

IN THE COUNTY COURT OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

MAR 18 2 35 PM '98

KAREN R. LEBRETON
COUNTY CLERK

IN THE MATTER OF POST-ACKNOWLEDGEMENT)
AMENDMENTS TO THE WASCO COUNTY)
COMPREHENSIVE PLAN AND LAND USE AND)
DEVELOPMENT ORDINANCE, CHAPTER 3, SECTION)
3.210 "A-1" EXCLUSIVE FARM USE ZONE, INCLUDING)
ADOPTION OF NEW "A-1(40)" ZONE DESIGNATION.)

ORDINANCE
No. 98-101

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

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IT APPEARING TO THE COURT: That on October 9, 1997 and January 8, 1998, the
Wasco County Agricultural Resource Group Review Subcommittee convened to review
proposed legislative amendments to the Wasco County Land Use and Development
Ordinance, Exclusive Farm Use zone provisions, to bring those documents into compliance
with Oregon Administrative Rule OAR 660, Division 33, and including other changes
requested by the Subcommittee, and make a recommendation to the Wasco County Planning
Commission. The Resource Group recommended the following amendments to:

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- The Wasco County Comprehensive Plan, Goal 3 Policy and Map in order to change portions of the Exclusive Farm Use zone "A-1(160)" to a new minimum parcel size zone: Exclusive Farm Use, "A-1(40)",
- The Wasco County Land Use and Development Ordinance Chapter 3, Basic Provisions, to add a new zoning designation: the Exclusive Farm Use "A-1(40)",

D 980125 (81)

- 1 • The Wasco County Land Use and Development Ordinance Sections 3.210.B, C, E, G, H, J, &
2 M for compliance with state law, to correct errors, and to address implementation and
3 interpretation issues,
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5 • Chapter 3, Appendix A, to update the "Farm Use" definition and add a definition for
6 "Medical Hardship", and
7
8 • Section 1.090, Definitions, to add a definition of the "A-1(40)" Zone and to update the
9 "Farm Use" definition; and
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11 IT FURTHER APPEARING TO THE COURT: That on Tuesday, February 3, 1998, in
12 the Columbia Gorge Community College Board Room #1.162, The Dalles, Oregon, the Wasco
13 County Planning Commission met to conduct a legally notified legislative public hearing on
14 the above matter. Those members of the Planning Commission present were determined to be
15 qualified to hear the matter. Chairman Jack Alsup read aloud the rules of evidence. The
16 Planning Commission reviewed the record, and received all testimony and evidence, then
17 closed the public hearing; and
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19 IT FURTHER APPEARING TO THE COURT: That the Planning Commission then
20 deliberated, and based upon the full record and evidence and testimony presented, voted 5-0 to
21 recommend to the County Court the approval of the amendments proposed by the Agricultural
22 Resource Group, with the following amendments:

- 23 • Do not implement the provision for one single family dwelling in conjunction with wildlife
24 habitat conservation allowed under SB 791,
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26 • Do not implement the public school conversion provision allowed by HB 3063,
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28 • Apply standards to permitted outright less than 45-day filming operations,
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30 • Change model airplane park permitted outright use to a conditional use if Planning Department
31 research indicates the change to a conditional use is permitted to law. *Staff finds that DLCD*
32 *interpretation is that this cannot lawfully be made a Conditional Use due to the Brentmar v. Jackson*
33 *County (1995) decision by the Supreme Court which held that the uses listed in section 215.283(1) are*
34 *uses "of right". Staff recommends that the use be subject to a site plan review for compliance with*
35 *applicable site design standards.*
36

- 1 • Add the following definition as approved by Planning Commission Chair: Medical Hardship is
2 defined as a temporary circumstance caused by serious illness or infirmity, not to exceed 2 years
3 in duration, and authorized by a licensed medical practitioner
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5 • Amend the fire standards recommendations to clarify that the powerline referenced is the
6 "extension" from the power source to a dwelling; and
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8 IT FURTHER APPEARING TO THE COURT: That at 10:00 a.m. on March 4, 1998, in the
9 Wasco County Courtroom, Room 202, of the Wasco County Courthouse, in The Dalles, Oregon, this
10 Court met to conduct a quasi-judicial public hearing on the above matter. The members of the
11 Court were determined to be qualified to hear the matter, and
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13 IT FURTHER APPEARING TO THE COURT: That the Court reviewed the record of the
14 Planning Commission, heard the Staff report and received all testimony and evidence from the
15 parties, then closed the hearing for further input. The Court then deliberated, resulting in a 3-0 vote
16 to adopt the proposed legislative amendments to the Wasco County Comprehensive Plan and
17 the Wasco County Land Use and Development Ordinance, Exclusive Farm Use zone
18 provisions, as proposed by the Agricultural Resource Group and recommended for approval,
19 with amendments, by the Wasco County Planning Commission. Based upon the full record and
20 evidence and testimony presented, the Court being fully apprised in the premises, did hereby make
21 the following findings of fact and conclusions of law:
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23 FINDINGS OF FACT
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- 25 1. Proper notice was given and the hearing was held in accordance with procedural rules for
26 quasi-judicial hearings and in conformity with said requirements as set forth in the Wasco
27 County Comprehensive Plan.
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29 2. All members of the County Court were present and were qualified to sit as decision-makers
30 after full disclosure was made and the matter of qualifications was discussed by the Court;
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32 3. In making its decision, the Court recognizes the procedural and legal requirements of the Wasco
33 County Comprehensive Plan and the Wasco County Land Use and Development Ordinance
34 and weighed fully each requirement in arriving at its decision.

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2 4. In making its decision, the County Court recognizes the findings from the Planning
3 Commission Recommendation dated February 10, 1998.
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6 CONCLUSIONS OF LAW
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8 1. The Court adopts the Conclusions of Law as set forth in the Staff Report dated March 4, 1998.
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11 NOW, THEREFORE, THE WASCO COUNTY COURT ORDAINS AS FOLLOWS: The
12 Wasco County Comprehensive Plan and Land Use and Development Ordinance are hereby
13 amended for the Exclusive Farm Use zone provisions, to bring those documents into
14 compliance with Oregon Administrative Rule OAR 660, Division 33, and other changes
15 requested by the Agricultural Resource Group and Planning Commission. The revised Wasco
16 Land Use and Development Ordinance wording adopted by these ordinance amendments is
17 attached as Exhibit A; the revised Comprehensive Plan wording is attached as Exhibit B; and the
18 map of the approved "A-1(40)" zone is attached as Exhibit C.

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20 SIGNED this 18th day of March, 1997.
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22 WASCO COUNTY COURT
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25 John Mabrey, Judge

26 Approved as to Form:
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31 Bernard L. Smith
32 Wasco County District Attorney
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35 Absent
36 Scott McKay, Commissioner


Daniel W. Ericksen, Commissioner

DT<C:\WINDOWS\notices-orders\A-1 Ordinance Amendment 1998.doc>

SECTION 3.210 EXCLUSIVE FARM USE ZONE

The following revised ordinance language replaces Wasco County Land Use and Development Ordinance (WCLUDO) Chapter 3 Section 3.210(A) - (I) - "A-1" Exclusive Farm Use Zone; Chapter 10 - Division of Non-Resource Land in Designated Resource Areas; Chapter 11 - Approval of A Non-Farm/Non-Forest Dwelling on Substandard Lot of Record in the A-1 Exclusive Farm Use Zone or the FF Forest Farm Zone; Chapter 12 - Application For a Farm or Forest Related Dwelling (Primary Structure) On a Non-Conforming Lot of Record in the A-1 Exclusive Farm Use or FF Forest Farm Zones. The following revised ordinance repeals the above mentioned Wasco County Land Use and Development Ordinance WCLUDO Chapters.

A. Purpose

The purpose of the Exclusive Farm Use Zone is to preserve and maintain agricultural lands for farm use consistent with historical, existing and future needs, including economic needs that pertain to the production of agricultural products. And to permit the establishment of only those uses that are compatible with agricultural activities.

Uses, buildings or structures hereafter erected, structurally altered, enlarged or moved and land hereafter used in the Exclusive Farm Use zone shall comply with the following regulations:

B. Uses Permitted Outright

At the option of the owner, the following uses and their accessory uses are permitted subject to the applicable provisions set forth by this ordinance.

1. Farm use as defined by ORS 215.203, Oregon Revised Statutes, and found in Appendix A, Definitions.
2. Buildings other than dwellings customarily provided in conjunction with farm use
3. One single family dwelling customarily provide in conjunction with farm use, subject to WCLUDO 3.210(D).
4. A single family dwelling for an agricultural operator's help (accessory farm dwelling) subject to WCLUDO 3.210(F) of this ordinance.
5. Propagation and harvesting of a forest product

6. Creation, restoration and enhancement of wetlands
7. Creation, restoration and enhancement of wildlife habitat
8. Climbing and passing lanes within a highway right of way existing as of July 1, 1987.
9. Reconstruction or modification of public roads and highways not including additional travel lanes, where no removal or displacement of structures would occur and not resulting in any new land parcels.
10. Temporary public road and highway detours that will be abandoned and restored to original condition when no longer needed.
11. Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas within right of way existing as of July 1, 1987, and contiguous public owned property utilized to support the operation and maintenance of public roads and highways.
12. Alteration, restoration or replacement of a lawfully established dwelling. Any replacement dwelling which meets the requirements listed below may be located on any part of the same lot or parcel so long as it complies, where practicable, with all applicable siting standards. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned EFU, then the applicant shall, as a condition of approval, record a deed restriction prohibiting the future siting of a dwelling on that non-EFU portion of the lot or parcel. The deed restriction shall be noted on Planning Department records. A release from the deed restriction may only occur if the statute regarding replacement dwelling changes or if there is a change in the zone designation (revised 6/98).
 - a. Has intact interior walls and roof structure;
 - b. Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
 - c. Has interior wiring or interior lights;
 - d. Has a heating system; and

- e. In the case of replacement, is removed, demolished or converted to a permitted nonresidential use within 90 days of completion of the replacement dwelling.
13. Restoration or replacement of the lawful use of any building, structure or land may be permitted when the restoration is made necessary by fire, other casualty or natural disaster, and shall meet the following:
 - a. Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster.
 - b. Any use interrupted or abandoned by casualty or natural disaster for more than (12) months may not be resumed unless the resumed use conforms with the requirements of zoning ordinances or regulations applicable at the time of the proposed resumption.
 14. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as an historic property and is listed on the National Register of Historic Places.
 15. Utility and transmission towers not exceeding 200 feet in height.
 16. Public or private schools, including all buildings essential to the operation of a school, except that no such use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4, and further that no such use may be authorized on high value farmland. Where such use is permitted, it is subject to review to ensure compliance with applicable siting and design standards (revised 6/98).
 17. Churches and cemeteries in conjunction with churches except that no such use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4, and further that no such use may be authorized on high value farmland. Where such use is permitted, it is subject to review to ensure compliance with applicable siting and design standards (revised 6/98).
 18. Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732(1)(a) or (b).

19. Operations for the exploration of geothermal resources as defined by ORS 522.005, and oil and gas as defined by ORS 520.005 including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. (Processing of said resources is a conditional use.)
20. Seasonal Farm worker housing provided for seasonal farm workers as defined, and to be occupied for no more than nine months not to exceed 273 days within any calendar year and subject to WCLUDO 3.210(H).
21. A winery as described in ORS 215.452.
22. Subdivisions and Series Partitions pursuant to ORS 92.010 - 92.190, and 92.305-92.495: Subdivisions are prohibited in the Exclusive Farm Use Zone. Series Partitions for non-farm uses are prohibited in the Exclusive Farm Use Zone. This provision applies only to applications for a land division submitted after July 1, 1997. (revised 6/98)
23. Model Aircraft take-off and landing sites as described in ORS 215.283(1) subject to review to ensure compliance with applicable siting and design standards. (added 6/98)
24. On-site filming and related accessory uses may be conducted without prior approval (provided the use does not exceed 45 days) and subject to the conditions in Appendix G. On-site filming in excess of 45 days is a conditional use. (added 6/98)

C. Conditional Uses

The following uses and their accessory uses may be permitted subject to demonstration of compliance with the applicable standards and provisions of this Ordinance, specifically WCLUDO Chapter 5 - Conditional Use Standards.

1. One single family dwelling not provided in conjunction with farm use, subject to WCLUDO 3.210(E).
2. One single family dwelling on a tract of record, meeting the following qualifications:

- a. The lot or parcel on which the dwelling is to be sited was lawfully created and was acquired by the present owner:
 - (1) Prior to January 1, 1985; or
 - (2) By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985
 - b. The tract upon which the dwelling is to be sited does not include another dwelling.
 - c. The lot or parcel upon which the dwelling is to be sited is not on high value farmland as defined in definitions section.
 - d. The lot or parcel upon which the dwelling is to be sited must comply with standards for non-farm dwelling, WCLUDO 3.210(E).
 - e. If the tract on which the dwelling is to be sited consists of more than one lot or parcel, all lots and parcels within the tract shall be consolidated into a single lot or parcel.
 - f. The director or the director's designee shall notify the county assessor of any decision to permit a dwelling under this subsection WCLUDO 3.210(C)(2).
 - g. As used in subsection (2)(a) above, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.
 - h. Land use approval for a single family dwelling meeting requirements of this subsection 3.210(C)(2) may be transferred one time to any other person, prior to issuance of building permit. (Result of 1995 legislative changes)
3. A medical hardship dwelling. A medical hardship dwelling in conformance with the following:

- a. A manufactured dwelling or the temporary residential use of an existing building is allowed under this provision for the term of hardship suffered by the existing resident or relative. (amended 6/98)
 - b. The dwelling shall use the same subsurface sewage disposal system used by the primary dwelling, if that disposal system is adequate to accommodate the additional dwelling. (amended 6/98)
 - c. If the temporary dwelling will use a public sanitary sewer system, such condition (b) will not be required. (amended 6/98)
 - d. The temporary use for a medical hardship shall be in effect for a maximum of two (2) years, and may be renewed without cost if the permitted resident or relative maintains the medical hardship as authorized by a physician.
 - e. When the hardship ends, the temporary dwelling shall be removed, demolished, or converted to a permitted use. It may not be used to justify a dwelling under any other provision of this ordinance. (amended 6/98)
 - f. Oregon Department of Environmental Quality review and removal requirements shall be applied as a condition of use.
 - g. Hardship means a medical hardship or hardship for the care of an aged or infirm person or persons.
4. Primary processing of forest products.
 5. Utility facilities "necessary" for public service, excluding commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height.

A utility facility is deemed to be "necessary" if it must be situated in an agricultural zone in order for the distribution of power to area customers.
 6. Operations conducted for the mining, crushing or stockpiling of mineral, aggregate and other subsurface resources subject to ORS 215.298 and WCLUDO Section 3.800.
 7. Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement, except that asphalt production shall not be permitted within two miles of a

producing orchard, which is planted as of the date that the application for asphalt production is filed, and subject to WCLUDO Section 3.800.

8. Operations for the production of geothermal resources as defined in ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted.
9. A site for disposal of solid waste approved by a city or county governing body and for which a permit has been granted by the Department of Environmental Quality under ORS 459.245, including the equipment, facilities, and building necessary for its operation, except that such uses are prohibited on high value farmland. (added 6/98)
10. Propagation, cultivation, maintenance, and harvesting of aquatic or insect species. (amended 6/98)
11. Operations for the extraction and bottling of water. (added 6/98)
12. On-site filming if the activity exceeds 45 days on any site within a one-year period or involves the erection of sets that would remain in place for longer than 45 days. These activities may include administrative or security functions and may include the use of campers, trailers, or similar temporary facilities. (added 6/98)
13. Residential home as defined in ORS 197.660 in an existing dwelling. (amended 6/98)
14. Commercial activities in conjunction with farm use.
15. Home occupation. Home occupations may be permitted in accordance with the following:

On High Value lands:

- a. Home occupations may only be authorized in existing dwelling and structures accessory to an existing dwelling.
- b. Home occupations may not be authorized in structures accessory to resource use.
- c. A home occupation located on high-value farmland may employ only residents of the home.

On all other EFU lands:

- a. A home occupation shall be operated by a resident or employee of a resident of the property on which the business is located;
 - b. A home occupation shall employ on the site no more than five full time or part time persons;
 - c. The home occupation shall be operated substantially in the dwelling; or other buildings normally associated with uses permitted in the zone in which the property is located; and
 - d. The home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.
 - e. Construction of a structure that would not otherwise be allowed in the zone is not permitted.
16. Dog Kennels, except that such uses are prohibited on high value farmland.
 17. Personal use airports (as defined) and helicopter pads, including associated hangars, maintenance and service facilities.
 18. Parks, playgrounds or community centers owned by a governmental agency or non-profit community organization.
 19. Golf courses except that such uses are prohibited on high value farmland.
 20. Room and board (bed and breakfast) arrangements for a maximum of five unrelated persons in an existing residence, but may not be sited adjacent to or on high value lands within two (2) miles of the National Scenic Area Boundary.
 21. Commercial utility facilities for the purpose of generating power for public use by sale. A power generation facility shall not preclude more than 12 acres of high value farmland or 20 acres of other land from commercial farm use unless an exception is approved pursuant to OAR 660 Division 4.
 22. Construction of additional passing and travel lanes requiring the acquisition of right of way, but not resulting in the creation of new land parcels.

23. Reconstruction or modification of public roads and highways involving the removal or displacement of structures but not resulting in the creation of new land parcels.
24. Improvement of public roads and highway related facilities such as maintenance yards, weigh stations, and rest areas, where additional property or right of way is required, but not resulting in the creation of new land parcels.
25. Private parks, playgrounds, and campgrounds except that such uses are prohibited on high value farmland.
26. Farm ranch recreation (as defined in definitions section) in conjunction with a commercial farming operation subject to WCLUDO 3.210(K)
27. Homestead retention as defined and subject to WCLUDO 3.210(E) and (G)(3). (amended 6/98)

D. Requirements for Dwellings Customarily Provided in Conjunction with Farm Use.

1. On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
 - a. The parcel on which the dwelling will be located is at least 160 acres.
 - b. The subject tract is currently employed for farm use, as defined in ORS 215.203.
 - c. The dwelling will be occupied by an owner or a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale. If the owner is not principally engaged in the day to day farm operation, no accessory dwelling for farm help may be authorized pursuant to WCLUDO 3.210(F).
 - d. There is no other dwelling on the subject tract.
 - e. The landowner for the dwelling shall 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 [All dwelling approvals shall receive copies of the State of Oregon Right to Farm Ordinance (Appendix B) and Wasco County Complaint Mediation Ordinance (Appendix C).]

- f. Meets requirements of WCLUDO 3.210(H) and (I).
2. On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
 - a. The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years gross annual income of at least \$40,000; and
 - b. There is no other dwelling on the subject tract; and
 - c. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in WCLUDO Section 3.210(D)(2)(a) above.
 - d. In determining the gross income required by this subsection the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
 - e. The landowner for the dwelling shall 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 [All dwelling approvals shall receive copies of the State of Oregon Right to Farm Ordinance (Appendix B) and Wasco County Complaint Mediation Ordinance (Appendix C).]
 - f. Meets requirements of WCLUDO 3.210(H) and (I).
 3. On land identified as **high-value farmland**, a dwelling may be considered customarily provided in conjunction with farm use if:
 - a. The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000 (1994 dollars) in gross Annual

income from the sale of farm products in the last two or three of the last five years; and

- b. There is no other dwelling on the subject tract; and
- c. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in WCLUDO 3.210(D)(3)(a).
- d. In determining the gross income required by this subsection, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
- e. The landowner for the dwelling shall 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. [All dwelling approvals shall receive copies of the State of Oregon Right to Farm Ordinance (Appendix B) and Wasco County Complaint Mediation Ordinance (Appendix C).]
- f. Meets requirements of WCLUDO 3.210(H) and (I).

E. Requirements for Dwellings Not Provided in Conjunction With Farm Use.

Dwellings not provided in conjunction with farm use may be authorized upon findings that:

- 1. The parcel is not on High Value Agricultural lands within the A-1(40) Zone. (amended 6/98)
- 2. There is no other dwelling on the parcel.
- 3. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
- 4. The dwelling will not materially alter the stability of the overall land use pattern of the area.

5. The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land.

A lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel is presumed to be suitable if it is composed predominantly of Class I - VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use. If the parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself.

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

The homestead retention option [WCLUDO 3.210(C)(24)] is required to meet the non-farm dwelling and part of parcel standards, to insure essential agricultural land and services are not removed from the farming operation when retaining the homestead as a part of the operation.

6. The site shall have appropriate physical characteristics such as adequate drainage, proper sanitation and water facilities to accommodate a residence or other non-farm use. (added 6/98)
7. Criteria for "Generally Unsuitable"

A non farm dwelling may be allowed if: a) the entire parcel, or b) portion of a parcel is "generally unsuitable" as prescribed below:

- a. On parcels less than 80 acres that were created prior to January 1, 1993. **(This date was established by law and ORS 215.284(2)(c))**, and parcels created pursuant to the "Part of Parcel" and Homestead Retention provisions when the entire parcel is found to be generally unsuitable. That is, 51% of the parcel is a Class VII or poorer soil as determined by the SCS Soil Survey for Wasco County, and (one) 1 of the following:

- (1) predominantly greater than 40 % slope, or
- (2) produces less than 25 bushels per acre wheat or cereal grains crop, or less than 1 ton per acre of alfalfa or other type of hay as per Farm Service Agency (FSA) registered field crop information. Averages shall be based on acres in production (amended 6/98); or
- (3) never been cropped according to the ASCS (FSA) aerial photos and records, and requires more than 5 acres per AUM.

and, meets the following provisions for fire, road and recordation in deeds:

- (4) located within a fire protection district; or
- (5) can contract and maintain the contract with an established fire protection district; or
- (6) volunteer fire protection group that:
 - establishes boundaries or contracts for protection,
 - establishes a contact person in case of emergency, and
 - establishes a phone tree or other effective system of communication.

(amended 6/98)

or,

- (7) Use a duly formed water district to provide fire protection within their established boundaries; and fire protection must be included within their articles of incorporation.

and,

- (8) Shall be located on an all weather road that is maintained on a year round basis and which construction and maintenance meets Wasco County Public Works Department approval. (Approval will be generally based upon the standards prescribed in Figure 1, until such time as the County Road Department can commission an engineering study to update the County Road Standards.);
 - A landowner may contact the Wasco County Public Works Department and cost share 50/50 for road improvements thus allowing the dwelling under current standards;

and,

(9) The landowner for the dwelling shall 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. [All dwelling approvals shall receive copies of the State of Oregon Right to Farm Ordinance (Appendix B) and Wasco County Complaint Mediation Ordinance (Appendix C).]

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

- (1) predominantly greater than 40% slope; or
- (2) produces less than 25 bushels per acre of wheat or cereal grains, or less than 1 ton per acre alfalfa or other type of hay (per FSA registered field crop information); or
- (3) never been cropped according to the ASCS (FSA) aerial photos and records, and requires more than 5 acres per AUM.

and, meets the following provisions for fire, road and recordation in deeds:

- (4) located within a fire protection district; or
- (5) can contract and maintain the contract with an established fire protection district; or
- (6) volunteer fire protection group that:
 - establishes boundaries or contracts for protection,
 - establishes a contact person in case of emergency, and
 - establishes a phone tree or other effective system of communication.

(amended 6/98)

or,

- (7) Use a duly formed water district may provide fire protection within their established boundaries; and fire protection must be included within their articles of incorporation.

and,

- (8) Shall be located on an all-weather road that is maintained on a year-round basis and which construction and maintenance meets Wasco County Public Works Department approval. (Approval will be generally based upon the standards prescribed in Figure 1, until such time as the County Road Department can commission an engineering study to update the County Road Standards.);

- A landowner may contact the Wasco County road department and cost share 50/50 for road improvements thus allowing the dwelling under current standards;

and,

- (9) The landowner for the dwelling shall 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. [All dwelling approvals shall receive copies of the State of Oregon Right to Farm Ordinance (Appendix B) and Wasco County Complaint Mediation Ordinance (Appendix C).]

FIGURE 1. WASCO COUNTY ROAD STANDARDS

The following standards apply for the creation of new roads or improvement of existing roads in the EFU. All ADT's (average daily trips) are determined by the Wasco County Public Works Department.

<u>AVERAGE DAILY TRIPS (ADT's)</u>	<u>UNDER 50</u>	<u>50 - 250</u>	<u>250 +</u>
Road Type:	18' gravel	24' gravel	24' paved with (2)6' shoulders

Note: Figure 1 is a modification of Wasco County's Road Standards, and will be only used as a general guideline for County Road Department approval. It does not take into consideration other factors such as

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type of use, terrain, and mail/bus routes, all of which must be considered in the County Road Department approval process.

8. Criteria for forested land within the EFU zone
 - a. If the parcel is unsuitable for agricultural use and is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel.
 - b. If a lot or parcel is under forest assessment, it is presumed unsuitable if it is composed predominantly of soils capable of producing less than 20 cubic feet of wood fiber per acre per year and may qualify for a dwelling if it can be found that:
 - (1) The dwelling is compatible; and
 - (2) The dwelling does not seriously interfere with forest or farm uses on surrounding land and it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land; and
 - (3) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the director or commission shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated. If the application involves the creation of a new parcel for the nonfarm dwelling, the director or commission shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area.

and, meets the following provisions for fire, road and recordation in deeds:

- (4) located within a fire protection district; or
- (5) can contract and maintain the contract with an established fire protection district; or
- (6) volunteer fire protection group that:

- establishes boundaries or contracts for protection,
- establishes a contact person in case of emergency, and
- establishes a phone tree or other effective system of communication.

(amended 6/98)

or,

- (7) Use a duly formed water district to provide fire protection within their established boundaries; and fire protection must be included within their articles of incorporation.

and,

- (8) Shall be located on an all-weather road that is maintained on a year-round basis and which construction and maintenance meets Wasco County Road Public Works Department approval. (Approval will be generally based upon the standards prescribed in Figure 1.); and
- A landowner may contact the Wasco County Public Works Department and cost share 50/50 for road improvements thus allowing the dwelling under current standards;

and,

- (9) The landowner for the dwelling shall 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. [All dwelling approvals shall receive copies of the State of Oregon Right to Farm Ordinance (Appendix B) and Wasco County Complaint Mediation Ordinance (Appendix C).]

9. Fire safety development standards.

- a. Exterior roofing shall be composed of fire-resistant materials.
- b. The owners of the dwelling and structures shall: maintain a primary fuel-free break area surrounding all structures; clear and maintain a secondary fuel-free break area on land that is owned or controlled by the owner according to the chart below.

Size of Safety Zone by Percent Slope

Slope	Feet of Primary Safety Zone	Feet of Additional Safety Zone Down Slope
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

- c. The owners of the dwelling and structures shall: maintain setbacks from ridgetops, cliffs and bluffs. The steeper the slope, the greater the flame length, the hotter the flame front and the faster the rate of fire spread. This is primarily due to preheating of the vegetation upslope from the fire, increased draft of fresh air to the fire from below.

Setback from Ridgetop, Cliff and Bluff in Conjunction with Fuel Break Safety Zone

Downhill slope	Feet of Setback
10%	50
20%	75
25%	100
40%	150

(added 6/98)

- 10. Fire safety development recommendations:
 - a. Utilities such as powerline extensions and telephone should be located underground where feasible.
 - b. If a water supply, such as a swimming pool, pond, stream, or lake, exists within 100 feet of the driveway or road at a reasonable grade, then access to within 15 feet of the water's edge should be provided for pumping units.

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(added 6/98)

F. Requirements for Accessory Farm Dwellings

An accessory farm dwelling may be considered customarily provided in conjunction with farm use if:

1. It meets all the following requirements:
 - a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and
 - b. The accessory dwelling will be located:
 - (1) On the same lot or parcel as the dwelling of the principal farm dwelling; or
 - (2) On the same tract as the principal farm dwelling when the lot or parcel on which the accessory dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
 - (3) On a lot or parcel on which the principal farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to this rule may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured dwelling may remain if it is reapproved under these rules; and
 - c. There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons

not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and

- d. The landowner for the dwelling shall 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. [All dwelling approvals shall receive copies of the State of Oregon Right to Farm Ordinance (Appendix B) and Wasco County Complaint Mediation Ordinance (Appendix C).] And,

2. In addition to the requirements in subsection (1) of this section, the principal farm dwelling to which the proposed dwelling would be accessory satisfies the following.

- a. The principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years or three of the last five years, one (1) of the following:

- (1) On land not identified as high-value farmland at least \$40,000 (1994 dollars) in gross annual income from the sale of farm products.

- (2) On land identified as high-value farmland, and produced at least \$80,000 (1994 dollars) in gross annual income

and,

- b. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.

3. The governing body of a county shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. These standards are for determination of applicability of an accessory dwelling, and do not justify division of land for purposes of siting a dwelling.

- a. If it is determined that an accessory farm dwelling satisfies the requirements of WCLUDO Section 3.210(D) "Dwellings in Conjunction with Farm Use", a parcel may be created consistent with the minimum parcel size requirements in WCLUDO Section 3.210(G)

- 4. An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to WCLUDO Section 3.210(E).

G. Lot Size Standards

- 1. There shall be a 40 acre minimum land division for farm parcels in the A-1(40) zone. (amended 6/98)
- 2. There shall be a 160 acre minimum land division for all parcels in the Exclusive Farm Use Zone that are not within the A-1(40) zone. (amended 6/98)

PART OF PARCEL

- 3. Land divisions creating parcels of less than 160 acres may be permitted for non-farm uses authorized in accordance with applicable WCLUDO Section 3.210(C) & (E), Chapter 21 and (amended 6/98):
 - a. New lots or parcels for dwellings not in conjunction with farm use may be permitted only if the dwelling has been authorized in accordance with WCLUDO 3.210(C) & (E); and
 - b. The remaining lot or parcel not containing the dwelling or other non farm use meets the 160 acre land division standard of the EFU zone; or
 - c. The remaining lot or parcel not containing the dwellings or other non farm use consolidated with an adjoining lot or parcel which together meet the 160 acre land division standard of the EFU zone; and
 - d. Maximum Part of Parcel that may be created per tract are as follows:

(1)	162 acres - to less than 500 acres	=	1 Part of Parcel
(2)	500 acres but less than 1000 acres	=	2 Part of Parcel
(3)	1000 acres and greater	=	3 Part of Parcel
- 4. New parcels created for a dwelling not in conjunction with farm use shall be a minimum of two (2) acres and a maximum of (20) acres.
- 5. Creation of part of parcel shall not occur within the A-1(40) Zone. (amended 6/98)

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6. Subdivisions and Series Partitions pursuant to ORS 92.010 - 92.190, and 92.305 - 92.495: Subdivisions are prohibited in the Exclusive Farm Use Zone. Series Partitions for non-farm uses are prohibited in the Exclusive Farm Use Zone. This provision applies only to applications for a land division submitted after July 1, 1997. (amended 6/98)
7. Total land divisions for a dwelling not provided in conjunction with farm use shall not exceed three for each non-farm parent parcel (non-farm parcels created after July 1, 1997), regardless of changes in ownership. Such divisions shall not exceed 2 in a single calendar year. (added 6/98)
8. Parcels for allowed uses other than dwellings pursuant to ORS 215.283(2) shall not be larger than the minimum size necessary for the use. (added 6/98)
9. No Part of Parcel property boundary line will divide any field covered by a water right.

H. Dimensional Standards and Setbacks

Dimensional standards and setbacks are designed to protect the human population as well as the natural environment. A variance subject to WCLUDO Chapter 6, or Chapter 7 may be utilized to alleviate an exceptional or extraordinary circumstances that would otherwise preclude the parcel from being utilized. A variance to these standards is not to be used to achieve a preferential siting that could otherwise be achieved by adherence to these prescribed standards.

1. Additions or modifications to existing farm or non-farm structures or group of structures built before January 1, 1997 shall be set back 40 feet from roads, 25 feet from side yards and 40 feet from the rear yard property lines. These setbacks do not apply to fences and signs. (amended 6/98)
2. New Farm or non-farm structures and dwellings on parcels unimproved as of January 1, 1997 shall be set back 200 feet from all property lines and 40 feet from roads. If the road is also a property line, the setback is 200 feet from the road. A natural topographic or vegetative barrier may reduce the setback to 100 feet. Parcels may qualify for a variance if these setbacks render the parcel impractical to develop. These setbacks do not apply to fences and signs.

- a. In addition to the above setbacks, farm dwellings shall be set back 50 feet from any field used for agricultural crops; either on the subject parcel or adjacent parcels.
- b. In addition to the above setbacks, Farm labor housing, and farm accessory structures shall be set back 100 feet from any field used for agricultural crops; either on the subject parcel or adjacent parcels.

(amended 6/98)

3. No farm or non-farm dwelling, non-farm accessory structure, or seasonal farm labor housing shall exceed a height of 35 feet. (amended 6/98)
4. All bottoms of foundations of permanent structures, or similar permanent fixtures (except hydroelectric or irrigation pumping facilities) shall be setback from the high water line or mark, along all streams, lakes or rivers a minimum distance of one hundred (100) feet when measured horizontally at a right angle.
5. All bottoms of foundations of all permanent structures shall be above the 100 year floodplain.
6. All dwellings and structures shall be setback 100 feet from the centerline of irrigation ditches which continue past the subject parcel to provide water to other property owners. Substandard setbacks must receive prior approval from the affected irrigation district. These setbacks do not apply to fences and signs. (amended 6/98)
7. Signs. Permanent signs shall not project beyond the property line.
 - a. Signs shall not be illuminated or capable of movement.
 - b. Signs shall be limited to twelve square feet in area and shall describe only uses permitted and conducted on the property on which the sign is located.
 - c. Temporary signs such as signs advertising the sale or rental of the premise are permitted provided the sign is erected no closer than ten feet from the public road right-of-way.

(added 6/98)

8. Lighting. Outdoor lighting shall be sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties and roadways. (added 6/98)

I. Special Agricultural Considerations

The following "Special Agricultural Considerations" including but not exclusive to the following list, are to be included with approved land use applications as information that property owners need to be aware of in the EFU. The following information is voluntary, but it is recommended that it be recorded on deeds to insure that future property owners and successors in interest are aware of the circumstances that may effect this EFU property.

Irrigation District: _____ Contact: _____

Water Rights: _____ Contact: _____
Prevent loss of water rights to instream use.

Weed Control: _____ Contact: _____
Control of noxious weeds required.

Chemical Trespass: _____ Contact: _____
OSU Extension Service

Fire Protection: _____ Contact: _____
Fire break and stand pipes required.

Big Game WR: _____ Contact: _____
Fencing recommendations provided by ODFW

Livestock Fencing: _____ Contact: _____
Open or closed range, must observe appropriate fencing standards.
Oregon Dept. of Agriculture - Brand Inspector & OR Law
requiring 50/50 fence upkeep.

Animal Control: _____ Contact: _____
Animals at large

J. Disqualification of Special Assessment

The Approving Authority shall not grant final approval of the building permit for a dwelling not in conjunction with farm use in the EFU Zone that is receiving special assessment under ORS 308.370, 308.765, 321.730, 321.352, or 321.815. The owner of the parcel on which the dwelling is to be located shall provide evidence to the Approving Authority that:

1. The County Assessor has been notified that the parcel is no longer being used as farmland; and
2. Request has been made to the County Assessor to disqualify the parcel for special assessment under ORS 308.370, 308.765, 321.352, 321.730, or 321.815; and
3. Pay any additional tax imposed upon disqualification from special assessment; and
4. Record on the Property Deed prior to receiving zoning approval on a building permit the following: This parcel (legal description) has been disqualified from special assessment pursuant to WCLUDO Section 3.210(E) and shall not re-qualify for special assessment unless, when combined with another contiguous lot or parcel, it constitutes a qualifying parcel by meeting the minimum lot size for commercial agriculture enterprises within the area. (amended 6/98)

K. Standards for Farm Ranch Recreation

1. The tract or parcel is currently employed in a commercial agricultural operation as defined by ORS 215.203 and WCLUDO 3.210(D)
2. The "recreation" in the Farm Ranch Recreation proposal shall not be the primary enterprise of the tract, but shall be subordinate to the commercial agricultural operation in scope, scale and impact, and shall contribute "added value" to the commercial agricultural operation.
3. The farm management plan shall specifically quantify the size, scale, and operational characteristics of the commercial agricultural operation and the Farm Ranch Recreation proposal.
4. The Farm Ranch Recreation structures shall be located on land that is "generally unsuitable" as defined in WCLUDO Section 3.210(E). There shall be a two mile radius for public notification in the application of public or private target or shooting courses.

5. Conflicts directed at or between a Farm Ranch Recreation Operation and an existing farming operation should use the County Ordinance developed for complaint mediation as specified in WCLUDO 3.210(M).

L. Challenging Soil Class Rating

1. The soil class or soil rating or other soil designation of a Lot of Record (LOR per OAR 660-33-130(3)(a)(A)-(E) parcel may be changed if the property owner:
 - a. Submits a statement of agreement from the Natural Resources Conservation Service of the United States Department of Agriculture that the soil class, soil rating or other soil designation should be adjusted based on new information; or
 - b. Submits the following:
 - (1) Report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and
 - (2) Statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report described in subparagraph (2) (a.) of this section and finds the analysis in the report to be soundly and scientifically based.
2. The soil class or soil rating or other soil designation of a specific lot or parcel on lands other than Lot of Record as specified above, or High Value soils as specified by NRCS, may be changed if the property owner:
 - a. Submits a report to Wasco County Planning from an accredited soils scientist, certified by ARCPACS that the soil class, soil rating or other soil designation should be changed and the rationale for the soil class change. The report will include the following technical data:
 - (1) Copy of the most current National Cooperative Soil Survey map(s) for the specified area.
 - (2) Methods used by the Soil Scientist

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

M. Protection for Generally Accepted Farming and Forestry Practices - Complaint and Mediation Process

All those receiving land use approval in the EFU zone shall be advised and receive a copy of the following:

1. State of Oregon Right to Farm Ordinance. Appendix B. (amended 6/98)
2. Wasco County Farming and Forestry Practices Protection and Complaint Mediation Ordinance. Appendix C.

N. Follow up Audit and Review Process

1. The Wasco County Planning Department shall maintain an annual counter log and summary of administrative and planning commission decisions, regarding all actions in the EFU zone.
2. The Agricultural Resource Group (Appendix D) shall appoint a five member subcommittee to be both farmers and residents of Wasco County representing the North, Central and Southern portions of the county. The subcommittee will meet annually the third week following the date of adoption of the revised WCLUDO Section 3.210 to review the summary of land use actions taken in the EFU zone for the previous year. The purpose of the review will be:
 - a. To ensure that the administration of the EFU zone as evidence by administrative and quasi-judicial decisions is to:

Primarily:

 - Protect private property rights of the agricultural producer.
 - Keep agricultural operation viable.
 - Protect farm practices and the right to farm.
 - Preserve and protect farmland.

And Secondly:

 - Protect private property rights, on agricultural zoned land, of the farmer and non-farmer alike; that is, the right of property is the reasonable and lawful use of the agricultural land.
 - b. Identify any potential problems or issues that were not foreseen during the development of the ordinance; and
 - c. Identify any changes or alterations, due to approval of land uses in the EFU zone, to the over all land use agricultural pattern of the county; and
 - d. Address any new information (i.e. soils, OSU commodity productivity, new legislation, water rights, natural disasters, etc) that may effect the administration of the EFU zone and ordinance; and
 - e. Prepare a summary report to be sent to the County Court and ARG members outlining the findings of the subcommittee; and
 - f. If necessary, convene the entire Agricultural Resource Group to address the need to make necessary changes to the EFU map and zoning ordinance based on findings from the annual summary.

3. Review the concept of implementing a cost recovery program for the upgrading, expansion or new construction of Wasco County roads.
4. Review the concept of implementing a clustering concept for areas within rural service center boundaries, urban growth boundaries and within one mile radius of existing urban growth boundaries or rural service center boundaries.
5. Review farm to farm conflict and potential setbacks for new agricultural use to prevent conflict between agricultural practices.
6. Review farm ranch recreation and lodging concept.
7. Review and develop clear and objective criteria for Section 3.210(E)(4) - "The dwelling does not materially alter the stability of the overall land use pattern of the area." The intent is to better define what "materially alter" means; what is the area that must be evaluated, and what criteria determine the overall land use pattern of an area.

A-1 Exclusive Farm Use Definitions

The following definitions will be incorporated into the Wasco County Land Use and Development Ordinance Section 1.090.

AUM - Animal Unit Month - Unit of measure of dry forage to graze a 900 - 1000 pound cow and calf for thirty (30) days as prescribed by the NRCS Rangeland Specialist. AUM ratings per soil type is found in Section 3.210, Appendix E. (added 12/96)

Agricultural Land (Per OAR 660-33-020(1)(a)) - Means lands classified by the US Natural Resource Conservation Service as predominantly Class I-VI in Eastern Oregon. And, land in other soil classes that is suitable for farm use as defined in ORS 215.203 taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and land in capability classes other than I - VI that is adjacent to or intermingled with lands in capability classes I - VI within a farm unit. Agricultural land does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4. (added 12/96)

Airport (Personal-Use) - Means pursuant OAR 660-33-130(7), an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Aeronautics Division in specific instances. A personal use airport lawfully existing as of September 13, 1975 shall continue to be permitted subject to any applicable rules of the Oregon Aeronautics Division. (amended 12/96)

All Weather Road - A road that has a six to eight inch gravel base, smooth surface, that a two wheel drive vehicle can use all year round. Confirmation of "all weather" to be made by the Wasco County Public Works Department. (added 12/96)

Bed and Breakfast Inn - A single-family dwelling where lodging and a morning meal for guests only are offered for compensation, having no more than five (5) sleeping rooms for this purpose. An establishment where more than one (1) meal per day is offered shall not be deemed a bed and breakfast inn. An establishment with more than five (5) sleeping rooms shall be deemed a hotel. A bed and breakfast inn must be within the residence of the operator. (added 2/89)

Farm Ranch Recreation - Means farm ranch recreation activities may include overnight facilities that are in conjunction with commercial farm operation(s). The recreation activities must

demonstrate how they are in conjunction with the commercial farming operation via a farm management plan identifying the scope, scale and timing of activities and the farming activities. Such consideration may include, but are not limited to: fee hunting, hunting preserve, fishing, fur trapping, trap and skeet range, archery range, fly fishing and tying clinics, water activities, ranch skills, horsemanship, equine eventing, habitat improvement, wildlife viewing, outdoor schools, educational and technical tours, workshops, retreats. Farm ranch recreation and lodging is a conditionally permitted use in the EFU pursuant to WCLUDO 3.210(K). (added 12/96)

Farm Use - The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof.

Farm use includes the preparation, storage, and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use and disposal by marketing or otherwise. Farm use also includes the current employment of the land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows (revised 6/98).

Farm use also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Game Commission. Farm use also includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection (revised 6/98).

Farm use does not include the use of land subject to the provisions of ORS Chapter 321 (Timber taxation), except land used exclusively for growing cultured Christmas trees (revised 6/98).

Current employment of land for farm use includes:

- a. Farmland, the operation or use of which is subject to any farm-related government program;
- b. Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
- c. Land planted in orchards or other perennials, other than land specified in subsections (D) following, prior to maturity;

- d. Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
- e. Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
- f. Land under buildings supporting accepted farm practices, except land under a single family dwelling (revised 6/98);
- g. Water impoundments lying in or adjacent to and in common ownership with farm use land;
- h. Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
- i. Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such illness results in death;
- j. Any land described under ORS 321.267(1)(e) or 321.415(5); and
- k. Any land in an exclusive farm use zone used for the storage of agricultural products that would otherwise be disposed of through open field burning or propane flaming.

Accepted farming practice:

Accepted farming practice means a mode of operation that is common to farms of similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

(revised 12/96)

High Value Land (Per OAR 660-33-020(8)(a)) - Means land in a tract composed predominantly of soils that are:

- a. Irrigated and classified prime, unique, Class I or II; or
- b. Not irrigated and classified prime, unique, Class I or II.

In addition to that land described above, high value farmland, if in Eastern Oregon, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa. (added 12/96)

Homestead Retention - The retention of the primary farm dwelling for the elderly farmer and/or spouse. When the elderly farmer wishes to retire and other family members wish to run the farm, the elderly farmer may create a separate parcel with just the homestead "dwelling" located on that parcel, and the partition is subject to WCLUDO 3.21(E)&(G) Requirements for Dwellings Not Provided in Conjunction With Farm Use, and Part of Parcel respectively. Also, the critical elements of the farming operation such as grain storage, equipment storage must not be severed from the farming unit. The intent is to protect the farming unit in the EFU zone. And while the purpose of homestead retention is to allow the elderly farmer to continue to live on the farm after retirement, the dwelling could subsequently be sold to non farmers and not act as a part of the farming unit. (added 12/96)

Hunting Preserve - Pursuant to ORS 497.248 Subsections (1) - (4). The Oregon Department of Fish and Wildlife Commission issues a private hunting preserve license if the preserve contains not more than 640 acres and is on one continuous tract of land owned by the applicant or leased by the applicant for a period of at least five years. (added 12/96)

Legally Created Lot or Parcel - This is commonly referred to as Legal Lot of Record, but because House Bill 3661 from the 1993 Legislature established a specific definition for "Lot of Record" it is necessary to distinguish a "Legal lot of Record" from "Lot of Record" which follows. Prior to September 1974 a lot or parcel could be legally created by a duly recorded deed, subdivision or land partition. Subsequent to September 1974, the Wasco County Land Use and Development Ordinance (WCLUDO) established the process and conformity by which land could be legally subdivided or partitioned in Wasco County. All land in Wasco County being divided after September 1974 is required to conform to WCLUDO Chapter 21, Land Divisions. WCLUDO Chapter 1 Severability clause disallows planning officials from approving development or land use on land divided or developed in violation of the Ordinance. Remedies for persons owning illegally created lots or parcels is cited in ORS 92.018. (added 12/96)

Also, a unit of land created as follows:

- a. A lot in an existing, duly recorded subdivision; or