed dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the same ownership; or
  - (C) On a lot or parcel on which the primary farm dwelling is not located, when the secondary farm dwelling is limited to only a manufactured dwelling with a deed restriction is filed with the county clerk. The deed restriction shall require the additional dwelling to be removed when the lot or parcel is conveyed to another party. Occupancy of the additional farm dwelling shall continually comply with subsection (1) of this section; or
  - (D) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing on the farm operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The County shall require all accessory farm dwellings approved under this subsection to be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or
  - (E) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in subsection (4) below, whichever is applicable.
- (4) The primary dwelling to which the proposed dwelling would be accessory satisfies the following criteria:
  - (A) On land not identified as high-value farmland, the primary farm dwelling is located on land that is currently employed for farm use and produced at least \$40,000 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, the primary farm dwelling is located on land that is currently employed for farm use and produced at least \$80,000 in gross annual income from the sale of farm products in the last two or three of the last five years.

- (C) The primary dwelling is located on a commercial dairy farm as defined in this Chapter; and
    - (1) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and
    - (2) The Oregon Department of Agriculture has approved a permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to 468B.230; and
    - (3) Producer License for the sale of dairy products under ORS 621.072.
  - (D) In determining the gross income in paragraphs (A) and (B) of this subsection, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
  - (5) The dwelling will be consistent with the Fish and Wildlife Habitat policies of the Comprehensive Plan if located in a designated big game habitat area.
  - (6) Secondary farm dwellings shall be a manufactured home, or other type of attached multi-unit residential structures allowed by the applicable state building code, and a deed restriction is filed with the County Clerk requiring removal of the manufactured home, or removal, demolition or conversion to a non-residential use if other residential structures are used, when the occupancy or use no longer complies with the criteria or standards under which the manufactured home was originally approved.
- (c) A secondary single-family dwelling on real property used for farm use subject to the following standards:
- (1) A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator’s spouse, which means grandparent, step-grandparent, grandchild, parent, stepparent, child, stepchild, brother, sister, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use.
  - (2) The farm operator shall continue to play the predominant role in management and 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.
  - (3) A deed restriction is filed with the county clerk requiring removal of the dwelling when the occupancy or use no longer complies with the criteria or standards under which the dwelling was originally approved.
  - (4) For purposes of this subsection, a commercial farm operation is one that meets the income requirements for a primary farm dwelling identified in Sections 137.030(a)(1)(B), and the parcel where the dwelling is proposed contains a minimum of 80 acres.

- (5) All of the property in a tract used for the purposes of establishing a farm dwelling shall be held, sold and conveyed subject to the following covenants, conditions and restrictions: It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling. These covenants, conditions, and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions, consistent with OAR 660-006-0027.

### **Lot-of-record Dwellings**

- (d) A single family dwelling subject to the following standards and criteria:
  - (1) The lot or parcel on which the dwelling will be sited was lawfully created and acquired and owned continuously by the present owner:
    - (A) Since prior to January 1, 1985; or
    - (B) By devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
    - (C) "Owner", as the term is used in this section only, 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 business entity owned by any one or combination of these family members.
  - (2) The tract on which the dwelling will be sited does not include a dwelling.
  - (3) 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.
  - (4) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed.
  - (5) The request is not prohibited by, and complies with, the Comprehensive Plan and other provisions of this ordinance, including but not limited to floodplain, greenway, and big game habitat area restrictions.
  - (6) The proposed dwelling will not:
    - (A) Exceed the facilities and service capabilities of the area.
    - (B) Create conditions or circumstances contrary to the purpose of the Special Agriculture zone.

- (7) A lot-of-record dwelling approval may be transferred one time only by a person who has qualified under this section to any other person after the effective date of the land-use decision.
- (8) The County Assessor shall be notified that the county intends to allow the dwelling.
- (9) The lot or parcel on which the dwelling will be sited is not high-value farmland as defined in Section 137.130 (d); or
- (10) The lot or parcel on which the dwelling will be sited is high-value farmland as defined in Section 137.130 (d) (2) or (3) and:
  - (A) Is twenty-one acres or less in size.
  - (B) The tract on which the dwelling is to be sited is not a flaglot and is:
    - (1) Bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993; or
    - (2) Bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. No more than two of the four dwellings may be within an urban growth boundary; or
  - (C) The tract on which the dwelling is to be sited is a flaglot and is:
    - (1) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are small than 21 acres, and at least four dwellings existed on January 1, 1993, within 1/4 mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The Board, or its designee, must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:
    - (2) “Flaglot” means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
    - (3) “Geographic center of the flaglot” means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot; or
- (11) The lot or parcel on which the dwelling is to be sited is high-value farmland as defined in Section 137.130 (d)(1) and:
  - (A) The hearings officer determines 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. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot or parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use; and
- (2) The use will not force a significant change in or significantly increase the cost of farm or forest practices on surrounding lands devoted to farm or forest use; and
- (3) The dwelling will not materially alter the stability of the overall land use pattern in the area. To address this standard, the following information shall be provided:
  - (a) 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 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 non-resource uses shall not be included in the study area;
  - (b) Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved under Sections 137.030(d) and 137.050(a), including identification of predominant soil classifications and parcels created prior to January 1, 1993. The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could

result from approval of the possible non-farm dwellings under this provision;

- (c) Determine whether approval of the proposed non-farm/lot-of-record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase, 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.

- (B) The county shall provide notice of the application for a dwelling allowed under this subsection to the Oregon Department of Agriculture.

### **Dwelling Alteration and Replacement**

- (e) Alteration, restoration or replacement of a lawfully established dwelling with filing of the Declaratory Statement in Section 137.100(c), other than as permitted in Section 137.020(d), when the dwelling:
  - (1) Has intact exterior walls and roof structure;
  - (2) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  - (3) Has interior wiring for interior lights;
  - (4) Has a heating system; and
  - (5) In the case of replacement, is removed, demolished or converted to an allowable non-residential use within three months of the occupancy of the replacement dwelling.
  - (6) For the case in which the applicant has requested a deferred replacement permit, the dwelling to be replaced shall be removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of consideration. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.
  - (7) If the dwelling to be replaced is located on a portion of the lot or parcel not zoned SA or EFU, the applicant shall execute and record in the deed records a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction

imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling.

**137.040 USES PERMITTED SUBJECT TO STANDARDS.** The following uses may be permitted in the SA zone subject to approval of the request by the Director, based on satisfaction of the standards and criteria specified for each use, pursuant to the procedures in Section 110.680.

#### Farm Stands

- (a) Farm stand subject to the following standards:
  - (1) Structures shall be designed and used for the sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.
    - (a) As used in this section, “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 produce but not prepared food items.
    - (b) As used in this section, “local agricultural area” is limited to the State of Oregon.
  - (2) The sale of incidental retail items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand is permitted provided 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.
  - (3) Farm stand shall not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

#### Winery

- (b) Winery, as defined in Section 137.130(h). The winery shall include only the sale of:
  - (1) Wines produced in conjunction with the winery.
  - (2) Items directly related to wine, the sales of which are incidental to the sale of wine on-site. Such items include those served by a limited service restaurant, as defined in ORS 624.010.

#### Religious Organizations and Cemeteries

- (c) Religious organizations and cemeteries in conjunction with religious organizations subject to the following:

- (1) New religious organizations may not be established on high-value farmland. Existing religious organizations and cemeteries in conjunction with religious organizations may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
- (2) A new religious organization may not 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.

#### Public and Private Schools

- (d) Public or private schools, including all buildings essential to the operation of a school, subject to the following:
  - (1) New schools may not be established on high-value farmland. Existing schools may be maintained, enhanced, or expanded on the same tract wholly within a farm zone.
  - (2) 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.

#### Filming Activities

- (e) On-site filming and activities accessory to filming, and defined in Section 137.130(a), if the activity:
  - (1) Involves filming or activities accessory to filming for more than 45 days; or
  - (2) Involves erection of sets that would remain in place longer than any 45 day period.
  - (3) The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use.

#### Facility For Processing Farm Crops

- (f) A facility for the processing of farm crops, or the production of biofuel as defined in ORS 315.141, subject to the following:
  - (1) The farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility.
  - (2) The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm use.
  - (3) The processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits siting of the processing facility.
  - (4) Division of a lot or parcel that separates a processing facility from the farm operation on which it is located shall not be approved.

### Model Aircraft

- (g) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary subject to the following:
  - (1) Buildings and facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use.
  - (2) The site shall not include an aggregate surface or hard area surface unless the surface pre-existed the use.
  - (3) As used in this section, “model aircraft” means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and controlled by radio, lines or design by a person on the ground.

### Wildlife Habitat Conservation

- (h) A wildlife habitat conservation and management plan on a lot or parcel subject to the following:
  - (1) The lot or parcel contains an existing legally established dwelling; or
  - (2) Approval for the dwelling is obtained under provisions contained in Sections 137.030(a), (d), or 137.050(a).
  - (3) The dwelling is situated on a legally created lot or parcel existing on November 4, 1993.
  - (4) The lot or parcel is not predominantly composed of soils rated Class I or II, when not irrigated, or rated Prime or Unique by the Natural Resources Conservation Service, or any combination of such soils.

### Other Uses

- (i) Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A facility is "necessary" if it must be situated in the SA zone in order for the service to be provided. An applicant must demonstrate that reasonable alternatives have been considered and that the facility must be sited in an SA zone due to one or more of the following factors as found in OAR 660-33-130(16):
  - (1) Technical and engineering feasibility;
  - (2) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for Special Agriculture 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.
  - (A) Costs associated with any of the factors listed above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.
  - (B) The owner of a utility facility approved under this section shall be responsible for restoring, to its former condition as nearly as possible, any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
  - (C) The applicant shall address the requirements of 137.060 (a).
  - (D) In addition to the provisions above, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in a Special Agriculture Zone shall be subject to the provisions of OAR 660-011-0060.
  - (E) The provisions of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
- (j) Parking of not more than seven log trucks on a tract when the use will not:
  - (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.
  - (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.
- (k) Fire service facilities providing rural fire protection services.
- (l) Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.
- (m) Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:
  - (1) A public right-of-way;
  - (2) Land immediately adjacent to a public right-of-way, provided the written consent of all adjacent property owners has been obtained; or
  - (3) The property to be served by the utility.

- (n) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249, and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in a Special Agriculture Zone under this division.

**137.050 CONDITIONAL USES.** The following uses may be permitted in an SA zone subject to obtaining a conditional use permit and satisfying the criteria in Section 137.060(a) and any additional criteria, requirements, and standards specified in this Section:

- (a) Single-family dwelling or mobile home not in conjunction with farm uses, subject to the criteria and standards in Sections 137.060(b), 137.070, and 137.100.
- (b) Temporary residence for hardship purposes pursuant to Section 120.040 with filing of the Declaratory Statement in Section 137.100(c).
- (c) Portable or temporary facility for primary processing of forest products subject to Section 137.060(d).
- (d) The following commercial uses:
  - (1) Home occupations, including bed and breakfast inns, subject to the criteria in Section 137.060(c) with filing of the Declaratory Statement in Section 137.100(c).
  - (2) Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Section 136.040(f), except the processing of farm crops pursuant to Section 137.040(f), and subject to Section 137.060 (k), but including a winery not permitted under Section 137.040(b).
  - (3) Dog kennels, including the breeding, kenneling and training of greyhounds for racing, in conjunction with a dwelling occupied by the kennel operator, subject to Section 137.060(i) with filing of the Declaratory Statement in Section 137.100(c).
  - (4) Room and board arrangements for a maximum of five unrelated persons in existing residences with filing of the Declaratory Statement in Section 137.100(c).
  - (5) The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission.
  - (6) A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
  - (7) Composting Facilities
    - (a) 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.

- (b) Composting operations and facilities allowed on land not defined as high-value farmland shall be limited to the composting operations and facilities allowed by subsection (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.
  
- (e) The following mining and processing activities:
  - (1) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted in Section 137.020.
  - (2) Mining of aggregate and other mineral and other subsurface resources subject to ORS 215.298 and Section 120.400.
  - (3) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement subject to Sections 137.060(h) and 120.400.
  - (4) Processing of other mineral resources and other subsurface resources subject to Section 120.400.
  
- (f) The following utility uses:
  - (1) Commercial utility facilities for the purpose of generating power for public sale, subject to Section 137.060(e).
  - (2) Transmission towers over 200 feet in height.
  
- (g) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities as defined in ORS 215.283(2)(h).
  
- (h) The following recreation uses:
  - (1) Private parks, playgrounds, hunting and fishing preserves and campgrounds subject to Sections 137.060(f) and (i) with filing of the Declaratory Statement in Section 137.100(c).
  - (2) Community centers, operated primarily by and for residents of the local rural community, where the land and facilities are owned and operated by a governmental agency or non-profit community organization with filing of the Declaratory Statement in Section 137.100(c).

- (3) Public parks, open spaces, and playgrounds including only those uses specified under OAR 660-034-035, or OAR 660-034-0040, whichever is applicable, and consistent with ORS 195.120 and with filing of the Declaratory Statement in Section 137.100(c).
- (4) Golf courses, as defined in Section 137.130(c), and subject to the requirements in Section 137.060 (g) with filing of the Declaratory Statement in Section 137.100(c).
- (5) Living history museum subject to 137.060 (j) with filing of the Declaratory Statement in Section 137.100(c).
- (i) Disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, or for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with facilities and buildings for its operation, subject to Section 137.060(i) with filing of the Declaratory Statement in Section 137.100.
- (j) The following transportation uses:
  - (1) Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
  - (2) Reconstruction or modification of public streets involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
  - (3) Improvement of public street related facilities, such as maintenance yards, weigh stations and rest areas where additional property or right-of-way is required but not resulting in the creation of new land parcels.
  - (4) Roads, highways, and other transportation facilities and improvements not otherwise allowed in this chapter, when an exception to statewide Goal 3 and any other applicable statewide planning goal with which the facility or improvement does not comply, and subject to OAR Chapter 660, Division 12.
- (k) A replacement dwelling to be used in conjunction with farm use with filing of the Declaratory Statement in Section 137.100(c), if the existing dwelling is listed in the Comprehensive Plan Inventory and the National Register of Historic Places as historic property as defined in ORS 358.480.
- (l) Residential home or adult foster home, as defined in ORS 197.660 and section 110.477, in an existing dwelling with filing of the Declaratory Statement in Section 137.100(c).

**137.060 CONDITIONAL USE REVIEW CRITERIA.** The uses identified in Section 137.050 shall satisfy the criteria in the applicable subsections below.

- (a) The following criteria apply to all conditional uses in the SA zone:
  - (1) The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use. Land devoted to farm or forest use does not include farm or forest use on lots or parcels upon which a non-farm or non-forest dwelling has been approved and established, in exception areas approved under ORS 197.732, or in an acknowledged urban growth boundary.

- (2) Adequate fire protection and other rural services are or will be available when the use is established.
- (3) The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, air and water quality.
- (4) Any noise associated with the use will not have a significant adverse impact on nearby land uses.
- (5) The use will not have a significant adverse impact on potential water impoundments identified in the comprehensive plan, and not create significant conflicts with operations included in the comprehensive plan inventory of significant mineral and aggregate sites.

### Non-farm Dwellings

- (b) The following additional criteria apply to non-farm dwelling requests:
  - (1) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through Class VIII soils that would not, when irrigated, be classified as prime, unique, Class I or Class II soils. Soils classifications shall be those of the Soil Conservation Service in its most recent publication, unless evidence is submitted as required in Section 137.120(b).
  - (2) The dwelling will be sited on a lot or parcel that does not currently contain a dwelling and was created before January 1, 1993. The boundary of the lot or parcel cannot be changed after November 4, 1993 in a way that enables the lot or parcel to qualify for a non-farm dwelling.
  - (3) The dwelling will not materially alter the stability of the overall land use pattern of the area. In making this determination the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated shall be considered. To address this standard, information outlined in Section 137.030(d)(11)(A)(3) shall be provided.

### Home Occupations

- (c) Notwithstanding Sections 110.270 and 120.075, home occupations, including the parking of vehicles in conjunction with the home occupation, including bed and breakfast inns, are subject to the following criteria:
  - (1) A home occupation or bed and breakfast shall be operated by a resident of the dwelling on the property on which the business is located. Including the residents, no more than five full-time or part-time persons shall work in the home occupation (“person” includes volunteer, non-resident employee, partner or any other person).
  - (2) It shall be operated substantially in:
    - (A) The dwelling; or

- (B) Other buildings normally associated with uses permitted in the zone in which the property is located.
- (3) It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
- (4) A home occupation shall not be authorized in structures accessory to resource use on high-value farmland.
- (5) A sign shall meet the standards in Chapter 191.
- (6) The property, dwelling or other buildings shall not be used for assembly or dispatch of employees to other locations.
- (7) Retail and wholesale sales that do not involve customers coming to the property, such as internet, telephone or mail order offsite sales, and incidental sales related to the home occupation services being provided are allowed. No other sales are permitted as, or in conjunction with, a home occupation.

#### Forest Products Processing Facility

- (d) A portable or temporary facility for the primary processing of forest products is subject to the following criteria and limitations:
  - (1) The use shall not seriously interfere with accepted farming practices.
  - (2) The use shall be compatible with farm uses described in ORS 215.203 (2).
  - (3) The use may be approved for a maximum one-year period, which is renewable.
  - (4) The primary processing of a forest product, as used in this section, means the use of a chipper, stud mill, or other similar facility for initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a tract where the primary processing facility is located.

#### Power Generation Facility

- (e) A power generation facility shall not preclude more than:
  - (1) Twelve acres from use as a commercial agricultural enterprise on high-value farmland unless an exception is taken pursuant to OAR Chapter 660, Division 004.
  - (2) Twenty acres from use as a commercial agricultural enterprise on farmland that is not high-value unless an exception is taken pursuant to ORS 197.732 and OAR Chapter 660, Division 004.

#### Private Parks and Campgrounds

- (f) Private parks, playground, hunting and fishing preserves, and campgrounds shall meet the following criteria:

- (1) Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 004.
- (2) It shall be devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.
- (3) A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.
- (4) A camping site shall only be occupied by a tent, travel trailer or recreational vehicle. Private campgrounds may provide yurts for overnight camping subject to the following:
  - (A) No more than one-third or a maximum of 10 campsites, whichever is smaller may include yurts;
  - (B) The yurt shall be located on the ground or on a wood floor with no permanent foundation.
- (5) Separate sewer, water or electric service hook-ups shall not be provided to individual campsites.
- (6) It shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
- (7) Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

### Golf Course

- (g) A golf course is subject to the following limitations:
  - (1) New golf courses shall not be permitted on high-value farmland, as defined in Section 137.130(d).
  - (2) An existing legally established golf course on high-value farmland may be expanded on the same tract consistent with the provisions of Section 137.130(c).

### Other Uses

- (h) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. "Planted vineyard" means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
- (i) For uses listed in Sections 137.050(d)(3), (h)(1) and (i), new facilities on high-value farmland shall not be authorized. Existing legally established facilities on high-value farmland may be maintained, enhanced, or expanded on the same tract.

- (j) A living history museum related to resource-based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than a Special Agriculture Zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary.

As used in this paragraph:

- (1) “Living history museum” means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and event; and
- (2) Local historical society" means the local historical society recognized by the County Board of Commissioners and organized under ORS Chapter 65.

(k) Commercial Activities in Conjunction with Farm Use

- (1) The commercial activity must be primarily a customer or supplier of farm uses.
- (2) The commercial activity must enhance the farming enterprises of the local agricultural community to which the land hosting that commercial activity relates.
- (3) The agricultural and commercial activities must occur together in the local community to satisfy the statute.
- (4) The products and services provided must be “essential to the practice of agriculture.”

**137.070 NON-FARM DWELLING REQUIREMENTS.** The following regulations shall apply to non-farm dwellings:

(a) Special Setback:

- (1) Dwellings. A special dwelling setback of 200 feet from any abutting parcel in farm use or timber production is required.
- (2) Accessory buildings. A special setback of 100 feet is required for buildings accessory to a dwelling from any abutting parcel in farm use or timber production.
- (3) Adjustments. The special setbacks in (1) and (2) may be reduced if it is determined that a lesser setback will prevent activities associated with the dwelling or accessory building from seriously interfering with farming or forest practices as provided in Section 110.680.
- (4) The special setback in (1) shall not be applied in a manner that prohibits dwellings approved pursuant to ORS 195.300 to 195.336 nor should the special setback in (1) prohibit a claimant’s application for homesites under ORS 195.300 to 195.336.

- (b) Fire Hazard Reduction: As a condition of approval for any non-farm dwelling located closer than 200 feet to timber, the owner shall be required to provide continuing fire hazard management in

accordance with Chapter 3 of "Fire Safety Consideration for Development in Forested Area", 1978, and any revisions thereto.

- (c) Prior to issuance of any residential building permit for an approved non-farm dwelling under Section 137.050(a), evidence shall be provided that the County Assessor has disqualified the lot or parcel for valuation at true cash value for farm or forest use; and that the additional tax or penalty has been imposed, if any is applicable, as provided by ORS 308A.113 or ORS 308A.724 or ORS 321.359 (1)(b), ORS 321.842(1)(A) and 321.716. A parcel that has been disqualified under this section shall not requalify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.

**137.080 EXISTING DWELLINGS AND OTHER STRUCTURES.** For the purposes of regulating dwellings and structures existing at the time the SA zone is applied, the following regulations shall apply.

- (a) Legally established dwellings existing when the SA zone is applied shall be considered in conformance with the SA zone and may be repaired, altered, enlarged or replaced pursuant to Sections 137.020(e) or 137.030(e).
- (b) Legally established structures accessory to a dwelling or a farm or forest use and existing when the SA zone is applied shall be considered in conformance with the SA zone and may be repaired, replaced, altered, or enlarged. New structures shall be permitted if accessory to a legally established dwelling existing when the SA zone is applied.
- (c) Notwithstanding Section 114.070, if a legally established non-resource use exists in the SA zone and is unintentionally destroyed by fire, other casualty or natural disaster, the use may be reestablished to its previous nature and extent, but the reestablishment shall satisfy other building codes, ordinances and permit requirements. Efforts to establish the use shall commence within one year of destruction of the use or structure.

**137.090 MINIMUM PARCEL SIZE, DIVISIONS OF LAND, AND PROPERTY LINE ADJUSTMENTS.** The following regulations shall apply when property line adjustments and partitioning of land within the SA zone subject to the provisions of Chapter 172 are proposed:

- (a) Minimum Parcel Size for Newly Created Parcels.
  - (1) Farm Parcels: The minimum parcel size for any new parcel in the SA zone is 80 acres, except as provided in subsection (2) of this section.
  - (2) Non-farm Parcels: A new non-farm parcel created pursuant to Section 137.090(b) shall only be as large as necessary to accommodate the use and any buffer area needed to ensure compatibility with adjacent farm uses.
- (b) Requirements for Creation of New Non-farm Parcels:
  - (1) A new non-farm parcel may be created for uses listed in Section 137.050, except the residential uses in Sections 137.050(a) and (b).
  - (2) The criteria in Section 137.060 applicable to the use shall apply to the creation of the parcel.

- (3) A non-farm parcel shall not be approved before the non-farm use is approved.
- (4) A division of land for non-farm use shall not be approved unless any additional tax imposed for the change has been paid, or payment of any tax imposed is made a condition of approval.
- (5) If the land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels subject to the following criteria:
  - (A) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
  - (B) A parcel created pursuant to this subsection that does not contain a dwelling:
    - (1) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
    - (2) May not be considered in approving or denying an application for siting any other dwelling;
    - (3) May not be considered in approving a redesignation or rezoning of forestlands or farmlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
  - (C) May not be smaller than 25 acres unless the purpose of the land division is:
    - (1) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or
    - (2) To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.
- (6) A division of land smaller than the minimum lot or parcel size described in Section 137.090 (a) and (b) may be approved to establish a religious organization including cemeteries in conjunction with the religious organization if they meet the following requirements:
  - (A) The religious organization has been approved under Section 137.040 (c);
  - (B) The newly created lot or parcel is not larger than five acres; and
  - (C) The remaining lot or parcel, not including the religious organization, meets the minimum lot or parcel size described in Section 137.090 (a) and (b) either by itself or after it is consolidated with another lot or parcel.
- (c) Property Line Adjustments:
  - (1) When one or more lots or parcels subject to a proposed property line adjustment are larger than the minimum parcel size pursuant to Section 136.090(a)(1), the same

number of lots or parcels shall be as large or larger than the minimum parcel size after the adjustment. When all lots or parcels subject to the proposed adjustment are as large or larger than the minimum parcel size, no lot or parcel shall be reduced below the applicable minimum parcel size. If all lots or parcels are smaller than the minimum parcel size before the property line adjustment, the minimum parcel size pursuant to this section does not apply to those lots or parcels.

- (2) If the minimum parcel size in subsection 136.090(a)(1) is larger than 80 acres, and a lot or parcel subject to property line adjustment is smaller than the minimum parcel size but larger than 80 acres, the lot or parcel shall not be reduced in size through property line adjustment to less than 80 acres.
- (3) Any property line adjustment shall result in a configuration of lots or parcels that are at least as suitable for commercial agriculture as were the parcels prior to the adjustment.
- (4) A property line adjustment may not be used to:
  - (A) Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;
  - (B) Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or
  - (C) Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard.

**137.100 DEVELOPMENT REQUIREMENTS.** The following standards apply to development in a SA zone:

- (a) Maximum Height:
  - (1) Dwellings - 35 feet.
  - (2) Farm related structures on farm parcels - none.
  - (3) Non-residential and non-farm structures - 35 feet unless they are in conjunction with conditional uses allowed in Section 137.050, and a greater height is requested and approved as part of the conditional use permit.
- (b) Minimum Setbacks: Except as required in Section 137.070(a), the following setback requirements shall be implemented for all new structures other than farm-exempt buildings, signs and fences:

- (1) Rear Yard - A minimum of 20 feet.
  - (2) Side Yard - A minimum of 20 feet, except for lots or parcels of one-half acre or smaller created prior to January 1, 1994, in which case the side yard setback shall be five (5) feet.
  - (3) Front Yard - A minimum of 20 feet. When by ordinance a greater setback or a front yard of greater depth is required than specified in this section, then such greater setback line or front yard depth shall apply (See Section 112).
- (c) Declaratory Statement. For all dwellings, and other uses deemed appropriate, the property owner shall be required to sign and allow the entering the following declaratory statement into the chain of title for the lot(s) or parcel(s):

“The property herein described is situated in or near a farm or forest zone or area in Marion County, Oregon where the intent is to encourage, and minimize conflicts with, farm and forest use. Specifically, residents, property owners and visitors may be subjected to common, customary and accepted farm or forest management practices conducted in accordance with federal and state laws which ordinarily and necessarily produce noise, dust, smoke and other impacts. The grantees, including their heirs, assigns and lessees do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a dwelling, structure or use in this area, and I/We acknowledge the need to avoid activities that conflict with nearby farm or forest uses and practices I/We will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937.”

#### **137.110 PERMIT EXPIRATION DATES.**

- (a) Notwithstanding other provisions of this ordinance, a discretionary decision, except for a land division, approving a proposed development in the SA zone expires two years from the date of the final decision if the development action is not initiated in that period. The Director may grant an extension period of up to 12 months if:
  - (1) An applicant makes a written request for an extension of the development approval period.
  - (2) The request is submitted to the county prior to expiration of the approval period.
  - (3) The applicant states the reasons that prevented the applicant from beginning or continuing development within the approval period.
  - (4) The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
- (b) Approval of an extension granted under this section is not a land-use decision described in ORS 197.015 and is not subject to appeal as a land-use decision.
- (c) Additional one-year extensions may be authorized where applicable criteria for the decision have not changed.
- (d) If a permit is approved for a proposed residential development in the SA zone, the permit shall be valid for four years. For the purposes of this subsection, “residential development” only includes the dwellings provided for under 137.020 (e), 137.030 (d) and (e), and 137.050 (a).

- (e) An extension of a permit consistent with (d) above and with Section 137.110 (a) (1 through 4) and where applicable criteria for the decision have not changed shall be valid for two years.

**137.120 CONSIDERATION OF SOIL CLASSIFICATION CHANGES.** For the purposes of approving an application for a lot-of-record dwelling under Section 137.030(d) or for a dwelling not in conjunction with farm use under Section 137.050(a), the soil class, soil rating, or other soil designation of a specific lot or parcel may be changed if the property owner:

(a) For Lot-of-Record Dwellings:

- (1) Submits, for a lot-of-record dwelling only, a statement of agreement from the Natural Resources Conservation Service (NRCS) 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
- (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, for a lot-of-record dwelling only, a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in subsection (2) of this section and finds the analysis in the report to be soundly and scientifically based.

- (b) For dwellings not in conjunction with farm use, submits a report from a consulting soils scientist whose credentials have been certified as acceptable to the State Department of Agriculture that the soil class, soil rating, or other soil designation should be changed, and the report satisfies the most recent requirements in Oregon Administrative Rules for acceptable soils reports.

**137.130 DEFINITION OF TERMS USED IN THIS CHAPTER.** The following terms apply only to Chapter 137 and have no relevance to the same term used in other chapters of this ordinance unless specifically stated.

- (a) Filming Activities - On-site filming and activities accessory to on-site filming includes filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming. Production of advertisements, documentaries, feature film, television services and other film production that rely on the rural qualities of a SA zone in more than an incidental way. It does not include facilities for marketing, editing and other such activities that are allowed only as a home occupation or construction of new structures that require a building permit.
- (b) Commercial dairy farm - is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by Section 136.030 (a) (1) or (2).
- (c) Golf Course - An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" means a nine (9) or 18 hole regulation golf course, or golf tournament, consistent with the following:
  - (1) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes.

- (2) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes.
- (3) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course and conforms to the following:
  - (A) An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course include parking, maintenance buildings, cart storage and repair, practice range or driving range, clubhouse, restrooms, lockers and showers, food and beverage service, pro shop, and a practice or beginners course.
  - (B) Accessory uses to a golf course do not include sporting facilities unrelated to golf such as tennis courts, swimming pools, or weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing.
  - (C) A use is accessory to a golf course only when limited in size and orientation to serve the needs of persons and their guests who patronize the golf course to golf.
  - (D) Commercial activities such as food and beverage service and pro shop are accessory to a golf course only when located in the clubhouse.
  - (E) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designated for or include structures for banquets, public gatherings or public entertainment.
- (d) High-value farmland - A tract composed predominantly of:
  - (1) Soils rated Class I or II, prime, or unique, either irrigated or not irrigated;
  - (2) The following Class III soils: Chehalem (CeC), Concord (Co), Hullt (HuD), Jory (JoD), Nekia (NeC, NeD, NkC), Salkum (SkD), Silverton (SuD), and Woodburn (WuD);
  - (3) The following Class IV soils: Bashaw (Ba), Camas (Ca), Courtney (Cu), Dayton (Da), and Jory (JoE).
- (e) Seasonal Farm Worker - Any person who, for an agreed remuneration or rate of pay, performs temporary labor for another to work in production of farm products or planting, cultivating or harvesting of seasonal agricultural crops or in forestation or reforestation of lands, including but not limited to the planting, transplanting, tubing, pre-commercial thinning and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash and other related activities.
- (f) Tract - One or more contiguous lots or parcels under the same ownership.

- (g) Winery - As authorized under Section 137.040(b), a winery is a facility that produces and sells wine and has a maximum annual production of:
- (1) Less than 50,000 gallons and owns an on-site vineyard of at least 15 acres, owns a contiguous vineyard of at least 15 acres, has a long-term contract for the purchase of all the grapes from at least 15 acres of vineyard contiguous to the winery, or obtains grapes from any combination of these sites; or
  - (2) At least 50,000 gallons and owns an on-site vineyard of at least 40 acres, owns a contiguous vineyard of at least 40 acres, has a long-term contract for the purchase of all the grapes from at least 40 acres of vineyard contiguous to the winery, or obtains grapes from any combination of these sites.