

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Amending the Yamhill County)
Zoning Ordinance to Conform to Recent Changes) Ordinance 872
in State Law, and Make Other Changes for Clarity)
and Consistency, Planning Docket G-01-12)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of County business on May 24, 2012, Commissioners Leslie Lewis, and Mary P. Stern being present, and Commissioner George being excused.

IT APPEARING TO THE BOARD that the Board initiated a legislative land use process to amend the Yamhill County Zoning Ordinance to make multiple changes to conform to new state laws and make other changes for clarity and consistency; and

IT APPEARING TO THE BOARD that the Yamhill County Planning Commission heard this matter at a duly noticed public hearing on April 5, 2012, then voted to recommend approving the legislative amendments. The Board convened a duly noticed public hearing on May 3 & May 10, 2012, and voted unanimously to approve the legislative amendments. NOW, THEREFORE,

IT IS HEREBY ORDAINED BY THE BOARD, that the Yamhill County Zoning Ordinance is hereby amended to conform to the requirements of new state laws and make other changes for clarity and consistency. The amendments are attached and hereby incorporated into this ordinance by this reference. This ordinance, being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective immediately.

DONE this 24th day of May, 2012, at McMinnville, Oregon.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

REBEKAH STERN DOLL
County Clerk



Leslie A. Lewis
Chair

LESLIE LEWIS

By: *Anne Britt*
Deputy Anne Britt

(excused)

Commissioner

KATHY GEORGE

B0.12-245

APPROVED AS TO FORM:

 n. a.

RICK SANAI, Yamhill County Counsel

Mary P Stern

Commissioner

MARY P. STERN

Docket G-01-12 - ORDINANCE AMENDMENTS

Language to be added is underlined and language to be deleted is ~~crossed-out~~.

The explanations for the changes are noted in the boxes.

SECTION 200 – DEFINITIONS AND RULES OF CONSTRUCTION

201. RULES OF CONSTRUCTION

[Last Amended 2/24/2010; Ord.851]

201.01 Interpretations.

For the purposes of this ordinance, all words, terms and expressions contained herein shall be interpreted in accordance with the following rules of construction, unless the context requires otherwise:

- A. The particular controls the general;
- B. The word "shall" is mandatory, the word "may" is permissive;
- C. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular;
- D. The words "used for" or "occupied for" include the words "intended for", "designed for", "arranged to be used for", "erected for", "constructed for", "reconstructed for", "repaired for", "moved for", "structurally altered for" or "extended for the purpose of";
- E. The word "person" includes a "firm", "association", "organization", "partnership", "trust", "company", or "corporation" as well as an "individual"; and
- F. Any word or term not defined herein shall be used with a meaning of common standard use. Any words, terms or phrases not defined herein, shall be construed according to their common, ordinary and accepted meaning.

202. DEFINITIONS

[Last amended 09/02/04, Ord 746]

ABANDONMENT OF SURFACE MINING: A cessation of surface mining operation for more than five (5) consecutive years when the cessation is not part of an approved Department of Geology and Mineral Industries permit.

ACCEPTED FARMING PRACTICE: A mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

[Added 7/9/98; Ord.648]

ACCESS: A means of egress and ingress for pedestrians and vehicles to the parcel to which access is required.

ACCESSORY STRUCTURE: A structure or building, the use of which is incidental and secondary to the principal structure or building on the same parcel.

ACCESSORY USE: A use which is incidental and secondary to the principal use on the same parcel.

[Amended 8/23/89; Ord.492]

AIRCRAFT LANDING FIELD: Any area of land or water used for the landing and take-off of aircraft, any appurtenant areas which are used for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon. Airport buildings include buildings used for maintenance, service or repair of aircraft.

[Added 4/15/87; Ord. 444]

AIRPORT HAZARD: Any structure, tree, or use of land which exceeds height limits established by the Airport Imaginary Surfaces.

[Added 8/17/88; Ord. 468]

AIRPORT IMAGINARY SURFACES: Those imaginary areas in space which are defined by the approach zone, transitional zone, horizontal surface, clear zone, and conical surface and in which any object extending above these imaginary surfaces is an obstruction.

[Added 8/17/88; Ord. 468]

AMENDMENT, LEGISLATIVE: A legislative amendment is an amendment to the zoning ordinance to establish or change a specific policy related to uses, criteria, procedure or other ordinance provisions of substantial general applicability. A legislative amendment may apply to the zone map or text of the zoning ordinance.

[Added 8/23/89; Ord. 492]

AMENDMENT, QUASI-JUDICIAL: A quasi-judicial amendment is a zone map amendment changing the zone map from one zone designation to another. A quasi-judicial amendment applies to a specified tax lot or lots and results in the realignment of zone district boundaries.

[Added 8/23/89; Ord. 492]

APPROACH ZONE: A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach zone is the same width as the primary surface and extends to a width of: 1250 feet for a utility runway having only visual approaches; 1500 feet for a runway other than a utility runway having only visual approaches; 2000 feet for a utility runway having a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile. The approach zone extends for a horizontal distance of 5000 feet at a slope of 20:1, horizontal:vertical for all utility and visual runways and 10,000 feet at a slope of 34:1 for all nonprecision instrument runways other than utility.

[Added 8/17/88; Ord. 468]

AUTOMOBILE SERVICE STATION: A use which includes the retail sale of motor fuels, lubricating oils and vehicle accessories and may include the servicing and repair of motor vehicles as an accessory use. An automobile service station is not a repair garage nor a body shop.

[Amended 8/23/89; Ord. 492]

AUTOMOBILE REPAIR GARAGE: A use which provides for the repair and maintenance of motor vehicles, and includes any mechanical and body work.

[Amended 8/23/89; Ord. 492]

AUTOMOBILE WRECKING YARD: An area of land used for the storage, wrecking, dismantling, disassembling or sale of inoperable motor vehicles, trailers or farm equipment, or parts thereof.

[Amended 8/23/89; Ord. 492]

BASEMENT: A portion of a building which has more than one (1) foot but not more than one-half (½) of its height measured from finished floor to finished ceiling above the average grade of the ground. For purposes of Section 901, a basement is any area of a building having its floor subgrade (below ground level on all sides).

[Last Amended 2/24/2010; Ord.851]

BED AND BREAKFAST INN: A single-family dwelling where lodging is offered for compensation, having no more than nine (9) sleeping rooms for this purpose. A bed and breakfast inn may offer a morning meal for overnight guests only. A bed and breakfast inn is conducted within the residence of the operator.

[Added 7/9/98; Ord.648; Amended 09/02/04, Ord 746]

BILLBOARD: A pre-existing off-premise sign or sign assemblage maintained as advertising rental space by a business enterprise.

BLANKETING: The visual blocking of one sign by another as seen by a motorist traveling a road or highway.

BOARD: The Yamhill County Board of Commissioners.

BOARDING, LODGING OR ROOMING HOUSE: A building or buildings where lodging with or without meals is provided for compensation for not less than five (5) persons in addition to members of the family occupying such building or buildings.

BOARDING OF HORSES FOR PROFIT: The keeping, breeding, rehabilitation, feeding, training and management of horses for a fee.

[Amended 8/23/89; Ord. 492]

BUILDING: A structure of a permanent nature having a fixed base on, or fixed connection to, the ground.

[Amended 8/23/89; Ord. 492]

BUILDING INSPECTOR: The Yamhill County Building Official or the official's duly authorized representative.

[Amended 8/23/89; Ord. 492]

CHURCH: A nonresidential place of worship which may include but is not limited to a synagogue, temple, mosque, chapel or meeting house. Activities customarily associated with the practices of the religious activity, include worship services, religion classes, weddings, funerals, child care and meal programs. These activities may be prohibited or restricted when it is found that the level of service of public facilities including transportation, water supply, sewer and storm drain systems is not adequate to serve the church.

[Added 12/05/02; Ord. 720]

CLEAR ZONE: Extends at the same slope and horizontal angle as the approach zone from the primary surface to a point where the approach surface is 50 feet above the runway end elevation.

[Added 8/17/88; Ord. 468]

CLERK: The Yamhill County Clerk or the clerk's duly authorized representative.

[Amended 8/23/89; Ord. 492]

CLINIC: A place used for the care, diagnosis or treatment of sick, ailing, infirm or injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room or kept overnight on the premises.

CLUB OR LODGE: A building and/or facilities owned and operated for a social, educational, or recreational, scientific, benevolent or charitable purpose, to which membership is required for participation, but is not operated primarily for profit or to render a service which is customarily carried on as a business. A club does not include a public or private kindergarten, school, college or research institution, daycare or rehabilitation facility of any kind.

COMMERCIAL DAIRY FARM: A dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033-0135(5)(a) or (7)(a), whichever is applicable, from the sale of fluid milk.

[Added 12/05/02; Ord. 720]

COMMISSION: The Yamhill County Planning Commission.

COMMUNITY SANITARY-SEWER SYSTEM: A public or private sewage collection, treatment and disposal system, and all appurtenant improvements as approved by the Oregon Department of Environmental Quality. A community sanitary sewer system includes a municipal sanitary sewer system.

[Added 5/15/85; Ord. 408]

COMMUNITY WATER-SUPPLY SYSTEM: A public or private water supply, treatment, storage, transmission and distribution system, and all appurtenant improvements as approved by the Public Health Engineering Branch, Health Division, Oregon Department of Human Resources. A community water supply system includes a municipal water supply system.

[Added 5/15/85; Ord. 408]

COMPREHENSIVE PLAN: The generalized, coordinated land-use map and policy statement adopted by County Ordinance No. 62 and all subsequent amendments thereto that covers all unincorporated land in Yamhill County and addresses all functional and natural activities and systems in said unincorporated land. "Land" includes water, both surface and subsurface, and the air. "Coordinated" means the needs of all government, semi-public and private agencies, and the citizens of Yamhill County have been considered and accommodated to the greatest extent possible. "Functional and natural activities and systems" include, but are not limited to, sewer and water systems, transportation systems, educational facilities, natural resources and air and water quality management programs and other topics of local importance.

CONDITIONAL USE: A use not permitted outright in a zoning district but which may be allowed by permit, subject to review for compatibility with existing and anticipated future uses, and compliance with Section 1202 and any other applicable provisions of this ordinance.

[Amended 8/23/89; Ord. 492]

CONICAL SURFACE: A surface extending upward at a slope of 20:1 for a distance of 4,000 feet from the periphery of the horizontal surface.

[Added 8/17/88; Ord. 468]

CONSTRUCTION: The placement of construction materials in a permanent position and fastened in a permanent manner. Where excavation, demolition, or removal of an existing structure has substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be construction, provided that work shall be carried on diligently. Installation of a septic tank/drainfield shall be considered construction.

This use was added to the RC Recreation Commercial zone.

COUNTRY INN: A building where lodging and meal service for overnight guests are offered for compensation, having no more than 25 rooms for lodging. A Country Inn may offer meals to overnights guests or an equivalent number of patrons based on the maximum capacity of the inn.

COUNTY: The unincorporated area of Yamhill County, Oregon.

DIRECTOR: The Yamhill County Planning Director or the Director's duly authorized representative.

[Amended 8/23/89; Ord. 492]

DWELLING: A building containing one (1) dwelling unit designed for and occupied by one (1) family only. The term dwelling includes a manufactured dwelling but does not include a hotel, motel, travel trailer, boarding, lodging or rooming house, private hospital, rest home or nursing home or other accommodations used for transient occupancy.

[Amended 12/05/02; Ord. 720]

DWELLING, DUPLEX: A building containing two (2) dwelling units, designed for and occupied by not more than two (2) families.

DWELLING, MULTI-FAMILY: A building containing three (3) or more dwelling units, designed and occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units.

DWELLING UNIT: One (1) room or rooms connected together, constituting an independent housekeeping establishment designed and used for occupancy by one (1) family, including dependent relatives, caretakers, and servants as appropriate.

[Amended 8/23/89; Ord. 492]

FAMILY: One or more person related by blood, marriage, legal adoption or legal guardianship plus not more than five (5) additional persons, including foster and shelter care persons or, up to five (5) unrelated persons, all living together as a single housekeeping unit.

[Amended 8/23/89; Ord. 492]

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" also includes the current employment of land for the primary purpose of obtaining profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "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. "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 Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in the subsection. "Farm use" does not include the

use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3), or land described in ORS 321.267(1)(e) or 321.415(5).

[Added 7/9/98; Ord. 648]

FLOOD, BASE: A flood, the level of which has a one percent chance of being equaled or exceeded in any given year. Commonly referred to as a 100-year flood. Designation on maps always includes the letters A or V.

[Amended 2/24/10; Ord. 851]

FLOOD FRINGE: The area of the floodplain lying outside of the floodway.

[Added 8/23/89; Ord. 492]

FLOOD INSURANCE RATE MAP (FIRM): The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards (floodplain) and the risk premium zones.

[Added 8/23/89; Ord. 492]

FLOOD INSURANCE STUDY: The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

[Added 2/24/10; Ord. 851]

FLOOD LEVEE: Earthen embankment or other manmade structure designed and constructed to contain, control or divert the flow of water so as to provide protection from temporary flooding.

[Added 8/23/89; Ord. 492]

FLOOD OBSTRUCTION: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, structure, or matter which is in, along, across, or projecting into any channel, watercourse, or floodplain area; which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water; or which is placed where the flow of water might carry the same downstream to the damage of life or property.

[Added 8/23/89; Ord. 492]

FLOODPLAIN: The area adjoining a river, stream, or watercourse which may be subject to periodic inundation of floodwaters and is subject to a one percent or greater chance of flooding in any given year. Also called the area of special flood hazard.

[Added 2/24/10; Ord. 851]

FLOODPROOFING: Any combination of structural and nonstructural additions, changes, or adjustments to properties and structures primarily for the reduction or elimination of flood damage potential to lands, water and sanitary facilities, structures and contents of buildings.

[Added 8/23/89; Ord. 492]

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must remain unobstructed in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

[Modified 2/24/10; Ord. 851]

FLOOR AREA: The sum of the areas of each story of a building measured between the exterior walls of such building, but excluding garages and attic space providing headroom of less than seven feet.

GRADE: The average elevation of the finished ground elevation at the centers of all walls of a building, except that if a wall is parallel to and within five (5) feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground elevation.

HEARINGS OFFICER: The Yamhill County Hearings Officer.

HEIGHT: The vertical distance from the finished grade to the highest point of the structure.

HOME OCCUPATION: An activity involving off-site sales, the manufacture of a product or the provision of a service carried on in compliance with Section 1004 of this ordinance by a resident of the property on which the business is located. "Home occupation" does not include the retail sale of products unless such sales are secondary to the primary home occupation use.

[Amended 4/15/87; Ord. 444; Amended 8/23/89; Ord. 492; Amended 7/9/88; Ord. 648]

HORIZONTAL SURFACE: A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each end of the primary surface of each visual or utility runway, and 10,000 feet from the center of each end of the primary surface of all other runways and connecting the adjacent arcs by lines tangent to those areas.

[Added 8/17/88; Ord. 468]

HOSPITAL, PRIVATE: A use which provides for the care of the sick, ailing, infirm, injured or aged other than in a public hospital, and includes convalescent homes and nursing homes.

KENNEL: A site providing for the accommodation of four (4) or more dogs of licensable age under the Yamhill County Dog Control Ordinance, where such dogs are kept for board, propagation, training, or sale.

[Amended 8/23/89; Ord. 492]

LIVESTOCK: Domestic animals of types customarily raised or kept on farms for profit or other purposes, but not including household pets.

LIVESTOCK FEEDING YARD: An enclosure or structure of 1,000 square feet or more in ground area designed or used for the concentrated feeding or fattening of livestock for marketing; or an enclosure or structure of less than 1,000 square feet in ground area designed or used for the concentrated feeding or fattening of five (5) or more head of livestock for marketing.

LIVESTOCK SALES YARD: A enclosure or structure designed or used for holding livestock for purposes of sale or transfer by auction, consignment or other means.

LOT: See "Parcel".

LOWEST FLOOR, FLOOD: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, useable solely for parking of vehicles, building or access storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

MANUFACTURED HOME: Any of the following:

- a. Residential trailer: a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed before January 1, 1962.
- b. Mobile home: a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
- c. Manufactured home: a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction.
- d. A manufactured home does not include any unit identified as a recreational vehicle by the manufacturer.

[Added 7/9/98; Ord.648]

MINERAL RESOURCE: Sand, gravel, rock, stone, precious metals, oil, gas, coal, ore, soil or other earth materials.

MINERAL RESOURCE EXTRACTION: The initial removal or excavation of a mineral resource from the deposit area by mechanical techniques, including the removal of overburden and stockpiling of the raw material.

MINERAL RESOURCE PROCESSING: The blasting, crushing, washing, screening, weighing, sorting, blending or refining of mineral resources.

MINERAL RESOURCE SITE/OPERATION: A tract of land from which mineral resources are removed or excavated, stockpiled or processed for sale and intended for use off-premise as commercial or industrial products through retailing, wholesaling, contract purchase or other means. Operation does not include site preparation such as land clearing.

MOTEL: One (1) or more attached or detached buildings containing housekeeping or sleeping units designed and used for the temporary accommodation of tourists or transients with off-street parking space for each such unit.

NONCONFORMING USE: A building, structure or use which was legally established prior to the adoption of any provision of this ordinance with which the building, structure or use does not comply.

OAR: Oregon Administrative Rule

[Added 7/9/98; Ord.648]

OFFICIAL ZONING MAP: That zoning map and any amendments thereto adopted as part of the Yamhill County Zoning Ordinance, No. 310, 1982, as amended, as described in Section 302.

[Amended 8/23/89; Ord. 492]

OPEN SPACE: Any land so designated by the Comprehensive Plan, or any land area, the preservation of which in its present use would:

- A. Conserve and enhance natural or scenic resources;
- B. Protect air or streams or water supply;
- C. Promote conservation of soils or wetlands;
- D. Conserve landscaped areas, such as public or private golf courses, which reduce pollution and enhance the value of abutting or neighboring property;
- E. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space;
- F. Enhance recreation opportunities;
- G. Preserve historic sites;
- H. Promote orderly urban or rural development; or
- I. Retain in their natural state tracts of land, on such conditions as may be reasonably required by Yamhill County.

ORS: Oregon Revised Statutes

[Added 7/9/98; Ord.648]

OWNER: An owner of land or the authorized agent of an owner.

PARCEL (or LOT): A unit of land created by an authorized subdivision or partitioning of land or that was created by deed or land sale contract on or prior to October 3, 1975. A lot or parcel does not include a unit of land created on or after October 4, 1975 solely to establish a separate tax account or to obtain financing for construction or other purposes.

[Amended 8/23/89; Ord. 492]

PARCEL COVERAGE: The area of a parcel covered by a building or buildings expressed as a percentage of the total parcel area.

PARCEL DEPTH: The mean horizontal distance between the front parcel line and the rear parcel line of a parcel.

PARCEL LINE, FRONT: Any boundary line separating the parcel from a public road. Where a parcel has no frontage on a public road, the front parcel line is the line of the easement or private road which serves the parcel and which is nearest to the principal dwelling, if any.

PARCEL LINE, REAR: The boundary line or lines most distant from the front parcel line and not intersecting a front parcel line.

PARCEL LINE, SIDE: Any boundary line not a front or rear parcel line.

PARCEL SIZE: The total horizontal area within the parcel lines of a parcel.

PARCEL, THROUGH: A parcel, other than a corner parcel, that abuts on two (2) or more roads.

PARCEL WIDTH: The mean horizontal distance between the side parcel lines of a parcel measured within the parcel boundaries.

PARK: Any public or private land reserved for recreational, educational, cultural, or open space uses.
[Added 7/9/98; Ord.648]

PARKING SPACE, OFF-STREET: A space adequate for parking one (1) automobile with room for opening doors on both sides, together with properly related access to a road or alley and maneuvering room.

PERMITTED USE: A use permitted outright in a zoning district which complies with all of the regulations applicable in that district.
[Amended 8/23/89; Ord. 492]

PLACE OF PUBLIC ASSEMBLY: A structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation or similar activity.
[Added 8/17/88; Ord. 468]

PLANNED UNIT DEVELOPMENT: A development approved as a zone overlay to combine a site-specific design with underlying zone provisions, the purpose of which is to allow design flexibility, application of new technology and/or other ordinance modifications in exchange for providing site improvements, administrative mechanisms, and other amenities not required of typical development. PUD's are intended to accomplish substantially the same objectives as are intended by Comprehensive Plan and underlying Zone provisions applicable to the specific property.
[Added 8/23/89; Ord. 492]

PRIMARY SURFACE: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is 250 feet for utility runways having only visual approaches, 500 feet for utility runways having nonprecision instrument approaches and 500 feet for other than utility runways.
[Added 8/17/88; Ord. 468]

PRINCIPAL DWELLING: The primary dwelling on any parcel.

PRINCIPAL USE: The primary use of a lot or parcel, which may be either a permitted or conditional use.
[Amended 8/23/89; Ord. 492]

PUBLIC WORKS DEPARTMENT: The Yamhill County Department of Public Works.
[Added 8/23/89; Ord. 492]

RECREATIONAL VEHICLE (or RV): A travel trailer, camper, motor home, or other unit built on a single chassis, designed to be self-propelled or permanently towable by a light duty truck, and that is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use or emergency purposes, and that has a gross floor area not exceeding 400 square feet.

[Added 7/9/98; Ord.648 Amended 2/24/10; Ord. 851]

RECREATIONAL VEHICLE (or RV) PARK: Any lot or tract developed primarily to provide parking and related services to two or more transient recreational vehicles on a fee basis. [Added 7/9/98; Ord.648]

RESIDENTIAL FACILITY: A residential care, residential training, or residential treatment facility licensed or registered by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460, or licensed by the Children's Services Division under ORS 418.205 to 418.327 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.
[Added 3/19/98; Ord. 643]

RESIDENTIAL HOME: A residential treatment or training or an adult foster home licensed under the authority of the Department of Human Resources, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.
[Added 3/19/98; Ord. 643]

RESORT: Any area of land or water used for open-land commercial or private recreation where overnight lodging, meals, and related tourist services are provided in conjunction with such recreational use.

ROAD: Any public or private access road, street, alley, highway, walkway easement or way platted, recorded or shown on any official map, whether or not such street is actually developed or used.

ROAD DEPARTMENT: The Yamhill County Road Department, otherwise referred to as the Public Works Department.
[Amended 8/23/89; Ord. 492]

SANITARIAN: The Yamhill County Senior Environmental Health Specialist or the Specialist's authorized representative.

SCHOOL: A public or private elementary school, grade school, middle school, junior high school, high school, college or university. The term "school", as used in this ordinance, does not include commercial operations which offer classes of a primarily recreational nature.

[Added 7/9/98; Ord.648]

SECONDARY DWELLING: A dwelling other than a principal dwelling, used for a caretaker, health care or farmworker residence, guest house or similar use accessory to the principal residence.

[Amended 8/23/89; Ord. 492]

SETBACK: The horizontal distance measured perpendicularly from the property line to the nearest point of any structure on any parcel. Ordinary building projections such as eaves, bay windows, and chimneys, and unroofed decks or porches not more than 30 inches above ground level are not subject to setback requirements.

[Amended 1/14/99; Ord. 668]

The sign definitions were moved to the sign ordinance section.

~~**SIGN:** See sign definitions in Subsection 1006.11. An identification, description, illustration or device which is affixed to or represented directly or indirectly, upon land, or a building or structure, and which attracts the attention of, or conveys a message to any person not on the premises on which the sign is located in respect to a product, service, activity, person, institution, place or business; provided, however, that the following shall not be included in the application of sign regulations herein:~~

- ~~A. Signs not more than two (2) square feet in area and bearing only property numbers, postal box numbers, names of occupants of premises or other identification of premises, or traffic directional signs, providing such signs do not have commercial connotations.~~
- ~~B. Flags and insignia of any government, except when displaced in connection with commercial promotion.~~
- ~~C. Legal notices, or identification, informational or directional signs erected or required by governmental bodies.~~
- ~~D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights, and sculpture and other work of fine art created for appreciation rather than advertising.~~
- ~~E. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.~~

[Amended 8/23/89; Ord. 492]

~~**SIGN, FLASHING:** Any illuminated sign within or upon which the illumination is not maintained stationary and constant in intensity and color.~~

[Amended 8/23/89; Ord. 492]

~~**SIGN, ILLUMINATED:** Any sign designated to give forth any artificial light or designed to be illuminated by artificial light from another source, and does not include a flashing sign.~~

~~**SIGN, OFF-PREMISE:** A sign which advertises goods, products, services, accommodations or activities which are not sold, manufactured, distributed or made available on or from the premises.~~

[Amended 8/23/89, Ord. 492]

~~**SIGN, OFF-PREMISE/BUSINESS IDENTIFICATION:** Small off-premise, blue and white reflective signs located in public road rights-of-way for the purpose of advising motorists of the locations of parks, restaurants, wineries or other places of interest.~~

[Added 8/23/89, Ord. 492]

~~**SIGN, OFF-PREMISE/ADVERTISING:** An attached or detached sign or billboard which advertises goods, products, services, accommodations or activities which are not sold, manufactured, distributed or made available on the property where the sign is located.~~

[Added 8/23/89, Ord. 492]

~~**SIGN, PROJECTING:** Any sign attached to a structure and projecting perpendicularly out from the wall or roof to which it is attached.~~

[Amended 8/23/89, Ord. 492]

~~**SIGN, SURFACE AREA:** The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area on one side of any free standing sign or roof or wall mounted sign with backing, or the area resulting from encircling the lettering and all of the other elements of signage displayed on roof or wall mounted signs without backing. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.~~

[Amended 8/23/89, Ord. 492]

~~**SIGN WITH BACKING:** Any sign that is displayed upon, against or through any material or colored surface or backing that forms an integral part of such display, and that differentiates the overall display from the background against which it is placed. Words, letters, and other advertising elements attached directly to a roof or wall shall not be considered a sign with backing.~~

[Added 8/23/89, Ord. 492]

STRUCTURE: Something constructed or built and having a fixed base on, or fixed construction to the ground or another structure. For purposes of Section 901, a walled and roofed building including a gas or liquid storage tank that is principally above ground.

[Amended 2/24/10; Ord. 851]

STRUCTURAL ALTERATION: Any change to the supporting members of a building, including foundations, bearing walls or partitions, columns, beams, girders or any structural change in the roof or in the exterior walls.

TRANSITIONAL ZONES: A surface extending upward at a slope of 7:1 beginning on each side of the primary surface, and from the sides of the approach zones, then extending upward to a height of 150 feet above the airport elevation.

[Added 8/17/88; Ord. 468]

TRAVEL TRAILER: A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet.

TRAVEL TRAILER SPACE: An area in a travel trailer park used for one (1) travel trailer.

USE: The purpose for which land or a building or structure is used, designed, arranged or intended, or for which it is occupied or maintained.

UTILITY: Any area of land or any structure used for the generation, storage conversion or transfer of energy or for communication facilities, such as telephone, telegraph, radio or television, or for municipal water or wastewater treatment.

[Amended 1/14/99; Ord.668]

UTILITY RUNWAY: A runway that is constructed and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

[Added 8/17/88; Ord. 468]

VARIANCE, FLOOD: For purposes of Section 901, a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

[Added 2/24/10; Ord. 851]

WATER DEPENDENT USE: A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreating, energy production or source of water. For purposes of Section 901, a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

[Amended 2/24/10; Ord. 851]

WATER-RELATED USE: A use which is not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, road and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to water location needs.

[Added 8/23/89; Ord. 492]

YARD: A required open area unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded parcel upward; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

YARD, FRONT: Any yard abutting a street or lying parallel to the front parcel line.

YARD, REAR: Any yard abutting a rear parcel line.

YARD, SIDE: Any yard abutting a side parcel line.

This is consistent with the definition of yurts allowed in campgrounds in OAR 660-006-0025(4)(e)(C) and OAR 660-033-0130(19).

YURT: A round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance. Yurts shall be located on the ground or on a wooden floor with no permanent foundation.

[Added 12/05/02; Ord. 720]

F:\Share\ZO\200_G-01-12Final.wpd

Docket G-01-12 - ORDINANCE AMENDMENTS

Language to be added is underlined and language to be deleted is ~~crossed-out~~.

The explanations for the changes are noted in the boxes.

SECTION 400 – NATURAL RESOURCE DISTRICTS

401. FORESTRY DISTRICT (F-80)

[Last amended 09/02/04; Ord. 746]

401.01 Purpose.

The purpose of the Forest zone is to conserve forest lands.

401.02 Permitted Uses.

In the F-80 District, the following uses are permitted outright subject to the standards and limitations set forth in subsection 401.10 and any other applicable provisions of this ordinance.

- A. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.
- B. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.
- C. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, land-fills, dams, reservoirs, road construction or recreational facilities.
- D. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
- E. Farm use as defined in Section 402.10(C) of this ordinance.
- F. Local distribution lines (e.g., electric, telephone, natural gas and accessory equipment (e.g., electric distribution transformers, meter cabinets, terminal boxes, pedestals), or equipment which provide service hookups, including water service hookups.
- G. Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.
- H. Exploration for mineral and aggregate resources as defined in ORS Chapter 517.
- I. Towers and fire stations for forest fire protection.
- J. Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans including public road and highway projects as described in Section 402.02(K).

- K. Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- L. Uninhabitable structures accessory to fish and wildlife enhancement.
- M. Disposal site for solid waste that has been ordered established by the Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation.
- N. Alteration, restoration or replacement of a lawfully established dwelling that:
 - 1. Has intact exterior walls and roof structure;
 - 2. Has indoor plumbing consisting of 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 nonresidential use within three months of the completion of the replacement dwelling.
- O. Temporary forest labor camps limited to the duration of the forest operation requiring the use.
- P. Destination resorts reviewed and approved pursuant to ORS 197.435 to ORS 197.465 and Goal 8.
- Q. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head as defined in ORS Chapters 517 and 520, subject to the requirements of Section 404.10 and the Type A application procedures.
- R. Private hunting and fishing operations without any accommodations.
- S. Caretaker residences for public parks and fish hatcheries. [Added 5/22/96, Ord. 608]

Need to add "Accessory structures" as a permitted use in the F-80 zone.

T. Accessory structures.

401.03 Dwellings Permitted Subject to Standards.

The following residential uses shall be permitted in the F-80 District subject to the standards and limitations set forth in Sections 401.08 and 401.09 and satisfaction of the criteria specified for each use. Furthermore, the decision-making body may attach reasonable conditions to approvals in order to insure compliance with relevant criteria. The following uses are subject to the Type A notice procedures of Section 1301.

A. Principal dwelling on a tract of at least 160 contiguous acres or 200 acres in one ownership that are not contiguous but are located entirely within Yamhill county or partially in an adjacent county, subject to the following:

1. There are no other dwellings on the parcels which make up the acreage.
2. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
20. If the tract consists of more than one lot or parcel, the lots or parcels that are not to support the dwelling are subject to deed restrictions that prohibit residential development or use of the lots or parcels to total acreage for future siting of dwellings for present or future owners. The applicant shall provide evidence that covenants and restrictions, in a form approved by the county, have been recorded with the County Clerk of Yamhill county and the other counties where the property subject to the covenants and restrictions is located. The covenants and restrictions are irrevocable, unless a statement of release is signed by the Planning Director.

[Subsection A amended 5/22/96, Ord. 607]

B. Principal lot of record dwelling, subject to the following standards and criteria:

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - (a) and has been owned continuously by such owner since prior to January 1, 1985; or
 - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
 - (c) For purposes of Section 401.03(B)(1) only, "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 business entity owned by any one or combination of these family members.
2. The tract on which the dwelling is to be sited does not include a dwelling.
3. If the lot 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. The tract on which the dwelling is to be sited is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species.
5. The tract on which the dwelling is to be located is within 1,500 feet of a public road that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock. The road shall not be:
 - (a) A United States Bureau of Land Management Road; or

- (b) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or state agency.
- 6. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
- 7. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
- 8. The county assessor shall be notified that the governing body intends to allow the dwelling.
[Subsection B amended 5/10/95, Ord. 591; 10/2/96, Ord. 615; 3/19/98, Ord. 643; 8/13/98, Ord. 657]
- C. Principal forest template dwelling, except as provided in subsection D of this Section, subject to the following standards and criteria:
 - 1. There are no other dwellings on the subject tract; and
 - 2. When the lot or parcel on which the dwelling will be sited is part of a tract, the remainder of the subject tract shall be consolidated into a single lot or parcel when the dwelling is allowed, which shall not be eligible for an additional dwelling; and
 - 3. The lot or parcel is predominantly composed of soils that are capable of producing 0 to 49 cubic feet per acre of wood fiber; and
 - (a) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a circle with a 1489.46 foot radius or a 160-acre square centered on the center of the subject tract; and
 - (b) At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist on the other lots or parcels; or
 - 4. The lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre of wood fiber; and
 - (a) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a circle with a 1489.46 foot radius or a 160-acre square centered on the center of the subject tract; and
 - (b) At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist on the other lots or parcels; or
 - 5. The lot or parcel is predominantly composed of soils that are capable of producing more than 85 cubic feet per acre of wood fiber; and

- (a) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a circle with a 1489.46 foot radius or a 160-acre square centered on the center of the subject tract; and
 - (b) At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist on the other lots or parcels.
- 6. If the tract on which the dwelling will be sited abuts a public road that existed on January 1, 1993, the measurement under subsections 4.a, 5.a, or 6.a may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road.
- 7. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
[Subsection C amended 5/22/96, Ord. 607; 8/13/98, Ord. 657; Reinstated 12/19/02; Ord. 721; amended 09/02/04, Ord 746]
- D. Principal forest template dwelling on a tract of 60 or more acres that abuts a road or perennial stream, subject to the following standards and criteria:
 - 1. There are no other dwellings on the subject tract; and
 - 2. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed, and the tract shall not be eligible for an additional dwelling; and
 - 3. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions; and
 - 4. The lot or parcel is predominantly composed of soils that are capable of producing 0 to 49 cubic feet per acre of wood fiber; and
 - (a) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
 - (b) At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract; or
 - 5. The lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre of wood fiber; and
 - (a) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
 - (b) At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract; or

6. The lot or parcel is predominantly composed of soils that are capable of producing more than 85 cubic feet per acre of wood fiber; and
 - (a) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
 - (b) At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract.
7. The measurement under subsections 5.a, 6.a, or 7.a of this section shall be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road or stream.
8. The one dwelling required to be on the same side of the road or stream pursuant to subsections 5.b, 6.b, or 7.b of this section may be outside the width of the rectangle described in subsection 8 of this section if it is within one-quarter mile of the subject tract.
9. If the road crosses the subject tract on which the dwelling is to be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

[Subsection E amended 5/22/96, Ord. 607; 8/13/98, Ord. 657 Reinstated 12/19/02; Ord. 721; amended 09/02/04, Ord 746]

401.04 Conditional Uses.

The following uses are allowed in the F-80 zone upon conditional use approval. The applicant shall comply with Section 401.05, Section 1202, the Type B application procedure of section 1301, and any other provisions required by this subsection.

- A. Permanent facility for the primary processing of forest products.
- B. Permanent logging equipment repair and storage.
- C. Log scaling and weigh stations.
- D. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under Section 401.02(S), subject to the requirements of Section 404.10; and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517, subject to the operating standards in Section 404.07.

The farm and farm forest zones both require a site design review for the establishment of a park. Therefore, this requirement will be added in the F-80 zone.

- E. Parks and campgrounds as defined in subsection 401.12(B): subject to Section 1101, Site Design Review.
- F. Television, microwave and radio communication facilities and transmission towers.

- G. Fire stations for rural fire protection.
- H. Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4.
- I. Aids to navigation and aviation.
- J. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
- K. Reservoirs and water impoundments.
- L. Firearms training facility.
- M. Cemeteries.
- N. Private seasonal accommodations for fee hunting operations, subject to Sections 401.05, 401.08, and 401.09 and the following requirements:
 - 1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - 2. Only minor incidental and accessory retail sales are permitted;
 - 3. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
 - 4. A governing body may impose other appropriate conditions.
- O. New distribution lines (e.g., gas, oil, geothermal) with rights-of-way 50 feet or less in width and new electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210.
- P. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.
- Q. Home occupations as defined in ORS 215.448. Approval is also subject to the Home Occupation criteria as set forth in Section 1004 of the YCZO.
- R. Expansion of existing airports.
- S. Public road and highway projects as described in Section 402.04(J) and (N).
- T. Private accommodations for fishing occupied on a temporary basis, subject to Sections 401.05, 401.08, and 401.09 and the following requirements:
 - 1. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

2. Only minor incidental and accessory retail sales are permitted;
 3. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;
 4. Accommodations must be located within 1/4 mile of fish bearing Class I waters; and
 5. A governing body may impose other appropriate conditions.
- U. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.
- V. One manufactured dwelling or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the existing resident, subject to the following:
1. The resident or relative of the resident is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence.
 2. The permit for the temporary dwelling for the term of hardship shall be valid for a period of two years or a shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.
 3. The permit for the temporary dwelling for the term of hardship shall be granted to the applicant only and shall not be deemed to run with the land.
 4. The temporary dwelling shall use the same subsurface sewage disposal system as the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.
 5. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this paragraph is not eligible for replacement as a permanent residence. [Added 5/22/96, Ord. 608; Amended 3/19/98, Ord. 643]
- W. Youth camps subject to Section 1101 for site design review and the Oregon Administrative Rules Section 660-006-0031. [Added 12/05/02; Ord. 720]

401.05 Conditional Use Limitations.

The Planning Director or hearings body shall determine that a use authorized by Section 401.04 meets the following requirements:

- A. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

- B. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and
- C. A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in Section 401.04.

401.06 Prohibited Uses.

Uses of land and water not specifically mentioned in this Section are prohibited in the F-80 District. In order to preserve F-80 lands for forest uses, subdivisions and planned unit developments shall be prohibited.

401.07 Nonconforming Uses.

Nonconforming uses found in the F-80 District are subject to the nonconforming use provisions of Section 1205 as well as to an other applicable provisions of this ordinance.

401.08 Siting of Dwellings and Structures.

All new dwellings and structures approved pursuant to Section 401.03 shall be sited in accordance with this section and Section 401.09.

- A. Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify a site which:
 1. Has the least impact on nearby or adjacent lands zoned for forest or agricultural use;
 2. Ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 3. Minimizes the amount of forest lands used for the building sites, road access and service corridors; and
 4. Minimizes the risk associated with wildfire.

Instead of a specific OAR reference (which has been changed) a citation of the general Forest Practices Rule in OAR 629.

- B. The applicant shall provide evidence that the domestic water supply, if any, is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rule (OAR Chapter ~~629~~ ~~629-24-101(3)~~). If the water supply is from a well, a copy of the well constructor's report shall be submitted to the county upon completion of the well. If the water supply is unavailable from public sources or sources located entirely on the subject property,

then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners. [Amended 5/22/96, Ord. 607]

- C. As a condition of approval of a dwelling under Section 401.03, if the tract is more than 5 acres in size the property owner shall submit a stocking survey report to the County Assessor and the Assessor shall verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met. [Amended 5/22/96, Ord. 607; 8/13/98, Ord. 657]

- D. Prior to issuance of any residential building permit for an approved dwelling located within 1 mile of an area which has been designated in the plan or zone or otherwise approved by Yamhill County for mineral resource uses, the landowner shall be required to sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records of Yamhill County;

“The subject property is located in an area designated for mineral resource uses. It is the County policy to protect mineral resource operations from conflicting land uses in such designated areas. Accepted mineral resource and quarry practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the responsibility of the operator of a mineral resource operation to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator’s violation of State law.” [Added 8/13/98, Ord. 657]

- E. Prior to issuance of a residential building permit, the landowner shall sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Yamhill County:

“The subject property is located in an area designated by Yamhill County for agricultural uses. It is the county policy to protect agricultural operations from conflicting land uses in such designated areas. Accepted agricultural practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the agricultural operator's responsibility to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of state law.” [Added 8/13/98, Ord. 657]

401.09 Fire Siting and Construction Standards for Dwellings and Structures

The following fire siting standards shall apply to all new dwellings or permanent structures:

- A. The dwelling shall have a fire-retardant roof;
- B. A dwelling shall not be sited on a slope of greater than 40 percent;
- C. A dwelling shall located only upon a parcel within a fire protection district that fights residential fires, or shall be provided with residential fire protection by contract. A dwelling may be allowed on a parcel that does not comply with these provisions provided that:

1. The applicant provides evidence that the applicant has asked to be included in the nearest fire protection district but that district is unable to provide residential fire protection by contract; and
 2. The dwelling shall be provided with a fire sprinkling system; and
 3. The parcel is provided with a water supply consisting of a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons, or a stream that has a minimum year-round flow of at least one cubic foot per second. Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units, and the road access shall accommodate a turnaround for fire-fighting equipment.
[Amended 5/22/96, Ord. 607]
- D. Road access to the structure shall meet the road design standards described in Section 401.10(D).
- E. If a dwelling has a chimney or chimneys, each chimney shall be provided with a spark arrester.
- F. A primary fire break shall be constructed no less than 30 feet wide. The fire break is only required to be constructed on land surrounding the dwelling that is owned or controlled by the owner. The primary firebreak could include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed.
- G. A secondary firebreak of not less than 100 feet outside the primary firebreak shall also be constructed. The fire break is only required to be constructed on land surrounding the dwelling that is owned or controlled by the owner. Vegetation within the secondary firebreak should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent spread of fire into the crowns of the larger trees. Dead fuels shall be removed. The secondary fire break shall be increased to 150 feet if the dwelling or structure is located on a slope of greater than 25% or other fire hazards exist.
[Amended 3/19/98, Ord. 643]
- H. No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.
- I. The applicant shall obtain an address from the County, and shall display that number in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less than three inches in height, shall be painted in a contrasting or visible color and shall comply with all other applicable standards for signs.

401.10 Standards and Limitations.

In the F-80 District, the following standards and limitations shall apply:

- A. Parcel Size and Dimension.

1. Newly-Created Parcels. Except as provided in paragraphs 401.10(A)(2) through (A)(~~5~~) (6) of this Section, the minimum size of any newly-created parcel shall be 80 acres.
2. Land divisions creating parcels less than 80 acres may be approved for uses listed in Section 401.04 (A) through (M). Such divisions shall create a parcel that is the minimum size necessary for the use.
3. A partition to separate a parcel containing a dwelling that existed prior to June 1, 1995 from a larger parcel may be approved subject to the following:
 - (a) The new parcel containing the dwelling shall not be larger than five acres in size, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than ten acres in size.
 - (b) The remaining parcel not containing the dwelling shall either be at least 80 acres in size, or shall be consolidated with an adjacent parcel so that together the parcels are at least 80 acres in size.
 - (c) The remaining parcel not containing the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal. The applicant shall provide evidence that covenants and restrictions that prohibit future siting of dwellings for present or future owners have been recorded with the County Clerk. The restriction prohibiting a dwelling shall be irrevocable unless a statement of release is signed by the Planning Director indicating that the Comprehensive Plan or land use regulations have been changed in such a manner that the parcel is no longer subject to statewide planning Goals 3 or 4.
 - (d) The landowner shall sign an affidavit and declaratory deed statement and record it in the deed and mortgage records for Yamhill County declaring that the landowner will not in future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

[Added 5/22/96, Ord. 607]
4. A partition to facilitate a forest practice as defined in ORS 527.620 may be approved with the following conditions:
 - (a) The applicant shall demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum lot size.
 - (b) The parcels shall not be less than 35 acres in size except where the purpose of the partition is to facilitate an exchange of lands involving a governmental agency or to allow a transaction in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land.
 - (c) If associated with the creation of a parcel where a dwelling is involved, the partition shall not result in a parcel less than 80 acres in size.

- (d) The parcels shall not be eligible for the siting of a new dwelling. The applicant shall provide evidence that covenants and restrictions that prohibit future siting of dwellings for present or future owners have been recorded with the County Clerk. The restriction prohibiting a dwelling shall be irrevocable unless a statement of release is signed by the Planning Director indicating that the Comprehensive Plan or land use regulations have been changed in such a manner that the parcel is no longer subject to statewide planning Goals 3 or 4.
- (e) The parcels shall not serve as the justification for the siting of a future dwelling on other lots or parcels.
- (f) The parcels shall not be used to justify the redesignation or rezoning of resource lands.
- (g) The landowner shall sign an affidavit and declaratory deed statement and record it in the deed and mortgage records for Yamhill County declaring that the landowner will not in future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

[Added 5/22/96, Ord. 608; amended 8/13/98, Ord. 657]

5. A division of a lot or parcel zoned for forest use may be allowed if:

- (a) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
- (b) Each dwelling complies with the criteria for a replacement dwelling under 401.02(N);
- (c) Except for one lot or parcel, each lot or parcel created under this paragraph is between two and five acres in size;
- (d) At least one dwelling is located on each lot or parcel created under this paragraph; and
- (e) The landowner of a lot or parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the county clerk of the county in which the lot or parcel is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the county planning director of the county in which the lot or parcel is located indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use or mixed farm and forest use. (3) A county planning director shall maintain a record of lots and parcels that do not qualify for division under the restrictions imposed under subsections (2)(e) and (4) of this section. The record shall be readily available to the public. (4) A lot or parcel may not be divided under subsection

(2)(e) of this section if an existing dwelling on the lot or parcel was approved under: (a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or Enrolled Senate Bill 715 (SB 715-B) Page 2 (b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under a statewide planning goal protecting forestland.

[Added 12/05/02; Ord. 720]

ORS 215.783 allows the creation of a parcel in a farm, forest or mixed farm/forest zone. This provision is in the EF zone but needs to be added to the F and AF Zones.

6. A division of land smaller than the minimum parcel size noted under 401.10 (A) may be approved for the purpose of creating a parcel for a park provided it satisfies the following:
- (a) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and
 - (b) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
 - (c) A parcel created pursuant to this subsection that does not contain a dwelling:
 - i. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - ii. May not be considered in approving or denying an application for siting any other dwelling;
 - iii. May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
 - iv. 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.

6.7. Lot-line adjustments.

- (a) When one or more parcels subject to a proposed adjustment are larger than the minimum lot size in the zone, the same number of parcels shall be as large or larger than the minimum lot size after the adjustment. When all parcels subject to a proposed adjustment are as large or larger than the minimum lot

size in the zone, no parcel shall be reduced below the applicable minimum lot size.

- (b) Any parcels subject to an alteration in size through a lot-line adjustment shall be shown to be at least as economically efficient for forest practices, provide for continuous growing and harvesting of forest tree species at least as well as, and conserve other forest values at least as well as did the parcel prior to adjustment.
- (c) The lot line adjustment shall not result in an increase in the potential number of dwellings on the parcels. When an area that contains an existing dwelling will be conveyed from one parcel (Parcel A) to the adjacent parcel (Parcel B), Parcel B must either receive land use approval for the dwelling under the terms of this ordinance, or, in the alternative, a deed affidavit shall be recorded by the owner of Parcel A prohibiting the establishment of any new principal dwellings on the adjusted parcel or parcels.

[Amended 5/22/96, Ord. 607; 3/19/98, Ord. 643; 1/14/99, Ord. 668]

7.8 Existing Lots. Any permitted or conditional use provided for in this District may be established on an existing substandard lot, subject to satisfaction of the applicable requirements of this section. Prior to issuance of a building permit for the construction or placement of a principal dwelling on a substandard lot, the applicable provisions of this section shall be satisfied by the applicant.

B. Setbacks.

The minimum setback for all yards shall be 30 feet for all uses except as follows:

1. Adjacent to commercial timberland properties, minimum dwelling setback shall be 60 feet.
2. The minimum setback for signs shall be five feet.
3. An accessory structure not more than 15 feet in height, and at least 60 feet from a road or off-site dwelling, may be located a minimum distance of three feet from the property line in a side yard or rear yard.
4. A swimming pool may be located in a required rear yard, provided it lies a minimum of five feet from the rear property line.
5. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision area requirements of Subsection 401.10(E).

[Amended 5/22/96, Ord. 607]

C. Parcel Coverage.

Not applicable, except that for any parcel of less than one acre, the maximum parcel coverage shall be 15 percent.

D. Access.

The following standards apply to all roads and driveways, except for private roads accessing only commercial forest uses, which access uses permitted under Section 401.02 or approved under Sections 401.03 or 401.04 of this section. Variations from these standards may be granted by the fire service having responsibility for the area when topographic conditions make these standards impractical and where the local fire protection district states the access is acceptable for their fire-fighting equipment: [Amended 12/05/02; Ord. 720]

1. Width. Access roads serving three (3) or fewer dwellings shall have a 12 foot improved width and a 20 foot horizontal clearance. Access roads serve more than three (3) dwellings shall have a 16 foot improved width and a 20 foot horizontal clearance.
2. Construction. Access roads must be improved with an all weather surface. Roads, bridges and culverts shall be designed and maintained to support a minimum gross vehicle weight (GVW) of 50,000 lbs. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 lb. GVW standard shall be provided by a Professional Engineer, registered in Oregon.
3. Vertical Clearance. Access roads shall have an unobstructed vertical clearance of not less than thirteen and one-half (13.5) feet.
4. Turnarounds. Dead end roads over 150 feet in length shall provide a turnaround adequate for emergency vehicles.
5. Turnouts. Access roads greater than 400 feet in length shall have turnouts at a maximum spacing of one-half the length of the access road or 400 feet, whichever is less. Turnouts shall be required more frequently where visibility is limited. Turnouts shall be an all weather surface at least 10 feet wide and 40 feet long.
6. Road Grade. Road grades shall not exceed twelve (12) percent, with a maximum of 15 percent on pitches less than 200 feet long
7. Before a dwelling may be established on any parcel as provided in this Section, the parcel shall have a legal, safe and passable means of access by abutting at least 20 feet either directly upon a public road, or by a private easement which is at least 30 feet in width for its entire length and which also abuts upon a public road for at least 30 feet. Nothing in this Section shall be construed to vary or waive the requirements for creation of any new access contained in any Land Division Ordinance legally adopted by Yamhill County.

E. Clear-Vision Areas.

A clear-vision area shall be maintained on the corner of any parcel at the intersection of any two of the following: county roads, public roads, private roads serving four or more parcels, and railroads. A clear-vision area shall contain no sight-obscuring structures or plantings exceeding 30 inches in height within a triangle formed by the lot corner nearest the intersection, and the two points 20 feet from this corner as measured along the parcel lines adjacent to the intersection rights-of-way. Trees exceeding this height may be located such that their branches extend into this triangle, provided they are maintained to allow at least 12 feet of visual clearance within the triangle below the lowest hanging branches.

F. Height.

1. The maximum building height for any dwelling shall be 35 feet;
2. The maximum building height for all other structures shall be 45 feet; and
3. Appurtenances usually required to be placed above the roof level and not intended for human occupancy such as spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys and wind generators are not subject to the height limitations of this ordinance.

G. Occupancy of Recreational Vehicles.

One recreational vehicle shall be permitted to be parked on any parcel in conjunction with a principal dwelling, and may be used for the temporary accommodation of guests for a period of up to 30 days total in any year. In no case shall any recreational vehicle be used as a principal dwelling or rented.

[Amended 5/22/96, Ord. 607]

H. Off-Street Parking.

1. In the F-80 District, prior to establishment of any dwelling, sufficient area must be provided to allow for at least one emergency vehicle turnaround.
2. Parking requirements for those uses which may generate traffic beyond what is normally expected in the F-80 District shall be determined by the Director subject to the provisions of Section 1007.

401.11 Permit Expiration Dates

- A. Notwithstanding other provisions of this Ordinance and except as provided for in subsection 401.11 (D), a discretionary decision, except for a land division, approving a proposed development in the Forestry zone is void two years from the date of the final decision if the development action is not initiated in that period. An extension period of up to 12 months may be granted if:

[Amended 12/05/02; Ord. 720]

1. An applicant submits a written request for an extension prior to expiration of the development approval period, stating the reasons that prevented the applicant from beginning or continuing development within the approval period; and
2. 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 rule 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.

[Amended 5/22/96, Ord. 607]

ORS 215.284 should be removed because it is a reference to a nonfarm dwelling which is not a use that is an option in the F-80 zone. Also, adding the type of dwelling each ORS refers to would assist both the public and staff.

- D. If a permit is approved for a proposed residential development on agricultural land outside of an urban growth boundary, the permit shall be valid for four years. Any extension of a permit for residential development shall be valid for two years. For the purpose of this subsection, "residential development" only includes the dwellings provided for under ORS ~~215.284~~, 215.705(1) to (3), and 215.720 (lot of record dwelling), 215.750 (forest template dwelling) and 215.755(1) (replacement dwelling) and (3) (caretaker residences for public parks and public fish hatcheries).

[Section D Added 12/05/02; Ord. 720]

401.12 Definitions

The following terms apply only to Section 401, and have no relevance to the same term used in other sections of this ordinance unless specifically stated.

- A. Auxiliary - A use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

Although it exists in the AF-20, -40 and -80 and EF-20, -40 and 80 zones, (Sections 402 and 403), The reference to allowing a certain number of yurts was not included in Section 401. This language is consistent with the definition of campgrounds in OAR 660-006-0025(4)(e).

- B. Campground - Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4. A campground is an area 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. A campground shall be designated and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers to existing native trees and vegetation or other natural features between campsites. Campsites may be occupied by a tent, travel trailer or recreational vehicle. The campground may also provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. 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. The park or campground may be public or private.

[Amended 8/13/98, Ord. 657]

- C. Commercial tree species - Trees recognized under rules adopted under ORS 527.715 for commercial production.
- D. Forest operation - Any commercial activity relating to the growing or harvesting of any tree species as defined in ORS 527.620(6).
- E. Public parks - includes only the uses specified under OAR 660-034-0035.
[Added 8/13/98, Ord. 657]
- F. Tract - One or more contiguous lots or parcels under the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.
[Amended 5/22/96, Ord. 607]

F:\Share\ZO\0401_G-01-12Final.wpd

Docket G-01-12 - ORDINANCE AMENDMENTS

Language to be added is underlined and language to be deleted is ~~crossed out~~.

The explanations for the changes are noted in the boxes.

SECTION 400 – NATURAL RESOURCE DISTRICT

402. EXCLUSIVE FARM USE DISTRICT (EF-80, EF-40, and EF-20)

[Last amended 09/02/04, Ord 746]

402.01 Purpose.

The purpose of the Exclusive Farm Use District is to identify and protect land designated as Exclusive Farm Use on the Comprehensive Plan that is suitable and desirable for commercial agricultural operations and other uses which are compatible with such operations. Properties in the Exclusive Farm District are primarily large, contiguous relatively flat terrace, valley-floor or low foothill holdings. In Exclusive Farm Use Districts, nonfarm residential and other development which might likely be affected by normal farm management practices, will be limited or prohibited so as to maximize the productivity potential of vicinity farmlands.

402.02 Permitted Uses.

In the Exclusive Farm Use District, the following uses shall be permitted subject to the standards and limitations set forth in subsection 402.09 and any other applicable provisions of this ordinance:

- A. Farm uses as defined in Subsection 402.10.

Farm stands are a use allowed under ORS 215.283(1). A complete site design review evaluates land use issues beyond the health and safety issues of a permitted use.

- B. Farm stands subject to a Type A miscellaneous land use application to evaluate health and safety requirements such as access, parking and sewage disposal, and to determine Section 1101, Site Design Review, if:

1. The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and
2. The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.

[Amended 12/05/02; Ord. 720]

- C. Propagation and harvesting of a forest product.
- D. Creation of, restoration of, or enhancement of wetlands.

Need to add biofuel processing to the EF and AF zones.

- E. A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141 that is located on a farm operation that and provides at least one-quarter of the farm crops processed at the facility. 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 uses. The application will also be subject to Section 1101, Site Design Review. [Added 3/19/98, Ord. 643]
- F. 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. The applicant will also be subject to Section 1101, Site Design Review. A facility is "necessary" if it satisfies the requirements of ORS 215.275. [Amended 12/05/02; Ord. 720]
- G. Accessory uses, including buildings other than dwellings customarily provided in conjunction with farm use.
- H. Winery, as defined in subsection 402.10, subject to Section 1101, Site Design Review. [Amended 11/30/94, Ord. 582]
- I. Operations for the exploration of minerals as defined by ORS 517.750.
- J. Operations for the exploration for and the production of geothermal resources as defined by ORS 522.005, and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a wellhead, subject to the requirements of Section 404.10.
- K. Signs, pursuant to the sign provisions set forth in Section 1006.
- L. The following transportation facilities:
1. Climbing and passing lanes within the right of way existing as of July 1, 1987.
 2. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
 3. Temporary public road and highway 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 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 publicly owned property utilized to support the operation and maintenance of public roads and highways.

- M. Alteration, restoration or replacement of a lawfully established dwelling that:
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 nonresidential use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling replaced under this section shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. 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 paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.
 6. A secondary farm dwelling authorized pursuant to Section 402.03(F)(4)(c) may only be replaced by a manufactured dwelling. [Amended 3/19/98, Ord. 643]
- N. Public or private school, including all buildings essential to the operation of a school, subject to the Type B application procedures and Section 1101, Site Design Review. The school must be at least three miles from an urban growth boundary, and is not permitted on a tract identified as high-value farmland. Existing facilities on high-value farmland that are wholly within a farm use zone may be maintained, enhanced, or expanded. [Amended 3/19/98, Ord. 643; 8/13/98, Ord. 657]
- O. Churches and cemeteries in conjunction with churches, subject to the Type B application procedures and Section 1101, Site Design Review. The uses must be at least three miles from an urban growth boundary, and are not permitted on a tract identified as high-value farmland. Existing facilities on high-value farmland that are wholly within a farm use zone may be maintained, enhanced, or expanded. [Amended 3/19/98, Ord. 643; 8/13/98, Ord. 657]
- P. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. As used in this paragraph, "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 is controlled by radio, lines or design by a person on the ground. [Added 3/19/98, Ord. 643]

Q. On-site filming and activities accessory to on-site filming, as defined in ORS 215.306(4), may be conducted subject to ORS 30.930 to 30.947, when it involves no more than 45 days on any site within any one-year period and does not involve erection of sets that would remain in place for longer than any 45-day period. [Added 3/19/98, Ord. 643]

R. Fire service facilities providing rural fire protection services. [Added 12/05/02; Ord. 720]

S. Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505. [Added 12/05/02; Ord. 720]

T. 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. [Added 12/05/02; Ord. 720]

U. Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural, or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in the exclusive farm use zone. [Added 12/05/02; Ord. 720]

ORS 197.665 requires that a residential home, as defined in ORS 197.660, is a permitted use in an existing dwelling so it will be removed from the list of conditional uses.

V. A "residential home" as defined in ORS 197.660 may be established in an existing dwelling.

The following is to incorporate the Agri-tourism events allowed by SB 960.

W. Agri-tourism and other commercial events or activities that are related to and supportive of agriculture subject to Section 1013, Agri-Tourism Use Permits.

402.03 Permitted Dwellings

The following residential uses shall be permitted in the Exclusive Farm Use District subject to the standards and limitations set forth in Section 402.09 and satisfaction of the criteria specified for each use. Furthermore, the decision-making body may attach reasonable conditions to approvals in order to insure compliance with relevant criteria. The following uses are subject to the type of notice requirements of Section 1301 indicated.

- A. Principal dwelling customarily provided in conjunction with farm use on high-value farmland, subject to the following (Type A notice):
1. The subject tract is currently employed for farm use, and produced at least \$80,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract.
 2. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (1) of this Section.
 3. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract. [Subsection A added 3/19/98, Ord. 643]
- B. Principal dwelling customarily provided in conjunction with farm use on a tract that is not high-value farmland, subject to the following (Type A notice):
1. The subject tract is currently employed for farm use, and produced at least \$40,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract. [Amended 12/05/02; Ord. 720]
 2. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (1) of this Section.
 3. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract. [Subsection B added 3/19/98, Ord. 643]
- C. Principal dwelling customarily provided in conjunction with farm use on a parcel at least 160 acres in size that is not high-value farmland, under the following circumstances (Type A notice):
1. The subject tract is currently employed for farm use, as defined in Subsection 402.10(C).
 2. 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 as defined in subsection 4 of this section.
 3. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract.
 4. The determination of whether the farm is "commercial" will be based upon whether the farm:
 - (a) Contributes in a substantial way to the area's existing agricultural economy; and
 - (b) Helps maintain agricultural processors and established farm markets;

- (c) When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered.

[Subsection C amended 3/19/98, Ord. 643]

D. Principal dwelling customarily provided in conjunction with farm use on a tract that is not high-value farmland, under the following circumstances (Type A notice):

1. The subject tract is at least as large as the median size of those commercial farm tracts capable of generating at least \$10,000 in annual gross sales that are located within the study area defined in subsection (6) of this Section.
2. The subject tract is capable of producing annual gross sales of county indicator crops, as determined by OAR 660-33-135(4), at a level equal to or greater than the median of those farms within the study area defined in subsection (6) of this Section.
3. The subject tract is currently employed for a farm use at a level capable of producing the annual gross sales required in subsection (2) of this Section. If no farm use has been established at the time of application, land-use approval shall be subject to a condition that no building permit for a residence may be issued prior to the establishment of the farm use required in this subsection.
4. The subject lot or parcel on which the dwelling is proposed is at least 10 acres in size.
5. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract.
6. In order to identify the commercial farm tracts to be used in subsections (1) and (2) of this Section, the gross sales capability of each tract in the study area, including the subject tract, must be determined, using the gross sales figures provided by the Land Conservation and Development Commission pursuant to OAR 660-33-135(4) as follows:
 - (a) Identify the study area. This includes all the land in the tracts wholly or partially within one mile of the perimeter of the subject tract;
 - (b) Determine for each tract in the study area the number of acres in every land classification from the county assessor's data;
 - (c) Determine the potential earning capability for each tract by multiplying the number of acres in each land class by the gross sales per acre for each land class provided by the Land Conservation and Development Commission pursuant to OAR 660-33-135(4). Add these to obtain a potential earning capability for each tract;
 - (d) Identify those tracts capable of grossing at least \$10,000 based on the data generated in subsection (6)(c) of this Section;
 - (e) Determine the median size and gross sales capability for those tracts capable of generating at least \$10,000 in annual gross sales to use in subsections (1) and (2) of this Section.

[Subsection D added 3/19/98, Ord. 643]

- E. A secondary dwelling for a relative of the farm operator under the following circumstances (Type A notice):
1. The tract is currently employed for farm use, as defined in Subsection 402.10(C), at a commercial scale.
 2. The dwelling shall be located on the same lot or parcel as the dwelling of the farm operator.
 3. The dwelling shall be occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling- niece, nephew, or first cousin of either if the farm operator does, or will require the assistance of the relative in the management and farm use of the existing commercial farm use.
[Amended 12/05/02; Ord. 720]
 4. The farm operator shall continue to play the predominant role in the management of the farm. A farm operator is a person who operates a farm, doing the work and making day-to-day decisions about such things as planting, harvesting, feeding, and marketing.
[Subsection E amended 3/19/98, Ord. 643]
- F. A secondary dwelling customarily provided in conjunction with farm use for farm help, under the following circumstances (Type A notice):
1. The secondary dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator.
[Amended 12/05/02; Ord. 720]
 2. There is no other dwelling on 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 and that could reasonably be used as a secondary farm dwelling.
 3. The primary farm dwelling to which the proposed dwelling would be accessory satisfies one of the following:
 - (a) On land identified as high-value farmland, the primary farm dwelling is located on a farm operation that is currently employed for farm use, and produced at least \$80,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract; or
 - (b) On land not identified as high-value farmland, the primary farm dwelling is located on a farm operation that is currently employed for farm use, and produced at least \$40,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In

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

4. The secondary dwelling will be located:
 - (a) On the same lot or parcel as the primary farm dwelling; or
 - (b) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
 - (c) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The secondary dwelling may remain if it is re-approved as a principal dwelling under this ordinance; or
[Subsection F added 3/19/98, Ord. 643, Amended 12/05/02; Ord. 720]
 - (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 or ranch operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subparagraph 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 OAR 660-033-0135(5) or (7), whichever is applicable;
[Subsection d and e added 12/05/02; Ord. 720]

- G. A dwelling may be considered customarily provided in conjunction with a commercial dairy if:
 1. The subject tract will be employed as a commercial dairy as defined in this ordinance; and
 2. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and
 3. Except for seasonal farm worker housing, there is no other dwelling on the subject tract; and
 4. 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 use activities necessary to the operation of the commercial dairy farm; and

5. 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
6. The Oregon Department of Agriculture has approved the following:
 - (a) A permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to 468B.230; and
 - (b) A Producer License for the sale of dairy products under ORS 621.072.

[Added 12/05/02; Ord. 720]
- H. Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in the county inventory as historic property and on the National Register of Historic Places (Type A notice).
- I. Principal dwelling not provided in conjunction with farm use on a lot or parcel created before January 1, 1993, subject to the following standards and criteria (Type B notice):
 1. 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.

Need to clarify that additional soils information can be submitted from a professional soil classifier on a nonfarm dwelling. (Zeitoun)

2. The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II soils. Soil assessments may be submitted from a professional soil classifier pursuant to OAR 660-033-0030.
3. The dwelling will be sited on a lot or parcel created before January 1, 1993.
4. 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 of the area, the cumulative impact of possible new nonfarm dwellings on other lots or parcels in the area similarly situated shall be considered. To address this standard, the county shall:
 - (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 or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;

- (b) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.) And the dwelling development trends since 1993. Determine the potential number of nonfarm/lot of record dwellings that could be approved, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph;
 - (c) Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of the existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.
5. The dwelling complies with other conditions the county considers necessary, including but not limited to provision for sewage disposal, emergency vehicle access, and public road approach.
 6. The tract on which the dwelling is to be sited does not include a dwelling.

The following ORS references need to be updated.

7. Prior to issuance of a residential building permit, the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm or forest use; and that additional tax or penalty has been imposed, if any is applicable, as provided by ~~ORS 308.370 or 308.765 or ORS 321.352, 321.730, and 321.815~~ ORS 308A.050 to 308A.128 or other special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax imposed as the result of disqualification has been paid. A parcel that has been disqualified under this subsection shall not re-qualify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.

[Subsection I amended 8/13/98, Ord. 657]

- J. Principal lot of record dwelling not on high-value farmland subject to the following standards and criteria Type A notice):
 1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:

- (a) and has been owned continuously by such owner since prior to January 1, 1985; or
- (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.

- 2. The tract on which the dwelling is to be sited does not include a dwelling.
- 3. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
- 4. The lot or parcel is not high-value farmland as defined in Subsection 402.10(E).
- 5. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
- 6. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
- 7. The County Assessor shall be notified that the county intends to allow the dwelling.
- 8. For purposes of this section 402.03(J), "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 business entity owned by any one or combination of these family members.

[Subsection J amended 5/10/95, Ord. 591; 10/2/96, Ord. 615; 8/13/98, Ord. 657]

K. Principal lot of record dwelling not in conjunction with farm use on Class III and IV high-value farmland, subject to the following standards and criteria (Type A notice):

- 1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - (a) and has been owned continuously by such owner since prior to January 1, 1985; or
 - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
- 2. The tract on which the dwelling is to be sited does not include a dwelling.
- 3. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.

4. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
5. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
6. The tract on which the dwelling is to be sited is:
 - (a) Composed predominantly of high-value farmland as defined in subsection 402.10(E)(2) or (3); and
 - (b) Twenty-one acres or less in size.
7. The tract on which the dwelling is to be sited is:
 - (a) 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
 - (b) Not a flaglot and is 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, but only if the subject tract abuts an urban growth boundary; ; or
 - (c) A flaglot and is 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 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 governing body of a county 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 locate 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;
 - i. “Flaglot” means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
 - ii. “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.
8. The County Assessor shall be notified that the county intends to allow the dwelling.

[Amended 12/05/02; Ord. 720]

9. For purposes of this section 402.03(K), "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 business entity owned by any one or combination of these family members.

[Subsection K amended 5/10/95, Ord. 591; 10/2/96, Ord. 615; 8/13/98, Ord. 657]

- L. Principal lot of record dwelling not in conjunction with farm use on Class I and II high-value farmland, subject to the following standards and criteria (Type C notice):
 1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - (a) and has been owned continuously by such owner since prior to January 1, 1985; or
 - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
 2. The tract on which the dwelling is to be sited does not include a dwelling.
 3. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
 4. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 5. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
 6. The tract on which the dwelling is to be sited is on high-value farmland as defined in subsection 402.10(E)(1).
 7. The Planning Commission determines that:
 - (a) 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;

- (b) The dwelling will comply with the provisions of Section 402.07(A); and
 - (c) The dwelling will not materially alter the overall land use pattern of the area.
8. The County Assessor shall be notified that the county intends to allow the dwelling.
 9. For purposes of this section 402.03(L), "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 business entity owned by any one or combination of these family members.
 10. The State Department of Agriculture shall be provided notice of the application at least twenty (20) days prior to the public hearing before the Planning Commission.
[Subsection L amended 5/10/95, Ord. 591; 10/2/96, Ord. 615; 8/13/98, Ord. 657]

402.04 Conditional Uses.

The following uses are allowed in the Exclusive Farm Use District upon conditional use approval. Approval of these uses is subject to the Conditional Use criteria and requirements of Section 1202, and subsection 402.07(A) of this ordinance and any other provision set forth below. Applications shall be reviewed under the Type B procedure of Section 1301:

- A. One manufactured dwelling or recreational vehicle, or the temporary use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or relative, as defined in ORS 215, of the resident, subject to the following:
[Amended 12/05/02; Ord. 720]
 1. The resident or relative of the resident is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence.
 2. The permit for the manufactured dwelling for the term of hardship shall be valid for a period of two years or a shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.
 3. The permit for the temporary dwelling for the term of hardship shall be granted to the applicant only and shall not be deemed to run with the land.
 4. The temporary dwelling shall use the same subsurface sewage disposal system as the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.

5. When a recreational vehicle is allowed to be used as a temporary structure the recreational vehicle site shall have services, inspected and approved by the building department which includes, electricity, plumbing and connection to an approved septic system.

[Amended 12/05/02; Ord. 720]

6. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. In the case of a recreational vehicle, within three months of the end of the hardship, it shall be removed, demolished or may remain on the property and used in accordance with Section 402.09(H). A temporary residence approved under this paragraph is not eligible for replacement.

[Amended 3/19/98, Ord. 643/Amended 12/05/02; Ord. 720]

- B. A facility for the primary processing of forest products, subject to Subsection 402.07(B).

ORS 197.665 requires that a residential home, as defined in ORS 197.660, is a permitted use in an existing dwelling so it will be removed from the list of conditional uses and listed as a permitted use.

- C. Residential ~~home~~ or facility, as defined in ORS 197.660, in an existing dwelling.
- D. Community centers, parks, or playgrounds owned by a governmental agency or a nonprofit community organization, and operated primarily by and for residents of the local rural community, subject to Section 1101, Site Design Review. A public park may also be established consistent with the provisions of ORS 195.120. [Amended 12/05/02; Ord. 720]
- E. Dog kennel, except dog kennels are not allowed on a tract identified as high-value farmland. Existing dog kennels on high-value farmland that are wholly within a farm use zone may be expanded subject to conditional use approval. [Amended 3/19/98, Ord. 643]

The reference to aquatic species has been changed from ORS 215.283(2)(o) to 215.283(2)(p)

- F. The propagation, cultivation, maintenance, and harvesting of aquatic or insect species. The insect species must comply with ORS 215.283(2)(~~o~~)(p). Notice shall be mailed to the State Department of Agriculture at least 20 days prior to any administrative decision or initial public hearing on the application. [Amended 3/19/98, Ord. 643]
- G. Commercial activities that are in conjunction with farm use as defined in Section 402.10(B), but not including the processing of farm crops which are a permitted use as described in subsection 402.02(E), subject to Section 1101, Site Design Review. [Amended 3/19/98, Ord. 643]
- H. The following mineral, aggregate, oil, and gas uses, subject to the standards of Section 404:
1. Operations conducted for 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 this Section.

2. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral, and other subsurface resources subject to ORS 215.298.
 3. Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement more than two miles from one or more vineyards, totaling 40 acres or more, planted as of the date of application for processing.
 4. Processing of other mineral resources and other subsurface resources.
- I. Home occupation, subject to the standards and limitations set forth in Section 1004
- J. The following transportation facilities:
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 roads and highways involving the removal or displacement of buildings not resulting in the creation of new land parcels.
 3. Improvement of public road 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.
- K. Personal use airports subject to subsection 402.07(C).
- L. Golf course, as defined in subsection 402.10(D), except new golf courses are not allowed on a tract identified as high-value farmland. Existing golf courses on high-value farmland that are wholly within a farm use zone may be expanded to a total of no more than 36 holes, subject to conditional use approval and provided the expansion is consistent with the definition in Section 402.10(D).
- [Amended 3/19/98, Ord. 643]
- M. Commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height, subject to Subsection 402.07(D) and Section 1101, Site Design Review.
- N. Roads, highways and other transportation facilities and improvements not allowed under Subsections 402.02(K) or 402.04(J), subject to compliance with OAR 660-12.
- [Amended 3/19/98, Ord. 643]
- O. Private parks, playgrounds, hunting and fishing preserves and campgrounds as defined in subsection 402.10(A), subject to Section 1101, Site Design Review, except such uses are not allowed on a tract identified as high-value farmland. Existing facilities on high-value farmland that are wholly within a farm use zone may be expanded subject to conditional use approval.
- [Amended 3/19/98, Ord. 643]
- P. On-site filming and activities accessory to on-site filming, as defined in ORS 215.306(4), that exceed 45 days on any site within a one-year period or involve erection of sets that would remain in place for longer than 45 days subject to ORS 30.930 to 30.947 [Added 8/13/98, Ord. 657]
- Q. Operations for the extraction and bottling of water. [Added 8/13/98, Ord. 657]

- R. Room and board arrangements for a maximum of five unrelated persons in an existing dwelling.

[Added 8/13/98, Ord. 657]

- S. "Living History Museum" as defined in Oregon Administrative Rules 660-033-130(21).

[Added 12/05/02; Ord. 720]

402.05 Prohibited Uses.

Subdivisions and planned unit developments shall be prohibited.

402.06 Nonconforming Uses.

Nonconforming uses found in the Exclusive Farm Use District are subject to the nonconforming use provisions of Section 1205 as well as to any other applicable provisions of this ordinance.

402.07 Additional Standards for Approval of Conditional Uses

- A. In the Exclusive Farm Use District, prior to establishment of a conditional use, the applicant shall demonstrate compliance with the following criteria in addition to other requirements of this ordinance:
1. The use will not force significant change in accepted farming or forest practices on surrounding lands devoted to farm or forest use.
 2. The use will not significantly increase the cost of accepted farming or forest practices on surrounding lands devoted to farm or forest use.
- B. A facility for primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in Section 402.10(C). Such facility may be approved for a one-year period which is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.
- C. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by 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 a 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 applicable rules of the Oregon Aeronautics Division.
- D. A power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise on a tract not identified as high-value farmland, or 12 acres on a tract

identified as high-value farmland, unless an exception is taken pursuant to OAR 660, Division 4.

402.08 Permit Expiration Dates and Declaratory Statements for Dwelling Approvals

- A. Notwithstanding other provisions of this Ordinance and except as provided for in subsection 402.08 (D), a discretionary decision, except for a land division, approving a proposed development in the Exclusive Farm Use district is void two years from the date of the final decision if the development action is not initiated in that period. An extension period of up to 12 months may be granted if:
- [Amended 12/05/02; Ord. 720]
1. An applicant makes a written request for an extension prior to expiration of the development approval period, stating the reasons that prevented the applicant from beginning or continuing development within the approval period; and
 2. The Planning Director 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 or denial of an extension granted under this rule is an administrative decision, is not a land-use decision described in ORS 197.015, and is not subject to appeal as a land-use decision. However, the Board, on its own motion, may order review of the decision of the Director within 15 days of the decision.
- C. Additional one-year extensions may be authorized by the Planning Director where applicable criteria for the decision have not changed.
- D. If a permit is approved for a proposed residential development on agricultural land outside of an urban growth boundary, the permit shall be valid for four years. Any extension of a permit for residential development shall be valid for two years. For the purpose of this subsection, "residential development" only includes the dwellings provided for under ORS 215.283(1)(s), 215.284, and 215.705(1) to (3).
- Added 12/05/02; Ord. 720]
- E. Prior to issuance of any residential building permit for an approved dwelling located within 1 mile of an area which has been designated in the plan or zone or otherwise approved by Yamhill County for mineral resource uses, the landowner shall be required to sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records of Yamhill County;

"The subject property is located in an area designated for mineral resource uses. It is the County policy to protect mineral resource operations from conflicting land uses in such designated areas. Accepted mineral resource and quarry practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the responsibility of the operator of a mineral resource operation to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of State law."

[Added 8/13/98, Ord. 657]

- F. Prior to issuance of a residential building permit, the landowner shall sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Yamhill County:

“The subject property is located in an area designated by Yamhill County for agricultural uses. It is the county policy to protect agricultural operations from conflicting land uses in such designated areas. Accepted agricultural practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the agricultural operator's responsibility to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of state law.”

[Added 8/13/98, Ord. 657]

402.09. Standards and Limitations.

In the Exclusive Farm Use District, the following standards and limitations shall apply:

A. Dwelling Density.

1. Not more than one principal dwelling shall be allowed on any parcel.
2. Permitted Secondary Uses. Not more than one permitted secondary dwelling, as described in Subsection 402.03 A or B, shall be allowed per 40 acres.
3. Not more than one dwelling not in conjunction with farm use shall be allowed on any parcel.

B. Parcel Size and Dimension.

1. Newly-Created Parcels.
 - (a) Any new farm parcel proposed to be created shall be a minimum of 80 acres in the EF-80 district, 40 acres in the EF-40 district, and 20 acres in EF-20 district.
 - (b) Any new nonfarm parcel proposed to be created for nonfarm uses other than dwellings shall be no larger than the minimum size necessary for its use.
2. Lot-line adjustments. Any parcels subject to an alteration in size through a lot-line adjustment shall be shown to be of a size at least as appropriate to maintain the existing commercial agricultural enterprise in the area as were the parcels prior to adjustment. When one or more parcels subject to a proposed adjustment are larger than the minimum lot size in the zone, the same number of parcels shall be as large or larger than the minimum lot size after the adjustment. When all parcels subject to the proposed adjustment are as large or larger than the minimum lot size in the zone, no parcel shall be reduced below the applicable minimum lot size. The lot line adjustment shall not result in an increase in the potential number of dwellings on the parcels. When an area that contains an existing dwelling will be conveyed from one parcel (Parcel A) to the adjacent parcel (Parcel B), Parcel B must either receive land use approval for the dwelling under the terms of this ordinance, or, in the alternative, a

deed affidavit shall be recorded by the owner of Parcel A prohibiting the establishment of any new principal dwellings on the adjusted parcel or parcels.

[Amended 3/19/98, Ord. 643; 1/14/99, Ord. 668]

3. Existing Lots. Any permitted or conditional use provided for in this District may be established on an existing lot subject to satisfaction of the applicable requirements of the Exclusive Farm Use District.
4. A division of land smaller than the minimum parcel size noted under 402.09 (A) may be approved for the purpose of establishing a church, including cemeteries in conjunction with the church provided it satisfies the following:
 - (a) The church has been approved under subsection 402.02(O);
 - (b) The newly created lot or parcel is not larger than five acres; and
 - (c) The remaining lot or parcel, not including the church, meets the minimum parcel size described in 402.09(A) by itself or after consolidation with another lot or parcel. [Amended 12/05/02; Ord. 720]
5. A division of land smaller than the minimum parcel size noted under 402.09 (A) may be approved for the purpose of creating a parcel for a park provided it satisfies the following:
 - (a) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and
 - (b) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
 - (c) A parcel created pursuant to this subsection that does not contain a dwelling:
 - i. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - ii. May not be considered in approving or denying an application for siting any other dwelling;
 - iii. May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
 - iv. 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. [Amended 12/05/02; Ord. 720]

C. Setbacks.

The minimum setback for all yards shall be 30 feet for all uses, except as follows:

1. The minimum setback for all yards for a livestock feeding or sales yard shall be 200 feet from the centerline of any watercourse used for domestic water supply, 500 feet from any residential zoning district or urban growth boundary unless the applicant has received a conditional use permit pursuant to Section 1202, and 50 feet from property lines in all other circumstances. [Amended 3/19/98, Ord. 643]
2. The minimum setback for signs shall be five feet.
3. An accessory structure not more than 15 feet in height, and at least 60 feet from a road, or off-site dwelling, may be located a minimum distance of three feet from the property line in a side yard or rear yard.
4. A swimming pool may be located in a required rear yard, provided it lies a minimum of five feet from the rear property line.
5. The minimum setback for a kennel shall be 50 feet from any property line and 500 feet from any off-site dwelling.
6. Fences, Walls, and Hedges. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision area requirements of subsection (F). [Subsection C amended 7/9/98, Ord. 648]

D. Parcel Coverage.

Not applicable, except that for any parcel of less than one acre, maximum parcel coverage shall be 15 percent.

E. Access.

Before a dwelling may be established on any parcel as provided in this Section, the parcel shall have a legal, safe, and passable means of access by abutting at least 20 feet either directly upon a public road, or by a private easement which is at least 30 feet in width for its entire length and which also abuts upon a public road for at least 30 feet. Nothing in this Section shall be construed to vary or waive the requirements for creation of new access contained in any Land Division Ordinance legally adopted by Yamhill County.

F. Clear-Vision Areas.

A clear-vision area shall be maintained on the corner of any parcel at the intersection of any two of the following: county roads, public roads, private roads serving four or more parcels, and railroads. A clear-vision area shall contain no sight-obscuring structures or plantings exceeding 30 inches in height within a triangle formed by the lot corner nearest the intersection, and the two points 20 feet from this corner as measured along the parcel lines adjacent to the intersecting rights-of-way. Trees exceeding this height may be located such

that their branches extend into this triangle, provided they are maintained to allow at least 12 feet of visual clearance within the triangle below the lowest hanging branches.

G. Height.

1. The maximum building height for any dwelling shall be 35 feet.
2. The maximum building height for all other structures shall be 45 feet.
3. Structures used for the storage of farm products, and appurtenances usually required to be placed above the roof level and not intended for human occupancy such as spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys and wind generators are not subject to the height limitations of this ordinance.

H. Occupancy of Recreational Vehicles.

1. One recreational vehicle shall be permitted to be parked on any parcel in conjunction with a principal dwelling, and may be used for the temporary accommodation of guests for a period of up to 30 days total in any year. In no case shall any recreational vehicle be used as a principal dwelling or rented unless the necessary permits have been obtained.

[Amended 7/9/98, Ord. 648]

2. Temporary structures as may be required during construction of any authorized permanent structure may be placed. Such temporary structure shall be removed within 30 days of occupancy of the permanent structure.
3. One manufactured dwelling may be stored on a lot or parcel for a period not to exceed nine months upon approval of the Director, with one extension of up to nine months if unusual circumstances are shown to exist. In no case shall a stored manufactured dwelling be connected to water or sewage disposal facilities.

I. Off-Street Parking.

1. In the Exclusive Farm Use District, prior to establishment of any dwelling, sufficient area must be provided to allow for at least one emergency vehicle turnaround.
2. Parking requirements for those uses which may generate traffic beyond what is normally expected in the Exclusive Farm Use District shall be determined by the Director, subject to the provisions of Section 1007.

402.10 Definition of Terms Used in this Section

The following terms apply only to Section 402, and have no relevance to the same term used in other sections of this ordinance unless specifically stated.

- A. Campground - Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4. A campground is an area 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. A campground shall be designated and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers to existing native trees and vegetation or other natural features between campsites. Campsites may be occupied by a tent, travel trailer or recreational vehicle. The campground may also provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. 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. The park or campground may be public or private.

[Amended 8/13/98, Ord. 657/Amended 12/05/02; Ord. 720]

B. Commercial Activities in Conjunction with Farm Use - As authorized under subsection 402.04(G), a commercial activity in conjunction with farm use is:

1. The processing, packaging, and wholesale distribution and storage of a product not derived primarily from farm activities on the premises;
2. Retail sales and promotion of agricultural products, supplies and services directly related to the production, harvesting, and processing of agricultural products. Such uses include, but are not limited to, the following:
 - Storage, distribution and sale of feed, fertilizer, seed, chemicals, and other products used for commercial agriculture
 - Livestock auction or sales yards
 - Farm equipment storage and repair facilities
 - Storage, repair, or sale of fencing, irrigation pipe and pumps, and other commercial farm-related equipment and implements
 - Veterinarian clinics
 - Slaughtering of animals, including attendant retail and wholesale sales
 - Wineries not listed as a permitted use
 - Rental or lease of facilities, with or without a fee, in conjunction with an agricultural use for events such as parties, receptions, and banquets with the primary intent of indirect promotion of the product harvested or processed on the site.
 - Four or more promotional events in a calendar year that are directly related to the marketing of products harvested or processed on the site that are reasonably expected to attract more than 750 visitors daily. An "event" shall not exceed three consecutive days. [Subsection B amended 11/30/94, Ord. 582]

The definition of farm use and the “current employment” of land for farm use needs to be updated with uses that have been added to the farm zone.

- C. 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" also includes the current employment of land for the primary purpose of obtaining profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "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. "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 Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in the subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3), or land described in ORS 321.267(1)(e) (3) or 321.415(5)-321.824(3).

“Preparation” of products or by-products includes but is not limited to the cleaning, treatment, sorting, composting or packaging of the products or by-products.

“Products or by-products raised on such land” means the those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring on land being used for the primary purposes of obtaining a profit in money from the farm use of the land.

[Subsection C amended 3/19/98, Ord. 643; Added to 09/02/04, Ord 746]

"Current employment" of land for farm use includes:

- Farmland, the operation or use of which is subject to any farm-related government program;
- Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
- Land planted in orchards or other perennials prior to maturity;
- Wasteland, dry or covered with water, neither economically tillable nor grazeable, lying in adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
- Except for land under a single family dwelling, land under buildings supporting accepted farming practices, including the processing facilities allowed by ORS 215.283(1)(r) and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.283(2)(a);

- Water impoundments lying in or adjacent to and in common ownership with farm use land;
- 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;
- Land lying fallow 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;
- Any land described under ORS 321.267 (1)(e) or 321.415 (5); and
- 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;
- Land used for the primary purpose of obtaining a profit in money by breeding, raising, kenneling or training of greyhounds for racing; and
- Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:
 - (i) Only the crops of the landowner are being processed;
 - (ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or
 - (iii) The landowner is custom processing crops into biofuel from other landowners in the area for their sale or use.

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

"Cultured Christmas trees" means trees:

- (a) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;
- (b) Of a marketable species;
- (c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and
- (d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation.

- D. 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 or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course 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. A "non-regulation golf course" means a golf course or golf course-like development that does not meet this definition of golf course, including but not limited to executive golf courses, par three golf courses, pitch and putt courses, miniature golf courses, and driving ranges. Non-regulation golf courses are not permitted by this section.
4. 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 as part of an 18 hole or larger golf course or golf tournament.
 - 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 a 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 designed for or include structures for banquets, public gatherings or public entertainment.

[Amended 09/02/04, Ord. 746]

E. High-value farmland - A tract composed predominantly of:

1. Soils rated Class I, II, prime, or unique, either irrigated or not irrigated.

2. The following Class III soils: Carlton, Chehalem, Dayton, Jory, Laurelwood, Nekia, Willakenzie, Woodburn, and Yamhill.
3. The following Class IV soils: Carlton, Dayton, Jory, Laurelwood, Willakenzie, and Yamhill.

The following reflects the updated language from OAR 660-033-0030(7)(b).

Soil classes, soil ratings or other soil designations used in or made pursuant to the lot of record dwelling are those of the Natural Resource Conservation Service Internet soil survey for that class, rating or designation before Soil Conservation Service in its most recent publication prior to November 4, 1993. For purposes of approving a lot of record dwelling, the soil class, soil rating or other soil designation of the parcel may be changed if the property owner submits a statement of agreement from the Natural Resources Conservation Service that the class, rating or designation should be adjusted based on new information; or if the property owner submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the class, rating or designation should be changed, along with a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report and finds the analysis to be soundly and scientifically based.

[Amended 8/13/98, Ord. 657]

- F. Public parks - includes only the uses specified under OAR 660-034-0035.
[Added 8/13/98, Ord. 657]
- G. 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, precommercial thinning and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash and other related activities.
- H. Tract - One or more contiguous lots or parcels under the same ownership.

The winery reference needs to be corrected from 402.02(~~G~~) to (H) and from 402.10(H) to (I).

- I. Winery - As authorized under subsection 402.02(~~G~~)(H), a winery is a facility that produces and sells wine and conforms to the following attributes:
 1. A winery herein defined has a maximum annual production of:
 - (a) Less than 50,000 gallons and:
 - i. Owns an on-site vineyard of at least 15 acres;
 - ii. Owns a contiguous vineyard of at least 15 acres;
 - iii. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of vineyard contiguous to the winery; or

- iv. Obtains grapes from any combination of (i), (ii), or (iii) above; or
 - (b) At least 50,000 gallons and no more than 100,000 gallons and:
 - i. Owns an on-site vineyard of at least 40 acres;
 - ii. Owns a contiguous vineyard of at least 40 acres;
 - iii. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of vineyard contiguous to the winery; or
 - iv. Obtains grapes from any combination of (i), (ii), or (iii) above.
 - (c) Prior to the issuance of building permits, the applicant shall provide evidence that the vineyards described in subsections (a) and (b) have been planted, or the contract has been executed, as applicable. [Added 3/19/98, Ord. 643]
- 2. The winery shall allow only the sale of:
 - (a) Wines produced in conjunction with the winery; and
 - (b) Items directly related to wine, the sales of which are incidental to the retail sale of wine on-site and do not exceed 25 percent of the total gross receipts of the retail facility. Such items include those served by a limited service restaurant, as defined in ORS 624.010.
- 3. Permitted on-site marketing of wine includes up to three events of one to three days in duration during a calendar year intended to draw customers to the site for the tasting and purchase of wine, with an anticipated maximum of 750 daily visitors. The frequency and duration of these events may be limited through site design review approval based on the adequacy of public facilities. Rent or lease of space within or adjacent to the winery facility for events such as parties, receptions, and banquets that are not directly related to promotion of the wine is not included in this definition of a winery.
- 4. A facility for production and sale of wine that does not conform to the attributes described in subsections ~~402.10(H)(1)~~ 402.10(I)(1) through (3) above may be deemed a commercial activity in conjunction with farm use pursuant to subsection 402.04(G).

Docket G-01-12 - ORDINANCE AMENDMENTS

Language to be added is underlined and language to be deleted is ~~crossed-out~~.

The explanations for the changes are noted in the boxes.

SECTION 400 – NATURAL RESOURCE DISTRICTS

403. AGRICULTURE/FORESTRY DISTRICT (AF-20, AF-40, AF-80) [Last amended 09/02/04; Ord. 746]

403.01 Purpose.

The purpose of the Agriculture/Forestry District is to identify and protect lands designated as Agriculture/Forestry Large Holding on the Comprehensive Plan, that are a mixture of agricultural and forest management operations, and other uses which are compatible with such operations. Properties in the Agriculture/Forestry District are primarily foothill and ridgetop holdings above the flat terrace and valley-floor commercial agriculture areas, and below the contiguous timberlands of the Coast Range. Uses of land and water which do not provide for a sustained production of crops, livestock and forest products or for the proper conservation of soil and water resources and fish and wildlife habitat shall be limited or prohibited.

403.02 Permitted Uses.

In the Agriculture/Forestry District, the following uses shall be permitted subject to the standards and limitations set forth in Subsection 403.11, and any other applicable provisions of this Ordinance:

- A. Farm uses as defined in Subsection 403.12(E).

Farm stands are a use allowed under ORS 215.283(1). A complete site design review evaluates land use issues beyond the health and safety issues of a permitted use.

- B. Farm stands subject to a Type A miscellaneous land use application to evaluate health and safety requirements such as access, parking and sewage disposal, and to determine Section 1101, Site Design Review, if:

1. The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and
2. The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.

[Amended 12/05/02; Ord. 720]

- C. Winery, as defined in Section 403.12(K), subject to Section 1101, Site Design Review.

- D. Accessory uses, including buildings other than dwellings customarily provided in conjunction with farm use.

The production of biofuel has been added to the state statute. Therefore, biofuel processing needs to be added to the EF and AF zones.

- E. A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141 that is located on a farm operation that and provides at least one-quarter of the farm crops processed at the facility. 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 uses. The application will also be subject to Section 1101, Site Design Review. [Added 3/19/98, Ord. 643]
- F. The following forest uses:
1. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.
 2. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.
 3. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.
 4. Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.
 5. Temporary forest labor camps limited to the duration of the forest operation requiring the use.
- G. Towers and fire stations for forest fire protection.
- H. Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- 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. The applicant will also be subject to Section 1101, Site Design Review. A facility is "necessary" if it satisfies the requirements of ORS 215.275. [Amended 12/05/02; Ord. 720]
- J. Local distribution lines within existing rights-of-way (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.
- K. The following transportation facilities:

1. Climbing and passing lanes within the right of way existing as of July 1, 1987.
 2. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
[Amended 3/19/98, Ord. 643]
 3. Temporary public road and highway 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 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 to publicly owned property utilized to support the operation and maintenance of public roads and highways.
- L. Operations for the exploration of minerals as defined by ORS 517.750.
- M. Operations for the exploration for and the production of geothermal resources as defined by ORS 522.005, and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a wellhead, subject to the requirements of Section 404.10.
- N. Alteration, restoration or replacement of a lawfully established dwelling that:
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 nonresidential use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling replaced under this section shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. 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 paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.

6. A secondary farm dwelling authorized pursuant to Section 403.03(F)(4)(c) may only be replaced by a manufactured dwelling.
- O. Creation of, restoration of, or enhancement of wetlands.
- P. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.
- Q. Uninhabitable structures accessory to fish and wildlife enhancement.
- R. Caretaker residences for public parks and fish hatcheries. [Added 3/19/98, Ord. 643]
- S. Destination resorts reviewed and approved pursuant to ORS 197.435 to ORS 197.465 and Goal 8, except destination resorts are not allowed on a tract identified as high-value farmland. [Amended 3/19/98, Ord. 643]
- T. Private hunting and fishing operations without any accommodations.
- U. Public or private school, including all buildings essential to the operation of a school, subject to the Type B application procedures and Section 1101, Site Design Review. The school must be located at least three miles from an urban growth boundary, and is not permitted on a tract identified as high-value farmland. Existing schools on high-value farmland that are wholly within a farm use zone may be maintained, enhanced or expanded. [Amended 3/19/98, Ord. 643; 8/13/98, Ord. 657]
- V. Churches and cemeteries in conjunction with churches, subject to the Type B application procedures and Section 1101, Site Design Review. The facilities must be located at least three miles from an urban growth boundary, and are not permitted on a tract identified as high-value farmland. Existing facilities on high-value farmland that are wholly within a farm use zone may be maintained, enhanced or expanded. [Amended 3/19/98, Ord. 643; 8/13/98, Ord. 657]
- W. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. As used in this paragraph, "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 is controlled by radio, lines or design by a person on the ground. [Added 3/19/98, Ord. 643]
- X. On-site filming and activities accessory to on-site filming, as defined in ORS 215.306(4), may be conducted subject to ORS 30.930 to 30.947, when it involves no more than 45 days on any site within any one-year period and does not involve erection of sets that would remain in place for longer than any 45-day period. [Added 3/19/98, Ord. 643]
- Y. Fire service facilities providing rural fire protection services. [Added 12/05/02; Ord. 720]

- Z. Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505. [Added 12/05/02; Ord. 720]
- AA. 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. [Added 12/05/02; Ord. 720]
- BB. Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural, or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in the exclusive farm use zone. [Added 12/05/02; Ord. 720]

ORS 197.665 requires that a residential home, as defined in ORS 197.660, is a permitted use in an existing dwelling so it will be removed from the list of conditional uses.

- CC. A “residential home” as defined in ORS 197.660 may be established in an existing dwelling.

The following is to incorporate the Agri-tourism events allowed by SB 960.

- DD. Agri-tourism and other commercial events or activities that are related to and supportive of agriculture, subject to Section 1013 Agri-Tourism Use Permits.

403.03 Dwellings Permitted Subject to Standards

The following residential uses shall be permitted in the Agriculture/Forestry District subject to the standards and limitations set forth in Section 403.11 and satisfaction of the criteria specified for each use. Furthermore, the decision-making body may attach reasonable conditions to approvals in order to insure compliance with relevant criteria. The following uses are subject to the Type A notice requirements of Section 1301 unless otherwise stated.

- A. Principal dwelling customarily provided in conjunction with farm use on a tract that is predominantly high-value farmland, subject to the following (Type A notice):
1. The subject tract was predominantly in agricultural use on January 1, 1993.
 2. The subject tract is currently employed for farm use, and produced at least \$80,000 in gross annual income from the sale of farm products in each of the last two years, or

three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract.

[Amended 12/05/02; Ord. 720]

3. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (1) of this Section.
4. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract.
[Section A added 3/19/98, Ord. 643]

B. Principal dwelling customarily provided in conjunction with farm use on a tract that is not high-value farmland, subject to the following (Type A notice):

1. The subject tract was predominantly in agricultural use on January 1, 1993.
2. The subject tract is currently employed for farm use, and produced at least \$40,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract.
[Amended 12/05/02; Ord. 720]
3. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (1) of this Section.
4. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract.
[Section B added 3/19/98, Ord. 643]

C. Principal dwelling customarily provided in conjunction with farm use on a parcel at least 160 acres in size that is not high-value farmland, under the following circumstances:

1. The subject tract is currently employed for farm use, as defined in Subsection 403.12(E).
2. 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 as defined in subsection 4 of this section.
3. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract.
4. The determination of whether the farm is "commercial" will be based upon whether the farm:
 - (a) Contributes in a substantial way to the area's existing agricultural economy; and
 - (b) Helps maintain agricultural processors and established farm markets;

- (c) When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered.

[Section C amended 3/19/98, Ord. 643]

D. Principal dwelling customarily provided in conjunction with farm use on a tract that is not high-value farmland, under the following circumstances:

1. The subject tract was predominantly in agricultural use on January 1, 1993.
2. The subject tract is at least as large as the median size of those commercial farm tracts capable of generating at least \$10,000 in annual gross sales that are located within the study area defined in subsection (7) of this Section.
3. The subject tract is capable of producing annual gross sales of county indicator crops, as determined by OAR 660-33-135(4), at a level equal to or greater than the median of those farms within the study area defined in subsection (7) of this Section.
4. The subject tract is currently employed for a farm use at a level capable of producing the annual gross sales required in subsection (3) of this Section. If no farm use has been established at the time of application, land-use approval shall be subject to a condition that no building permit for a residence may be issued prior to the establishment of the farm use required in this subsection.
5. The subject lot or parcel on which the dwelling is proposed is at least 10 acres in size.
6. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract.
7. In order to identify the commercial farm tracts to be used in subsections (2) and (3) of this Section, the gross sales capability of each tract in the study area including the subject tract must be determined, using the gross sales figures provided by the Land Conservation and Development Commission pursuant to OAR 660-33-135(4) as follows:
 - (a) Identify the study area. This includes all the land in the tracts wholly or partially within one mile of the perimeter of the subject tract;
 - (b) Determine for each tract in the study area the number of acres in every land classification from the county assessor's data;
 - (c) Determine the potential earning capability for each tract by multiplying the number of acres in each land class by the gross sales per acre for each land class provided by the Land Conservation and Development Commission pursuant to OAR 660-33-135(4). Add these to obtain a potential earning capability for each tract;
 - (d) Identify those tracts capable of grossing at least \$10,000 based on the data generated in subsection (7)(c) of this Section;

- (e) Determine the median size and gross sales capability for those tracts capable of generating at least \$10,000 in annual gross sales to use in subsections (2) and (3) of this Section. [Section D added 3/19/98, Ord. 643]

E. A secondary dwelling for a relative of the farm operator on a tract that was predominantly in agricultural use on January 1, 1993, under the following circumstances:

- 1. The tract is currently employed for farm use, as defined in Subsection 403.12(E), at a commercial scale.
- 2. The dwelling shall be located on the same lot or parcel as the dwelling of the farm operator.
- 3. The dwelling shall be occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling- niece, nephew, or first cousin of either if the farm operator does, or will require the assistance of the relative in the management and farm use of the existing commercial farm use. [Amended 12/05/02; Ord. 720]
- 4. The farm operator shall continue to play the predominant role in the management of the farm. A farm operator is a person who operates a farm, doing the work and making day-to-day decisions about such things as planting, harvesting, feeding, and marketing. [Section E amended 3/19/98, Ord. 643]

F. A secondary dwelling for farm help on a tract that was predominantly in agricultural use on January 1, 1993, under the following circumstances:

- 1. The secondary dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator. [Amended 12/05/02; Ord. 720]
- 2. There is no other dwelling on lands designated EF or AF owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm and that could reasonably be used as a secondary farm dwelling.
- 3. The primary farm dwelling to which the proposed dwelling would be accessory satisfies one of the following:
 - (a) On land identified as high-value farmland, the primary farm dwelling is located on a farm operation that is currently employed for farm use, and produced at least \$80,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract. [Amended 12/05/02; Ord. 720]
 - (b) On land not identified as high-value farmland, the primary farm dwelling is located on a farm operation that is currently employed for farm use, and

produced at least \$40,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract.

[Amended 12/05/02; Ord. 720]

4. The secondary dwelling will be located:

(a) On the same lot or parcel as the primary farm dwelling; or

(b) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or

[Amended 12/05/02; Ord. 720]

(c) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The secondary dwelling may remain if it is re-approved as a principal dwelling under this ordinance; or

[Subsection F added 3/19/98, Ord. 643; Amended 12/05/02; Ord. 720]

(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 or ranch operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subparagraph 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 OAR 660-033-0135(5) or (7), whichever is applicable;

[Amended 12/05/02; Ord. 720]

G. A dwelling may be considered customarily provided in conjunction with a commercial dairy if:

1. The subject tract will be employed as a commercial dairy as defined in this ordinance; and

2. The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and

3. Except for seasonal farm worker housing, there is no other dwelling on the subject tract; and

4. 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 use activities necessary to the operation of the commercial dairy farm; and
5. 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
6. The Oregon Department of Agriculture has approved the following:
 - (a) A permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to 468B.230; and
 - (b) A Producer License for the sale of dairy products under ORS 621.072.

[Amended 12/05/02; Ord. 720]

- H. Replacement dwelling to be used in conjunction with farm use on a tract that was predominantly in agricultural use on January 1, 1993 if the existing dwelling has been listed in the county inventory as historic property and on the National Register of Historic Places.
- I. Principal dwelling not provided in conjunction with farm use on a tract that was predominantly in agricultural use on January 1, 1993, subject to Type B notice procedures and the following standards and criteria:
 1. 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.

Need to clarify that additional soils information from a professional soil classifier can be submitted on a nonfarm dwelling. (Zeitoun)

2. The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II soils. Soil assessments may be submitted from a professional soil classifier pursuant to OAR 660-033-0030.
3. The dwelling will be sited on a lot or parcel created before January 1, 1993.
4. 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 of the area, 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, the county shall:
 - (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 or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe

the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;

- (b) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.) And the dwelling development trends since 1993. Determine the potential number of nonfarm/lot of record dwellings that could be approved, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph;
 - (c) Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of the existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.
- 5. The dwelling complies with other conditions the county considers necessary, including but not limited to provision for sewage disposal, emergency vehicle access, and public road approach.
 - 6. The tract on which the dwelling is to be sited does not include a dwelling.

The following ORS references need to be updated.

- 7. Prior to issuance of a residential building permit, the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm or forest use; and that additional tax or penalty has been imposed, if any is applicable, as provided by ~~ORS 308.370 or 308.765 or ORS 321.352, 321.730, and 321.815~~ ORS 308A.050 to 308A.128 or other special assessment under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax imposed as the result of disqualification has been paid. A parcel that has been disqualified under this subsection shall not re-qualify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.

[Section I amended 3/19/98, Ord. 643; 8/13/98, Ord. 657]

J. Principal dwelling and creation of a new parcel not provided in conjunction with farm use, but in no case shall this provision be used to approve a subdivision or series partition as defined in ORS 92.305. The application is subject to Type B notice procedures and the following standards and criteria:

1. The originating lot or parcel was predominantly in agricultural use on January 1, 1993 and is:
 - (a) larger than the minimum lot size;
 - (b) not stocked to the requirements under ORS 527.610 to 527.770;
 - (c) composed of at least 95 percent Class VI through VIII soils; and
 - (d) composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber.
2. Any parcel created for a dwelling from the originating lot or parcel described in subsection (1) of this section will not be smaller than 20 acres.
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. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern of the area, the county will consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area pursuant to the study required in Subsection 403.03(I)(4).
5. The dwelling complies with other conditions the county considers necessary, including but not limited to provision for sewage disposal, emergency vehicle access, and public road approach.
6. Prior to issuance of a residential building permit, the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm or forest use; and that additional tax or penalty has been imposed, if any is applicable, as provided by ORS 308.370 or 308.765 or ORS 321.352, 321.730, and 321.815. A parcel that has been disqualified under this subsection shall not re-qualify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel. [Section J amended 3/19/98, Ord. 643; 8/13/98, Ord. 657]

K. Principal lot-of-record dwelling on a lot or parcel which is not high-value farmland and was not predominantly devoted to forest use on January 1, 1993, subject to the following standards and criteria:

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:

- (a) And has been owned continuously by such owner since prior to January 1, 1985; or
 - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
2. The tract on which the dwelling is to be sited does not include a dwelling.
 3. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
 4. The lot or parcel is not high-value farmland as defined in Subsection 403.12 (H).
 5. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 6. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
 7. The county assessor shall be notified that the governing body intends to allow the dwelling.
 8. For purposes of this section 403.03(K), "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 business entity owned by any one or combination of these family members.

[Subsection K amended 5/10/95, Ord. 591; 10/2/96, Ord. 615; 8/13/98, Ord. 657]

L. Principal lot-of-record dwelling not in conjunction with farm use on a lot or parcel which is predominantly Class III and IV high-value farmland and was not predominantly devoted to forest use on January 1, 1993, subject to the following standards and criteria:

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - (a) and has been owned continuously by such owner since prior to January 1, 1985; or
 - (b) By devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
2. The tract on which the dwelling is to be sited does not include a dwelling.
3. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.

4. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
5. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
6. The tract on which the dwelling is to be sited is:
 - (a) Composed predominantly of high-value farmland defined in Section 403.12 (H)(2) or (3); and
 - (b) Twenty-one acres or less in size.
7. The tract on which the dwelling is to be sited is:
 - (a) 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
 - (b) Not a flaglot and is 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, but only if the subject tract abuts an urban growth boundary; or
[Amended 12/05/02; Ord. 720]
 - (c) A flaglot and is 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 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 governing body of a county 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;
 - i. "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.
 - ii. "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.
[Section c added 12/05/02; Ord. 720]
8. The county assessor shall be notified that the governing body intends to allow the dwelling.

9. For purposes of this section 403.03 (L), "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 business entity owned by any one or combination of these family members.

[Subsection L amended 5/10/95, Ord. 591; 10/2/96, Ord. 615; 8/13/98, Ord. 657]

- M. Principal lot-of-record dwelling not in conjunction with farm use on land on a lot or parcel which is predominantly Class I and II high-value farmland and was not predominantly devoted to forest use on January 1, 1993, subject to the following standards and criteria (Type C notice):
 1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - (a) and has been owned continuously by such owner since prior to January 1, 1985; or
 - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
 2. The tract on which the dwelling is to be sited does not include a dwelling.
 3. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
 4. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 5. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
 6. The tract on which the dwelling is to be sited is on high-value farmland as defined in Section 403.12(H)(1).
 7. The Planning Commission determines that:
 - (a) 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;

- (b) The dwelling will comply with the provisions of Section 403.07(A); and
 - (c) The dwelling will not materially alter the overall land use pattern of the area.
- 8. The county assessor shall be notified that the governing body intends to allow the dwelling.
 - 9. For purposes of this section 403.03 (M), "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 business entity owned by any one or combination of these family members.
 - 10. The State Department of Agriculture shall be provided notice of the application at least twenty (20) days prior to the public hearing before the Planning Commission.
[Subsection M amended 5/10/95, Ord. 591; 10/2/96, Ord. 615; 8/13/98, Ord. 657]
- N. Principal dwelling on a large tract of land that was in forest use on January 1, 1993, subject to the siting standards in Sections 403.09, 403.10, 403.11 and the following: A tract separated only by a public road or a waterway is considered contiguous.
- 1. The dwelling will be sited on land that contains the following minimum acreage:
 - (a) At least 160 contiguous acres of land zoned for forest use; or
 - (b) At least 200 acres of land zoned for forest use that is not contiguous but is located entirely within Yamhill County or partially in an adjacent county.
 - 2. There are no other dwellings on the parcels which make up the acreage.
 - 3. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
 - 4. If the tract consists of more than one lot or parcel, the lots or parcels that are not to support the dwelling are subject to deed restrictions that prohibit residential development or use of the lots or parcels to total acreage for future siting of dwellings for present or future owners. The applicant shall provide evidence that covenants and restrictions, in a form approved by the county, have been recorded with the County Clerk of Yamhill County and the other counties where the property subject to the covenants and restrictions is located. The covenants and restrictions are irrevocable, unless a statement of release is signed by the Planning Director.

[Section N added 3/19/98, Ord. 643]

- O. Principal lot-of-record dwelling on a lot or parcel predominantly devoted to forest use on January 1, 1993, subject to Sections 403.09, 403.10, 403.11 and the following standards and criteria:
1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - (a) and has been owned continuously by such owner since prior to January 1, 1985; or
 - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
 2. The tract on which the dwelling is to be sited does not include a dwelling.
 3. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
 4. The tract on which the dwelling is to be sited is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species.
 5. The tract on which the dwelling is to be located is within 1,500 feet of a public road that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock. The road shall not be:
 - (a) A United States Bureau of Land Management Road; or
 - (b) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or state agency.
 6. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 7. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
 8. The property owner shall submit a stocking survey report to the County Assessor, and the Assessor shall verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
 9. The county assessor shall be notified that the governing body intends to allow the dwelling.

10. For purposes of this section 403.03 (O), "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 business entity owned by any one or combination of these family members.

[Subsection O amended 5/10/95, Ord. 591; 10/2/96, Ord. 615; 3/19/98, Ord. 643]

P. Principal forest template dwelling on a lot or parcel predominantly devoted to forest use on January 1, 1993, except as provided in subsection Q of this Section, subject to Sections 403.09, 403.10, 403.11 and the following standards and criteria:

1. There are no other dwellings on the subject tract; and
2. When the lot or parcel on which the dwelling will be sited is part of a tract, the remainder of the subject tract shall be consolidated into a single lot or parcel when the dwelling is allowed, which shall not be eligible for an additional dwelling; and
3. The lot or parcel is predominantly composed of soils that are capable of producing 0 to 49 cubic feet per acre of wood fiber; and
 - (a) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a circle with a 1489.46 foot radius or a 160-acre square centered on the center of the subject tract; and
 - (b) At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist on the other lots or parcels; or
4. The lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre of wood fiber; and
 - (a) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a circle with a 1489.46 foot radius or a 160-acre square centered on the center of the subject tract; and
 - (b) At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist on the other lots or parcels; or
5. The lot or parcel is predominantly composed of soils that are capable of producing more than 85 cubic feet per acre of wood fiber; and
 - (a) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a circle with a 1489.46 foot radius or a 160-acre square centered on the center of the subject tract; and
 - (b) At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist on the other lots or parcels.
6. If the tract on which the dwelling will be sited abuts a public road that existed on January 1, 1993, the measurement under subsections 4.a, 5.a, or 6.a may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered

on the center of the subject tract and that is, to the maximum extent possible, aligned with the road.

7. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.

[Subsection P amended 3/19/98, Ord. 643; 8/13/98, Ord. 657; 09/02/04, Ord 746]

Q. Principal forest template dwelling on a tract of 60 or more acres predominantly devoted to forest use on January 1, 1993, that abuts a public road that physically existed on January 1, 1993 or a perennial stream, subject to Sections 403.09, 403.10, 403.11 and the following standards and criteria:

1. There are no other dwellings on the subject tract; and
2. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed, and the tract shall not be eligible for an additional dwelling; and
3. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions; and
4. The lot or parcel is predominantly composed of soils that are capable of producing 0 to 49 cubic feet per acre of wood fiber; and
 - (a) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
 - (b) At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract; or
5. The lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre of wood fiber; and
 - (a) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
 - (b) At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract; or
6. The lot or parcel is predominantly composed of soils that are capable of producing more than 85 cubic feet per acre of wood fiber; and
 - (a) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and

- (b) At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract.
- 7. The measurement under subsections 5.a, 6.a, or 7.a of this section shall be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road or stream.
- 8. The one dwelling required to be on the same side of the road or stream pursuant to subsections 5.b, 6.b, or 7.b of this section may be outside the width of the rectangle described in subsection 8 of this section if it is within one-quarter mile of the subject tract.
- 9. If the road crosses the subject tract on which the dwelling is to be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling. [Subsection Q amended 3/19/98, Ord. 643; 8/13/98, Ord. 657; 09/02/04, Ord 746]

403.04 Conditional Uses.

The following uses are allowed in the Agriculture/Forestry District upon conditional use approval. Approval of these uses is subject to the Conditional Use criteria and requirements of Section 1202 of this ordinance, the criteria of Section 403.07 and any other provision set forth below. Applications shall be reviewed under the Type B procedure of Section 1301:

- A. One manufactured dwelling or recreational vehicle, or the temporary use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or relative of the resident, subject to the following: [Amended 12/05/02; Ord. 720]
 - 1. The resident or relative of the resident is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence.
 - 2. The permit for the temporary dwelling for the term of hardship shall be valid for a period of two years or a shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.
 - 3. The permit for the manufactured dwelling for the term of hardship shall be granted to the applicant only and shall not be deemed to run with the land.
 - 4. The temporary dwelling shall use the same subsurface sewage disposal system as the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.
 - 5. When a recreational vehicle is allowed to be used as a temporary structure the recreational vehicle site shall have services, inspected and approved by the building department which includes, electricity, plumbing and connection to an approved septic system. [Section 5 added 12/05/02; Ord. 720]

6. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this paragraph is not eligible for replacement as a permanent residence.

[Subsection A amended 3/19/98, Ord. 643; 12/05/02; Ord. 720]

- B. Permanent facility for the primary processing of forest products.

ORS 197.665 requires that a residential home, as defined in ORS 197.660, is a permitted use in an existing dwelling so it will be removed from the list of conditional uses and listed as a permitted use.

- C. Residential home or facility, as defined in ORS 197.660, in an existing dwelling.
- D. Community centers, parks, or playgrounds owned by a governmental agency or a nonprofit community organization, and operated primarily by and for residents of the local rural community, subject to Section 1101, Site Design Review. A public park may also be established consistent with the provisions of ORS 195.120. [Amended 12/05/02; Ord. 720]
- E. Dog kennel, except dog kennels are not allowed on a tract identified as high-value farmland. Existing dog kennels on high-value farmland that are wholly within a farm use zone may be expanded subject to conditional use approval. [Amended 3/19/98, Ord. 643]

The reference to aquatic species has been changed from ORS 215.283(2)(o) to 215.283(2)(p).

- F. The propagation, cultivation, maintenance, and harvesting of aquatic or insect species. The insect species must comply with ORS 215.283(2)(~~o~~) (p). Notice shall be mailed to the State Department of Agriculture at least 20 days prior to any administrative decision or initial public hearing on the application. [Amended 3/19/98, Ord. 643]
- G. Commercial activities that are in conjunction with farm use as defined in Section 403.12(C), but not including the processing of farm crops which are a permitted use as described in subsection 403.02(E), subject to Section 1101, Site Design Review.
- H. The following mineral, aggregate, oil, and gas uses, subject to the standards of Section 404:
1. Operations conducted for 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 this Section.
 2. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral, and other subsurface resources subject to ORS 215.298.
 3. Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement more than two miles from one or more vineyards, totaling 40 acres or more, planted as of the date of application for processing.
 4. Processing of other mineral resources and other subsurface resources.

5. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects not within two miles of planted vineyards planted as of the date of application for processing.
- I. Home occupation, subject to the standards and limitations set forth in Section 1004.
 - J. The following transportation facilities:
 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 roads and highways involving the removal or displacement of buildings not resulting in the creation of new land parcels.
 3. Improvement of public road 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.
 4. Roads, highways and other transportation facilities and improvements not allowed under this subsection or subsection 403.02(K), subject to compliance with OAR 660-12. [Amended 3/19/98, Ord. 643]
 - K. Personal use airports subject to Subsection 403.07(B), and expansion of existing airports.
 - L. Golf course as defined in Section 403.12 G, except new golf courses are not allowed on a tract identified as high-value farmland. Existing golf courses on high-value farmland that are wholly within a farm use zone may be expanded to a total of no more than 36 holes, subject to conditional use approval and provided the expansion is consistent with the definition in Section 402.10(D). [Amended 3/19/98, Ord. 643]
 - M. The following utility facilities:
 1. New electric transmission lines with right of way widths up to 100 feet as specified in ORS 772.210.
 2. Transmission towers over 200 feet in height within existing right of way.
 3. Television, microwave and radio communication facilities and transmission towers on land principally devoted to forest use.

Staff recommends adding Site Design Review reference to Section 403 for commercial utility facility, similar to what already exists in Section 402.

4. Utility facilities for the purpose of generating power subject to site design review. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation, 20 acres from use as a commercial agricultural enterprise on a tract not identified as high-value farmland, or 12 acres on a tract identified as high-value farmland, unless an exception is taken pursuant to OAR 660, Division 4.

5. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
- N. Private parks, playgrounds, hunting and fishing preserves and campgrounds as defined in subsection 403.12(B), subject to Section 1101, Site Design Review, except such uses are not allowed on a tract identified as high-value farmland. Existing facilities on high-value farmland that are located wholly within a farm use zone may be expanded subject to conditional use approval. [Amended 3/19/98, Ord. 643]
- O. Permanent logging equipment repair and storage.
- P. Log scaling and weigh stations.
- Q. Fire stations for rural fire protection.
- R. Aids to navigation and aviation.
- S. Reservoirs and water impoundments.
- T. Firearms training facility.
- U. Cemeteries.
- V. Private seasonal accommodations for fee hunting operations, subject to Sections 403.09 and 403.10 and the following requirements:
1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 2. Only minor incidental and accessory retail sales are permitted;
 3. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
 4. A governing body may impose other appropriate conditions.
- W. New distribution lines (e.g., electrical, gas, oil, geothermal) with rights-of-way 50 feet or less in width.
- X. Private accommodations for fishing occupied on a temporary basis, subject to Sections 403.09 and 401.10 and the following requirements:
1. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 2. Only minor incidental and accessory retail sales are permitted;
 3. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;

4. Accommodations must be located within 1/4 mile of fish bearing Class I waters; and
 5. A governing body may impose other appropriate conditions.
- Y. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.
- Z. On-site filming and activities accessory to on-site filming, as defined in ORS 215.306(4), that exceed 45 days on any site within a one-year period or involve erection of sets that would remain in place for longer than 45 days subject to ORS 30.930 to 30.947. [Added 8/13/98, Ord. 657]
- AA. Operations for the extraction and bottling of water. [Added 8/13/98, Ord. 657]
- BB. Room and board arrangements for a maximum of five unrelated persons in an existing dwelling. [Added 8/13/98, Ord. 657]
- CC. Youth camps subject to Section 1101 for site design review and the Oregon Administrative Rules Section 660-006-0031. [Added 12/05/02; Ord. 720]

403.05 Prohibited Uses.

Subdivisions and planned unit developments shall be prohibited.

403.06 Nonconforming Uses

Nonconforming uses found in the Agriculture/Forestry District are subject to the nonconforming use provisions of Section 1205 as well as to any other applicable provisions of this Ordinance.

403.07 Additional Standards for Approval of Conditional Uses

- A. In the Agriculture/Forestry District, prior to establishment of a conditional use, the applicant may be required to demonstrate compliance with the following criteria in addition to other requirements of this ordinance:
1. The use will not force a significant change in accepted farming or forest practices on surrounding lands devoted to farm or forest use.
 2. The use will not significantly increase the cost of accepted farming or forest practices on surrounding lands devoted to farm or forest use.
- B. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by 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 a 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 applicable rules of the Oregon Aeronautics Division.

- C. A facility for primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in Section 403.12(E). Such facility may be approved for a one-year period which is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.

[Added 3/19/98, Ord. 643]

403.08 Permit Expiration Dates and Declaratory Statements for Dwelling Approvals

- A. Notwithstanding other provisions of this Ordinance and except as provided for in subsection 403.08 (D), a discretionary decision, except for a land division, approving a proposed development in the Agriculture Forestry Large Holding district is void two years from the date of the final decision if the development action is not initiated in that period. An extension period of up to 12 months may be granted if:
1. An applicant makes a written request for an extension prior to expiration of the development approval period, stating the reasons that prevented the applicant from beginning or continuing development within the approval period; and
 2. The Planning Director 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 or denial of an extension granted under this rule is an administrative decision, is not a land-use decision described in ORS 197.015, and is not subject to appeal as a land-use decision. However, the Board, on its own motion, may order review of the decision of the Director within 15 days of the decision.
- C. Additional one-year extensions may be authorized by the Planning Director where applicable criteria for the decision have not changed.

[Amended 3/19/98, Ord. 643]

ORS 215.283(1)(s) was changed to (p). Also, adding the dwelling types to the statute references would help to make this section more understandable.

- D. If a permit is approved for a proposed residential development on agricultural land outside of an urban growth boundary, the permit shall be valid for four years. Any extension of a permit for residential development shall be valid for two years. For the purpose of this subsection, "residential development" only includes the dwellings provided for under ORS 215.283(1)(~~s~~) (p), (replacement dwelling, exclusive farm zone) 215.284 (nonfarm dwelling), 215.705(1) to (3) (lot-of-record dwelling), 215.720 (lot-of-record dwelling), 215.750 (forest template dwelling) and 215.755(1) (replacement dwelling, forest zone) and (3).

[Amended 12/05/02; Ord. 720]

- E. Prior to issuance of any residential building permit for an approved dwelling located within 1 mile of an area which has been designated in the plan or zone or otherwise approved by Yamhill County for mineral resource uses, the landowner shall be required to sign an affidavit

acknowledging the following declaratory statement and record it in the deed and mortgage records of Yamhill County;

“The subject property is located in an area designated for mineral resource uses. It is the County policy to protect mineral resource operations from conflicting land uses in such designated areas. Accepted mineral resource and quarry practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the responsibility of the operator of a mineral resource operation to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator’s violation of State law.”

[Added 8/13/98, Ord. 657]

- F. Prior to issuance of a residential building permit, the landowner shall sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Yamhill County:

“The subject property is located in an area designated by Yamhill County for agricultural uses. It is the county policy to protect agricultural operations from conflicting land uses in such designated areas. Accepted agricultural practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the agricultural operator's responsibility to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of state law.”

Added 8/13/98, Ord. 657]

403.09 Siting Standards for Dwellings and Structures.

The following siting standards shall apply to all new dwellings on forest land:

- A. Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify a site which:
1. Has the least impact on nearby or adjacent lands zoned for forest or agricultural use;
 2. Ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 3. Minimizes the amount of forest lands used for the building sites, road access and service corridors; and
 4. Minimizes the risk associated with wildfire.

Instead of a specific OAR reference (which has been changed) staff recommends a citation of the general Forest Practices Rule in OAR 629.

- B. The applicant shall provide evidence that the domestic water supply, if any, is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR

690, Division 20) and not from a Class II stream as defined in the Forest Practices Rule (OAR ~~629-24-101(3)~~ Chapter 629). If the water supply is from a well, a copy of the well constructor's report shall be submitted to the county upon completion of the well. If the water supply is unavailable from public sources or sources located entirely on the subject property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

- C. As a condition of approval for a dwelling under subsections 403.03 (M) through (P), if the tract is more than 5 acres in size the property owner shall submit a stocking survey report to the County Assessor and the Assessor shall verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met. [Amended 8/13/98, Ord. 657]

403.10 Fire Siting and Construction Standards for Dwellings and Structures

The following fire siting standards shall apply to all new dwellings or permanent structures on forest land:

- A. The dwelling shall have a fire-retardant roof;
- B. The dwelling shall not be sited on a slope of greater than 40 percent;
- C. The dwelling is located upon a parcel within a fire protection district that fights residential fires, or shall be provided with residential fire protection by contract. A dwelling may be allowed on a parcel that does not comply with these provisions provided that:
1. The applicant provides evidence that the applicant has asked to be included in the nearest fire protection district, but that district is unable to provide residential fire protection by contract; and
 2. The dwelling shall be provided with a fire sprinkling system; and
 3. The parcel is provided with a water supply consisting of a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons, or a stream that has a minimum year-round flow of at least one cubic foot per second. Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units, and the road access shall accommodate a turnaround for fire-fighting equipment.
- D. Road access to the structure shall meet the road design standards described in Section 403.11(E).
- E. If the dwelling has a chimney or chimneys, each chimney shall be provided with a spark arrester.
- F. A primary fire break shall be constructed, no less than 30 feet wide. The fire break is only required to be constructed on land surrounding the dwelling that is owned or controlled by the owner. The primary firebreak could include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed.

- G. A secondary firebreak of not less than 100 feet outside the primary firebreak shall also be constructed. The fire break is only required to be constructed on land surrounding the dwelling that is owned or controlled by the owner. Vegetation within the secondary firebreak should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent spread of fire into the crowns of the larger trees. Dead fuels shall be removed. The secondary fire break shall be increased to 150 feet if the dwelling or structure is located on a slope of greater than 25% or other fire hazards exist. [Amended 3/19/98, Ord. 643]
- H. No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.
- I. The applicant shall obtain an address from the County, and shall display that number in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less than three inches in height, shall be painted in a contrasting or visible color and shall comply with all other applicable standards for signs.

403.11 Standards and Limitations.

In the Agriculture/Forestry District, the following standards and limitations shall apply:

A. Dwelling Density.

- 1. Not more than one principal dwelling shall be allowed on any parcel.
- 2. Permitted Secondary Uses. Not more than one permitted secondary dwelling, as described in Subsection 403.03(A) or B, shall be allowed per 20 acres in the AF-20 zone or 40 acres in the AF-40 and AF-80 zone.
- 3. Not more than one dwelling not in conjunction with farm or forest use shall be allowed on any parcel.

B. Parcel Size and Dimension.

- 1. Newly-Created Parcels.
 - (a) Any new farm/forest parcel proposed to be created shall be a minimum of 20 acres in the AF-20 district, 40 acres in the AF-40 district and 80 acres in the AF-80 district.
 - (b) Any new nonfarm parcel created to support a dwelling shall comply with Subsection 403.03(J).
 - (c) Any new nonfarm/nonforest parcel proposed to be created for nonfarm/nonforest uses other than dwellings shall be no larger than the minimum size necessary for its use.
- 2. Lot-line adjustments.

- (a) Any parcel principally devoted to farm use subject to alteration in size through a lot-line adjustment shall be shown to be of a size at least as appropriate for the continuation of the existing commercial agricultural enterprise in the area as were the parcels prior to adjustment.
 - (b) Any parcel principally devoted to forest use subject to alteration in size through a lot-line adjustment shall be shown to be at least as economically efficient for forest practices, provide for continuous growing and harvesting of forest tree species at least as well as, and conserve other forest values at least as well as did the parcel prior to adjustment.
 - (c) When one or more parcels subject to a proposed adjustment are larger than the minimum lot size, the same number of parcels shall be as large or larger than the minimum lot size after the adjustment. When all parcels subject to the proposed adjustment are as large or larger than the minimum lot size in the zone, no parcel shall be reduced below the applicable minimum lot size.
 - (d) The lot line adjustment shall not result in an increase in the potential number of dwellings on the parcels. When an area that contains an existing dwelling will be conveyed from one parcel (Parcel A) to the adjacent parcel (Parcel B), Parcel B must either receive land use approval for the dwelling under the terms of this ordinance, or, in the alternative, a deed affidavit shall be recorded by the owner of Parcel A prohibiting the establishment of any new principal dwellings on the adjusted parcel or parcels. [Added 3/19/98, Ord. 643]
3. Existing Lots. Any permitted or conditional use provided for in this District, may be established on an existing lot subject to satisfaction of the applicable requirements of the Agriculture/ Forestry District.
4. For a property predominantly devoted to farm use, a division of land smaller than the minimum parcel size noted under 403.11 (B)(1)(a) may be approved for the purpose of establishing a church, including cemeteries in conjunction with the church provided it satisfies the following: [Section 4 added 12/05/02; Ord. 720]
- (a) The church has been approved under subsection 403.02(V);
 - (b) The newly created lot or parcel is not larger than five acres; and
 - (c) The remaining lot or parcel, not including the church, meets the minimum parcel size described in 403.11(B)(1)(a) by itself or after consolidation with another lot or parcel.
5. A division of a lot or parcel may be allowed if:
- (a) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
 - (b) Each dwelling complies with the criteria for a replacement dwelling under 403.02(N);

- (c) Except for one lot or parcel, each lot or parcel created under this paragraph is between two and five acres in size;
- (d) At least one dwelling is located on each lot or parcel created under this paragraph; and
- (e) The landowner of a lot or parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded with the county clerk of the county in which the lot or parcel is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the county planning director of the county in which the lot or parcel is located indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use or mixed farm and forest use. (3) A county planning director shall maintain a record of lots and parcels that do not qualify for division under the restrictions imposed under subsections (2)(e) and (4) of this section. The record shall be readily available to the public. (4) A lot or parcel may not be divided under subsection (2)(e) of this section if an existing dwelling on the lot or parcel was approved under: (a) A statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel; or Enrolled Senate Bill 715 (SB 715-B) Page 2 (b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under a statewide planning goal protecting forestland. [Section 5 added 12/05/02; Ord. 720]

ORS 215.783 allows the creation of a parcel in a farm, forest or mixed farm/forest zone. This provision is in the EF zone but needs to be added to the F and AF Zones.

- 6. A division of land smaller than the minimum parcel size noted under 403.11 (B)(1) may be approved for the purpose of creating a parcel for a park provided it satisfies the following:
 - (a) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and
 - (b) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
 - (c) A parcel created pursuant to this subsection that does not contain a dwelling:
 - i. Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
 - ii. May not be considered in approving or denying an application for siting any other dwelling;

- iii. May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
- iv. 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.

C. Setbacks.

The minimum setback for all yards shall be 30 feet for all uses, except as follows:

- 1. The minimum setback for all yards for a livestock feeding or sales yard shall be 200 feet from the centerline of any watercourse used for domestic water supply, 500 feet from any residential zoning district or urban growth boundary unless the applicant has received a conditional use permit pursuant to Section 1202, and 50 feet from property lines in all other circumstances. [Amended 3/19/98, Ord. 643]
- 2. The minimum setback for signs shall be five feet.
- 3. An accessory structure not more than 15 feet in height, and at least 60 feet from a road, or off-site dwelling, may be located a minimum distance of three feet from the property line in a side yard or rear yard.
- 4. A swimming pool may be located in a required rear yard, provided it lies a minimum of five feet from the rear property line.
- 5. The minimum setback for a kennel shall be 50 feet from any property line and 500 feet from any off-site dwelling.
- 6. Fences, Walls, and Hedges. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision area requirements of subsection (F). [Subsection C amended 7/9/98, Ord. 648]

D. Parcel Coverage.

Not applicable, except that for any parcel of less than one acre, the maximum parcel coverage shall be 15 percent.

E. Access.

The following standards apply to all roads and driveways, except for private roads accessing only commercial farm or forest uses, which access uses permitted under Section 403.02 or approved under Sections 403.03 or 403.04 of this section. Variations from these standards may be granted by the fire service having responsibility for the area when topographic conditions make these standards impractical and where the local fire protection district states the access is acceptable for their fire-fighting equipment: [Amended 12/05/02; Ord. 720]

1. Width. Access roads serving three (3) or fewer dwellings shall have a 12 foot improved width and a 20 foot horizontal clearance. Access roads serving more than three (3) dwellings shall have a 16 foot improved width and a 20 foot horizontal clearance.
2. Construction. Access roads must be improved with an all- weather surface. Roads, bridges and culverts shall be designed and maintained to support a minimum gross vehicle weight (GVW) of 50,000 lbs. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 lb. GVW standard shall be provided by a Professional Engineer, registered in Oregon.
3. Vertical Clearance. Access roads shall have an unobstructed vertical clearance of not less than thirteen and one-half (13.5) feet.
4. Turnarounds. Dead end roads over 150 feet in length shall provide a turnaround adequate for emergency vehicles.
5. Turnouts. Access roads greater than 400 feet in length shall have turnouts at a maximum spacing of one-half the length of the access road or 400 feet, whichever is less. Turnouts shall be required more frequently where visibility is limited. Turnouts shall be an all weather surface at least 10 feet wide and 40 feet long.
6. Road Grade. Road grades shall not exceed twelve (12) percent, with a maximum of 15 percent on pitches less than 200 feet long. [Amended 12/05/02; Ord. 720]
7. Before a dwelling may be established on any parcel as provided in this Section, the parcel shall have a legal, safe and passable means of access by abutting at least 20 feet either directly upon a public road, or by a private easement which is at least 30 feet in width for its entire length and which also abuts upon a public road for at least 30 feet. Nothing in this Section shall be construed to vary or waive the requirements for creation of new access contained in any Land Division Ordinance legally adopted by Yamhill County.

F. Clear-Vision Areas.

A clear-vision area shall be maintained on the corner of any parcel at the intersection of any two of the following: County roads, public roads, private roads serving four or more parcels, and railroads. A clear-vision area shall contain no sight-obscuring structures or plantings exceeding 30 inches in height within a triangle formed by the lot corner nearest the intersection, and the two points 20 feet from this corner as measured along the parcel lines adjacent to the intersecting rights-of-way. Trees exceeding this height may be located such that their branches extend into this triangle, provided they are maintained to allow at least 12 feet of visual clearance within the triangle below the lowest hanging branches.

G. Height.

1. The maximum building height for any dwelling shall be 35 feet.
2. The maximum building height for all other structures shall be 45 feet.
3. Structures used for the storage of farm products, and appurtenances usually required to be placed above the roof level and not intended for human occupancy such as spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys and wind generators are not subject to the height limitations of this Ordinance.

H. Occupancy of Recreational Vehicles.

1. One recreational vehicle shall be permitted to be parked on any parcel in conjunction with a principal dwelling, and may be used for the temporary accommodation of guests for a period of up to 30 days total in any year. In no case shall such any recreational vehicle be used as a principal dwelling or rented unless the necessary permits have been obtained. [Amended 7/9/98, Ord. 648]
2. Temporary structures as may be required during construction of any authorized permanent structure may be placed. Such temporary structure shall be removed within 30 days of occupancy of the permanent structure.
3. One manufactured dwelling may be stored on a lot or parcel for a period not to exceed nine months upon approval of the Director, with one extension of up to nine months if unusual circumstances are shown to exist. In no case shall a stored manufactured dwelling be connected to water or sewage disposal facilities.

I. Off-Street Parking.

1. In the Agriculture/Forestry District, prior to establishment of any dwelling, sufficient area must be provided to allow for at least one emergency vehicle turnaround.
2. Parking requirements for those uses which may generate traffic beyond what is normally expected in the Agriculture/Forestry District shall be determined by the Director subject to the provisions of Section 1007.

403.12 Definition of Terms Used in this Section

The following terms apply only to Section 403, and have no relevance to the same term used in other sections of this ordinance unless specifically stated.

- A. Auxiliary - A use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- B. Campground - Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is

approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4. A campground is an area 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. A campground shall be designated and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers to existing native trees and vegetation or other natural features between campsites. Campsites may be occupied by a tent, travel trailer or recreational vehicle. The campground may also provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. 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. The park or campground may be public or private.

[Amended 8/13/98, Ord. 657; 12/05/02; Ord. 720]

The definition for a commercial activity in conjunction with farm use was updated in Section 402 by Ordinance 582, but Section 403 was not updated at that time.

C. Commercial Activities in Conjunction with Farm Use - ~~[The processing, packaging, treatment, and wholesale distribution and storage of a product derived primarily, but not entirely, from farm activities on the premises. Also, retail sales of agricultural products, supplies and services directly related to the production and harvesting of agricultural products. Such uses include, but are not limited to, the following:]~~ As authorized under subsection 403.04(G), a commercial activity in conjunction with farm use is:

1. The processing, packaging, and wholesale distribution and storage of a product not derived primarily from farm activities on the premises;
2. Retail sales and promotion of agricultural products, supplies and services directly related to the production, harvesting, and processing of agricultural products. Such uses include, but are not limited to, the following:
 - Storage, distribution and sale of feed, fertilizer, seed, chemicals, and other products used for commercial agriculture
 - Livestock auction or sales yards
 - Farm equipment storage and repair facilities
 - Storage, repair, or sale of fencing, irrigation pipe and pumps, and other commercial farm-related equipment and implements
 - Veterinarian clinics
 - Slaughtering of animals, including attendant retail and wholesale sales
 - Wineries not listed as a permitted use

- D. Commercial tree species - Trees recognized under rules adopted under ORS 527.715 for commercial production.

The definition of farm use and the “current employment” of land for farm use needs to be updated with uses that have been added to the farm zone.

- E. 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” also includes the current employment of land for the primary purpose of obtaining profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. “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. “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 Wildlife Commission. “Farm use” includes the on-site construction and maintenance of equipment and facilities used for the activities described in the subsection. “Farm use” does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3), or land described in ~~321.267(1)(e) (3)~~ or ~~321.415(5)~~ 321.824(3). [Amended 3/19/98, Ord. 643; 09/02/04, Ord 746]

“Preparation” of products or by-products includes but is not limited to the cleaning, treatment, sorting, composting or packaging of the products or by-products.

“Products or by-products raised on such land” means the those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring on land being used for the primary purposes of obtaining a profit in money from the farm use of the land.

“Current employment” of land for farm use includes:

- Farmland, the operation or use of which is subject to any farm-related government program;
- Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
- Land planted in orchards or other perennials prior to maturity;
- Wasteland, dry or covered with water, neither economically tillable nor grazeable, lying in adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
- Except for land under a single family dwelling, land under buildings supporting accepted farming practices, including the processing facilities allowed by ORS

215.283(1)(r) and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.283(2)(a);

- Water impoundments lying in or adjacent to and in common ownership with farm use land;
- Land under buildings supporting accepted farming practices;
- 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;
- Land lying fallow 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;
- Any land described under ORS 321.267 (1)(e) or 321.415 (5); and
- 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;
- Land used for the primary purpose of obtaining a profit in money by breeding, raising, kenneling or training of greyhounds for racing; and
- Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:
 - (i) Only the crops of the landowner are being processed;
 - (ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or
 - (iii) The landowner is custom processing crops into biofuel from other landowners in the area for their sale or use.

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

"Cultured Christmas trees" means trees:

(a) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

(b) Of a marketable species;

(c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and

(d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation.

- F. Forest operation - Any commercial activity relating to the growing or harvesting of any tree species as defined in ORS 527.620(6).
- G. 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 or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course 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. A "non-regulation golf course" means a golf course or golf course-like development that does not meet this definition of golf course, including but not limited to executive golf courses, par three golf courses, pitch and putt courses, miniature golf courses, and driving ranges. Non-regulation golf courses are not permitted by this section.
 4. 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 as part of an 18 hole or larger golf course or golf tournament.
 - (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 a 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 designed for or include structures for banquets, public gatherings or public entertainment.

[Amended 09/02/04, by Ord 746]

- H. High-value farmland - A tract composed predominantly of:
1. Soils rated Class I, II, prime, or unique, either irrigated or not irrigated.
 2. The following Class III soils: Carlton, Chehalem, Dayton, Jory, Laurelwood, Nekia, Willakenzie, Woodburn, and Yamhill.
 3. The following Class IV soils: Carlton, Dayton, Jory, Laurelwood, Willakenzie, and Yamhill.

The following reflects the updated language from OAR 660-033-0030(7)(b).

Soil classes, soil ratings or other soil designations used in or made pursuant to the lot of record dwelling are those of the Natural Resource Conservation Service Internet soil survey for that class, rating or designation before Soil Conservation Service in its most recent publication prior to November 4, 1993. For purposes of approving a lot of record dwelling, the soil class, soil rating or other soil designation of the parcel may be changed if the property owner submits a statement of agreement from the Natural Resources Conservation Service that the class, rating or designation should be adjusted based on new information; or if the property owner submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the class, rating or designation should be changed, along with a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report and finds the analysis to be soundly and scientifically based.

[Amended 8/13/98, Ord. 657]

- I. Public parks - includes only the uses specified under OAR 660-034-0035.
[Added 8/13/98, Ord. 657]
- J. 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, precommercial thinning and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash and other related activities.
- K. Tract - One or more contiguous lots or parcels under the same ownership.
- L. Winery - As authorized under subsection 403.02(C), a winery is a facility that produces and sells wine and conforms to the following attributes:
1. A winery herein defined has a maximum annual production of:
 - (a) Less than 50,000 gallons and:

- i. Owns an on-site vineyard of at least 15 acres;
 - ii. Owns a contiguous vineyard of at least 15 acres;
 - iii. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of vineyard contiguous to the winery; or
 - iv. Obtains grapes from any combination of (i), (ii), or (iii) above; or
 - (b) At least 50,000 gallons and no more than 100,000 gallons and:
 - i. Owns an on-site vineyard of at least 40 acres;
 - ii. Owns a contiguous vineyard of at least 40 acres;
 - iii. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of vineyard contiguous to the winery; or
 - iv. Obtains grapes from any combination of (i), (ii), or (iii) above; and
 - (c) Prior to the issuance of building permits, the applicant shall provide evidence that the vineyards described in subsections (a) or (b) have been planted, or the contract has been executed, as applicable.
2. The winery shall allow only the sale of:
- (a) Wines produced in conjunction with the winery; and
 - (b) Items directly related to wine, the sales of which are incidental to the retail sale of wine on-site and do not exceed 25 percent of the total gross receipts of the retail facility. Such items include those served by a limited service restaurant, as defined in ORS 624.010.
3. Permitted on-site marketing of wine includes up to three events of one to three days in duration during a calendar year intended to draw customers to the site for the tasting and purchase of wine, with an anticipated maximum of 750 daily visitors. The frequency and duration of these events may be limited through site design review approval based on the adequacy of public facilities. Rent or lease of space within or adjacent to the winery facility for events such as parties, receptions, and banquets that are not directly related to promotion of the wine is not included in this definition of a winery.

The winery reference needs to be corrected from 403.12(K) to <u>(L)</u> .

4. A facility for production and sale of wine that does not conform to the attributes described in subsections 403.12(~~K~~) (L) may be deemed a commercial activity in conjunction with farm use pursuant to subsection 403.04(G).

[Section K added 3/19/98, Ord. 643]

Docket G-01-12 - ORDINANCE AMENDMENTS

Language to be added is underlined and language to be deleted is ~~crossed out~~.

The explanations for the changes are noted in the boxes.

SECTION 400 – NATURAL RESOURCE DISTRICTS

404. MINERAL RESOURCE DISTRICT (MR)

[Last Amended 12/05/02; Ord. 720]

404.01 Purpose.

The purpose of the MR District is to provide for the development and utilization of identified deposits of mineral aggregate resource materials on land which is not identified for urban or rural residential use on the Comprehensive Plan; to provide for the exploration for, and the subsequent extraction and development of; identified deposits of geothermal resources and oil, gas and other hydrocarbon resources produced in liquid and gaseous form; to establish siting criteria and operating standards for mineral resources that minimize present and future on-site and off-site land use and environmental conflicts; and to provide for the timely and satisfactory reclamation of land used for mineral resource activity.

404.02 Permitted Uses - MR-1.

In the MR-1 District, the following uses shall be permitted:

- A. Quarry or mining operations for the extraction of rock, clay, soil, sand and gravel;
- B. Exploration for oil, natural gas or geothermal resources;
- C. Rock crushing, washing or screening;
- D. Stockpiling of rock or earth products in conjunction with the operation of the mineral resource business on-site;
- E. Portable concrete batching or portable hot-mix batching plants;
- F. A dwelling for the owner, in conjunction with a permitted use as established by subsections 404.02 (I) and 404.02 (J);
- G. A dwelling and accessory structures for a caretaker or watchman in conjunction with the operation of a mineral resource business;
- H. Storage of heavy equipment in conjunction with the operation of the mineral resource business on-site;
- I. Farm uses;
- J. Propagation and harvesting of a forest product; and
- K. Manufacture and storage of brick and tile.

404.03 Permitted Uses - MR-2.

In the MR-2 District, the following uses shall be permitted:

- A. Quarry or mining operations for the extraction of rock, clay, soil, sand and gravel;
- B. Exploration for oil, natural gas or geothermal resources;
- C. Rock crushing, washing or screening;
- D. Stockpiling of rock or earth products in conjunction with the operation of the mineral resources business on-site;
- E. A dwelling for the owner, in conjunction with a permitted use as established by subsections 404.03(H) and 404.03 (I);
- F. A dwelling and accessory structures for the caretaker or watchman in conjunction with the operation of a mineral resource business;
- G. Storage of heavy equipment in conjunction with the operation of the mineral resource business on-site;
- H. Farm uses;
- I. Propagation and harvesting of a forest product; and
- J. Manufacture and storage of brick and tile.

404.04 Conditional Uses.

In the MR District, pursuant to the Type B application procedure set forth in Section 1301, and subject to the conditional use review criteria listed in Section 1202, and any other applicable criteria established by this Ordinance, the following uses may be allowed conditionally:

- A. Manufacture and storage of concrete and aggregate products such as preformed steps, beams, fences, vaults and similar products, provided that the aggregate needs are supplied from the same site where storage and manufacturing takes place;
- B. Extraction and development of oil, natural gas or geothermal resources, subject to the requirements of subsection 404.10;
- C. Coal and precious metals extraction, processing and stockpiling from the same site where extraction takes place;
- D. Any structure necessary and appurtenant to the above uses;
- E. Permanent concrete batching or hot-mix batching plants;
- F. The following additional use may be allowed conditionally in the MR-2 Districts.
 - 1. Portable concrete batching or portable hot-mix batching plants.

- G. Parks or playgrounds owned and operated by a governmental agency or a nonprofit community organization, subject to Section 1101, Site Design Review. [Added 5/28/97, Ord. 630]
- H. Commercial storage and distribution of explosives and related materials. [Added 6/14/01, Ord. 701]

404.05 Prohibited Uses.

Uses of land and water not specifically mentioned in this section are prohibited in the MR District. In order to preserve MR lands for mineral resource uses, residential subdivisions shall be prohibited; however, land divisions for purposes of conveyance of mineral resource operations shall be permitted.

404.06 Standards and Limitations.

In the MR District, the following standards and limitations shall apply:

- A. The minimum parcel size for a permitted or conditional use shall be five (5) acres.
- B. The maximum building height of any residential structure shall be thirty-five (35) feet and the maximum height of all other structures shall be sixty (60) feet.
- C. The minimum setbacks for all yards of a residential dwelling in the MR District shall be thirty (30) feet.

404.07 Operating Standards.

All mineral resource operations, either permitted or allowed by conditional use, shall conform to the following standards:

- A. Operating setbacks.
 - 1. Extraction shall not be conducted within twenty-five (25) feet of any non-mineral resource zoning district boundary; and shall not be conducted closer than five hundred (500) feet from any dwelling existing at the time of adoption of this Ordinance. [Amended 12/05/02; Ord. 720]
 - 2. Processing activities shall not be conducted within five hundred (500) feet of any LDR., VLDR or AF-10 zoning district boundary; or within two hundred fifty (250) feet of any other zoning district boundary. In no case shall processing and other processing-related activities be conducted closer than five hundred (500) feet from any dwelling existing at the time of adoption of this Ordinance.

- B. Screening.

Adequate screening with indigenous planting shall be preserved or established to block the view at the site from any public road, residential zoning district and from any existing dwelling located within one thousand (1000) feet of the site prior to establishment of the MR District. Existing trees and other natural vegetation shall be preserved and maintained at the perimeter of the site to provide screening. This landscaping, fencing for safety purposes, berms or other similar devices shall be submitted as a site plan for Commission approval.

- C. Environmental Standards.

1. All excavation, including blasting, processing, maintenance and truck traffic shall be conducted in a manner that minimizes the adverse effect to persons and activities on adjoining property due to noise, dust, odor, vibration or surface water pollution or erosion.
2. Any mining operation shall not exceed Department of Environmental Quality noise emission, air contamination and water quality standards. Additionally, appropriate federal environmental quality permits shall be obtained for each site.
3. Excavation which results in ponding shall be deep enough to prevent stagnation and development of mosquito-breeding areas or shall be backfilled with a material that will not impair groundwater quality.

D. Roadways.

In the MR District for all mineral resource sites approved by the Board, all access to a mineral resource site shall be by a route or routes approved by the Board and shall be constructed and maintained in such a manner as to eliminate, as far as practical, noise or dust which adversely affects persons living in the vicinity, or crops or livestock being raised in the vicinity.

E. Site Operation and Safety.

All excavation, processing and stockpiling of mineral resources shall take place under conditions which will provide for the reclamation of the site for future uses and will protect the safety of the public.

1. Blasting shall be restricted to the hours of 7:00 A.M. to 6:00 P.M. Monday through Saturday. No blasting shall occur on Sundays or holidays. In the event the operator cannot comply with this restriction due to unforeseen circumstances, the operator may exceed the limitations set forth above; provided that in no event shall the owner or operator blast outside the restrictions set forth above more than four (4) times in and one (1) calendar year..
2. Prior to a blasting operation, the operator shall be responsible for notifying adjacent property owners as to the date and approximate time of the blasting activity.

F. Land Reclamation.

1. Any parcel or site used as a mineral resource site for which a reclamation plan is required by the Department of Geology and Mineral Industries (DOGAMI) shall be reclaimed in accordance with the site operation and reclamation plan on file with and approved by the County.
2. The approved reclamation plan shall be implemented in accordance with a schedule contained therein showing the planned order and sequence of said reclamation.
3. The approved reclamation plan shall require all excavations to be backfilled, contoured or terraced or put to a use shown on the reclamation plan which is compatible with the final depth and slopes within the excavation site.
4. The approved reclamation plan shall require topsoil to be saved and stored in such a manner as to prevent erosion, and that said topsoil shall be replaced to at least the

depth of the original overburden, or to a depth adequate to achieve the approved reclamation use.

5. The approved reclamation plan may, in the County's discretion, provide for reclamation of portions of the site prior to total exhaustion of the resource found on the site.

G. Performance Agreement.

Pursuant to the requirements of this section and any conditions imposed hereunder, the applicant shall enter into a performance agreement with the County, using the applicant's performance agreement with DOGAMI as a minimum standard. Should the Board find that the DOGAMI performance agreement for a specific site is inadequate, the Board shall modify it accordingly.

404.08 Application for Zone Change to MR District.

In addition to the Type C Application procedure set forth in Section 1301, and subject to the amendment review criteria listed in Section 1207, application for an MR zone shall contain:

- A. The documentation, as applicable, required for any application for a site design review as set forth in Section 1101;
- B. Plans showing the location, area, dimensions, acreage and legal description of the parcel to be developed or used, together with north point, scale, date of application, and all intended uses, including estimates of the total volume of the resource to be mined and initial contours for the proposed site.
- C. Provisions for landscaping and screen-planting of all parts of the site;
- D. Provisions for preventing the collection and stagnation of water at all stages of the operation;
- E. Plans, profiles and cross-sections of all access roads; and
- F. Plans for the reclamation of the site.
- G. All plans prepared and submitted shall be prepared at a scale no smaller than one (1) inch to two hundred (200) feet, with five (5) foot contours, and such information shall be furnished for a distance beyond the site sufficient to determine the impact of the operation on adjacent and surrounding lands.

The Goal 5 rule is very specific in the way it treats the process for aggregate resources. The Goal 5 rule supercedes the local code. Therefore, the Yamhill County zone change criteria and comprehensive plan goals and policies do not apply. Section 404.09 should be amended to incorporate the Oregon Administrative Rules.

404.09 MR Zone Change Criteria.

Approval of a zone change to the MR District shall be based upon satisfactory compliance with the requirements set forth in Oregon Administrative Rule OAR 660-023-180, subsection 404.08 and the amendment review criteria listed in Section 1207; and the following criteria:

- A. ~~That a sufficient quality and quantity of mineral resource exists at the proposed site to fulfill a market need.~~
- B. ~~That approval of the zone change will not cause immediate or long-term land use conflicts that cannot be satisfactorily mitigated. If conflicts are identified, findings shall be made concerning the economic, social, environmental and energy consequences of allowing the MR use; and a determination shall be made that the benefits to the public outweigh the detriments suffered as a result of said conflict.~~

404.10 Oil, Natural Gas and Geothermal Exploration and Extraction.

The purpose of this subsection shall be to provide for the exploration and extraction of oil, natural gas and geothermal resources and to establish criteria to assure that such activities have a minimal impact on land use activities permitted under this Ordinance.

The term exploration includes both non-surface and surface disturbance activities, such as sonar sightings and test drilling, necessary to locate potential resource sites.

The term extraction includes any excavation made for producing oil, natural gas and/or geothermal resources and also includes activities and structures ancillary to the extraction operation including, but not limited to, pumping facilities, storage tanks, pipelines, waste ponds and equipment sheds.

A. Application Procedure - Exploration Permit.

1. An application for the exploration of oil, natural gas and/or geothermal resources shall be prepared on an approved form available from the Department of Planning and Development. The applicant shall provide all information required under this section and any additional information deemed necessary by the Director.
2. An application for the exploration of oil, natural gas and/or geothermal resources shall be made by the mineral property owner or the lessee of the property, if the application also bears the signature of the mineral property owner.
3. The following information shall be included with the application for an exploration permit:
 - (a) A surface plat of the property to be explored;
 - (b) The approximate location of exploration points on the surface plat;
 - (c) A description of the type of equipment to be used during the exploration process; and
 - (d) Anticipated time frame for exploration.
4. For zoning districts in which exploration is allowed as a permitted use, the application shall be reviewed pursuant to the Type A application procedure set forth in Section 1301.
5. For zoning districts in which exploration is allowed as a conditional use, the application shall be reviewed pursuant to the Type B application procedure set forth in Section 1301 and the conditional use review criteria listed in Section 1202.

6. The application for an exploration permit shall be reviewed for compliance with the following criteria for approval:
 - (a) The parcel lies within appropriate zoning districts;
 - (b) The applicant has submitted all information required under this subsection;
 - (c) DOGAMI has issued an exploration permit for the operation (not required for seismic exploration);
 - (d) The applicant has posted a performance bond, if required by the Director or the Road Department; and
 - (e) The applicant has demonstrated that the proposed location and method of exploration will have a minimal impact on adjacent land use activities.
7. If the applicant proposed to drill an exploration well, it shall be sited according to the set back standards outlined in subsection 404.10 (D)(1).
8. If the Director determines that the applicant has satisfied the criteria noted above, the Director shall issue a one hundred twenty (120) day exploration permit. The Director may establish conditions of approval deemed necessary to carry out the intent of this Ordinance.
9. At the discretion of the Director, the applicant may be required to file a performance bond to provide for the repair of any County roads which may be damaged or diminished in quality due to exploration activities. The amount of the performance bond shall be determined by the Road Department.
10. Upon expiration of the exploration permit, all equipment and materials associated with the exploration operation shall be removed from the site and the site shall be reclaimed in accordance with DOGAMI standards. If the exploration is successful, the applicant may apply for an extraction permit.

B. Application Procedure - Extraction Permit

1. An application for the extraction of oil, natural gas and/or geothermal resources shall be processed as a conditional use permit pursuant to the type B application procedure set forth in Section 1301.
2. An application for the extraction of oil, natural gas and/or geothermal resources shall be made by the mineral property owner or the lessee of the property, if the application also bears the signature of the mineral property owner.
3. The following information shall be included with the conditional use permit application:
 - (a) An 8 ½ x 14 inch reproducible site plan which identifies the property under the applicant's control. The site plan shall include:

- i. The location of areas proposed for extraction, materials storage and transmission;
 - ii. The location of all existing and proposed structures within five hundred (500) feet of the extraction site;
 - iii. The location of all existing and proposed roads to the property and extraction site; and
 - iv. The location of all wells and springs within five hundred (500) feet of the proposed extraction site.
- (b) Evidence of application to the Department of Geology and Mineral Industries for a permit to site and operate an oil, natural gas and/or geothermal extraction facility.
 - (c) A reclamation plan which complies with the minimum standards promulgated and administered by DOGAMI.
 - (d) A generalized project development timetable.
 - (e) A generalized geologic and engineering presentation with sufficient data to indicate the presence of a viable resource.

C. Review Criteria.

The approval of a conditional use permit allowing the extraction of oil, natural gas and/or geothermal resources shall be based upon compliance with the conditional use review criteria listed in Section 1202 and the following criteria that:

- 1. That evidence is presented to demonstrate the presence of oil, natural gas and/or geothermal resources of sufficient quantity and quality to justify the extraction;
- 2. That the applicant has filed for an extraction permit from DOGAMI and all test and waste discharge operations have been filed with the Department of Environmental Quality (DEQ).
- 3. That the site development plan is designed to retain the maximum amount of productive resource land;
- 4. That the site development plan is designed to prevent disruption of irrigation and natural drainage patterns;
- 5. That access roads and other public facilities are adequate to support the extraction activity; and
- 6. That the extraction activity will be compatible with adjacent land uses.

D. Operating Standards.

- 1. The following minimum standards shall be observed in the siting of all exploration and extraction wells:

Outer boundary of parcel	100 feet
Surface waterway or well	250 feet
Public road	100 feet
Existing residence	500 feet

2. All equipment storage shall be set back a minimum of two hundred (200) feet from any existing dwelling or fifty (50) feet from any other boundary of the parcel.
3. All work in preparation of the site for drilling shall be conducted between the hours of 7 a.m. and 7 p.m.
4. Delivery or removal of equipment or materials shall be limited to the hours between 7 a.m. and 7 p.m., except in a case of emergency.
5. Unattended well sites shall be enclosed with a six (6) foot chain link fence with a locked gate.
6. All extraction operations shall be in compliance with state and federal standards on noise, vibrations and emissions.
7. Off-street parking shall be provided at a ratio of three (3) spaces per well site.
8. Light rays shall be directed or shielded to confine direct rays to the site.
9. The drilling site and access roads to the site shall be treated to reduce dust and mud.
10. Drilling may occur on a twenty four (24) hour basis if all of the above standards have been met.

F:\Share\ZOM404_G-01-12Final.wpd

Docket G-01-12 - ORDINANCE AMENDMENTS

Language to be added is underlined and language to be deleted is ~~crossed-out~~.

The explanations for the changes are noted in the boxes.

SECTION 500 – RURAL RESIDENTIAL DISTRICTS

502. VERY LOW DENSITY RESIDENTIAL DISTRICTS (VLDR-5, VLDR-2 ½, VLDR-1)

[Last Amended 12/05/02; Ord. 746]

502.01 Purpose.

The purpose of the VLDR Districts is to provide for medium-to-high density rural residential development on selected lands identified as Very Low Density Residential in the Comprehensive Plan. The VLDR Districts are intended to accommodate rural residential development at an anticipated magnitude or density level that does not require more than a very basic level of services, such as single local-road access, individual domestic wells and sewage-disposal systems, and rural fire protection. Ultimate density limitations in VLDR Districts shall be determined in part by prevailing lot sizes, and limitations of domestic water sources or soil conditions for subsurface sewage disposal. Opportunities for small-scale or intensive farm and forestry activities compatible with rural residential uses shall be encouraged in the VLDR Districts. In areas immediately adjacent to urban centers, the VLDR Districts are intended as transitional zones between F-80, EF-20, -40 or -80, AF-20, -40 or -80 and AF-10 Districts and higher-density LDR Districts or urban districts identified in city comprehensive plans.

[Amended 12/05/02; Ord. 720]

502.02 Permitted Uses.

In the VLDR Districts, the following uses shall be permitted subject to the standards and limitations set forth in subsection 502.06:

- A. Farm uses. The number of livestock and other animals that may be raised on a parcel is subject to the limitations in subsection 502.06(J). [Amended 3/19/98, Ord. 643; 7/9/98, Ord 648]
- B. Propagation and harvesting of Christmas trees;
- C. Principal Dwelling;
- D. Subdivisions, subject to the land division requirements set forth in Ordinance 205;
- E. Residential planned unit developments, subject to Section 903 of this ordinance and the land division requirements set forth in Ordinance 205;
- F. Accessory uses;
- G. Temporary structures as may be required during construction of an authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector;
- H. Manufactured home storage and temporary sales offices for permitted uses, pursuant to the Type A application procedure set forth in Section 1301 and subject to Section 1009 for temporary permits;

- I. Signs, pursuant to the sign provisions set forth in Section 1006;

ORS 657A.440 allows a registered or certified family child care home in residential zones so this use is being moved from the conditional to the permitted uses.

- J. Residential home or a registered or certified family child care home; and [Added 3/19/98; Ord. 643]
- K. Propagation and harvesting of forest products; [Added 12/05/02; Ord. 720]

502.03 Conditional Uses.

In the VLDR Districts, pursuant to the Type B application procedure set forth in Section 1301, and subject to the conditional use review criteria listed in Section 1202, and any other applicable criteria established by this ordinance, the following uses may be allowed conditionally:

- A. One manufactured dwelling or recreational vehicle, or the temporary use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or relative, as defined in ORS 215, of the resident, subject to the following:
1. The resident or relative of the resident is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence.
 2. The permit for the manufactured dwelling for the term of hardship shall be valid for a period of two years or a shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.
 3. The permit for the temporary dwelling for the term of hardship shall be granted to the applicant only and shall not be deemed to run with the land.
 4. The temporary dwelling shall use the same subsurface sewage disposal system as the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.
 5. When a recreational vehicle is allowed to be used as a temporary structure the recreational vehicle site shall have services, inspected and approved by the building department which includes, electricity, plumbing and connection to an approved septic system.
 6. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. In the case of a recreational vehicle, within three months of the end of the hardship, it shall be removed, demolished or may remain on the property and used in accordance with Section 501.06(H). A temporary residence approved under this paragraph is not eligible for replacement. [Amended 07/29/04; Ord. 743]

- B. Home occupation, as defined by this ordinance, subject to the standards and limitations set forth in Section 1004.
- C. Operations conducted for the exploration of oil, natural gas or geothermal resources subject to the requirements in subsection 404.10;

ORS 657A.440 allows a registered or certified family child care home in residential zones so this use is being moved from the conditional to the permitted uses.

- D. ~~Kindergarten, day nursery, or day care facility~~ in conjunction with a principal dwelling on the same parcel, subject to the standards for day care facilities set forth in Section 1008;
- E. Community or municipal water-supply system, except within acknowledged service boundaries;
- F. Community or municipal sanitary-sewer system;
- G. Utility facility, subject to Section 1101 for site design review;
- H. Public or private school, including all buildings essential to the operation of a school, subject to Section 1101, Site Design Review; and [Amended 8/13/98, Ord. 657]
- I. Church, subject to Section 1101, Site Design Review. [Amended 8/13/98, Ord. 657]
- J. A church may offer overnight camping space on institution property to homeless persons living in vehicles provided there are three or fewer vehicles and campers have access to sanitary facilities including but not limited to toilet, hand washing and trash disposal facilities. [Added 12/05/02; Ord. 720]
- K. Park, playground, recreational area or open space which is publicly or privately owned, operated or maintained, including fishing and wildlife preserves but excluding hunting preserves. [Amended 09/02/04; Ord. 741]
- L. Community Centers. [Added 09/02/04; Ord. 746]
- M. Residential facility as defined in ORS 197.660. [Added 09/02/04; Ord. 746]

502.04 Prohibited Uses.

Uses of land and water not specifically mentioned in this section shall be prohibited in the VLDR Districts.

502.05 Nonconforming Uses.

Nonconforming uses found in the VLDR Districts are subject to the nonconforming use provisions of Section 1205 as well as any other applicable provisions of this ordinance.

502.06 Standards and Limitations.

In the VLDR Districts, the following standards and limitations shall apply:

- A. Dwelling Density.

1. Permitted Uses.

- (a) The maximum overall dwelling density for any new development shall not exceed:
 - i. one (1) dwelling per five (5) acres in the VLDR-5 District;
 - ii. one (1) dwelling per two and one-half (2 ½) acres in the VLDR-2 ½ District; and
 - iii. one (1) dwelling per acre in the VLDR-1 District.
- (b) Not more than one (1) principal dwelling shall be permitted on any parcel, except in the case of a planned unit development and except as follows:
 - i. one (1) duplex may be allowed on any ten (10) acre parcel in the VLDR-5 District.
 - ii. one (1) duplex may be allowed on any five (5) acre parcel in the VLDR-2 ½ District; and
 - iii. one (1) duplex may be allowed on any two (2) acre parcel in the VLDR-1 District.
- (c) For the division of any contiguous lands under the same ownership, parcel sizes may be averaged provided that the maximum overall density of the applicable VLDR District is not exceeded, and provided that no parcel shall be below the applicable minimum parcel size established by subsection 502.06(B). In the case of parcel-size averaging, the landowner shall record an affidavit with the county clerk specifying the imposed conditions which are applicable to the newly-created parcels, including overall residential density, etc.

2. Conditional Uses.

Not more than one (1) secondary dwelling shall be permitted on any parcel.

B. Parcel Size and Dimension.

1. VLDR-5 District.

- (a) Newly-Created Parcels. The minimum size of any newly-created parcel shall be five (5) acres, except as follows:
 - i. In the case of parcel-size averaging, the minimum parcel size shall be two and one-half (2 ½) acres;
 - ii. In the case of a duplex, the minimum parcel size shall be (10) acres; and
 - iii. In the case of a duplex or multi-family planned unit development, the minimum parcel size shall be twenty (20) acres.

- (b) Pre-existing Lots of Record. Any permitted or conditional use provided for in this District may be established on a substandard pre-existing lot of record, subject to the applicable requirements of this section. In addition, prior to issuance of a building permit for a principal dwelling, the provisions of Section 1204 shall be satisfied.
- (c) Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 3:1.

2. VLDR-2 ½.

- (a) Newly-Created Parcels. The minimum size of any newly-created parcel shall be two and one-half (2 ½) acres, except as follows:
 - i. in the case of parcel-size averaging, the minimum parcel size shall be one (1) acre; and
 - ii. in the case of a duplex, the minimum parcel shall be five (5) acres; and
 - iii. in the case of a residential planned unit development, the minimum parcel size shall be ten (10) acres.
- (b) Pre-existing Lots of Record. Any permitted or conditional use provided for in this District may be established on a substandard pre-existing lot of record, subject to the applicable requirements of this section. In addition, prior to issuance of a building permit for a principal dwelling, the provisions of Section 1204 shall be satisfied.
- (c) Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 3:1.

3. VLDR-1.

- (a) Newly-Created Parcels. The minimum size of any newly-created parcel shall be one (1) acre, except as follows:
 - i. in the case of parcel-size averaging, the minimum parcel size shall be 20,000 square feet; and
 - ii. in the case of a duplex, the minimum parcel size shall be two (2) acres; and
 - iii. in the case of a residential planned unit development, the minimum parcel size shall be five (5) acres.
- (b) Pre-existing Lots of Record. Any permitted or conditional use provided for in this District may be established on a substandard pre-existing lot of record, subject to the applicable requirements of this section. In addition, prior to issuance of a building permit for a principal dwelling, the provisions of Section 1204 shall be satisfied.

- (c) Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 3:1.

C. Setbacks.

The following setback requirements apply to all VLDR Districts unless varied or waived by a planned unit development, subject to Section 903:

1. Front Yard. The minimum front yard setback shall be thirty (30) feet except as follows:
 - (a) No dwelling shall be located within one hundred (100) feet of the property line of an existing extraction or mining operation nor less than two hundred (200) feet from an existing extraction operation.
 - (b) The minimum setback for all yards for signs shall be five (5) feet; and
 - (c) No structure housing livestock shall be located within fifty (50) feet of any front parcel line, twenty-five (25) feet of any other parcel line, and forty (40) feet of any dwelling.
2. Side and Rear Yard. The minimum side and rear yard setbacks shall be fifteen (15) feet, except as provided in this subsection.
3. An accessory structure not more than fifteen (15) feet in height, at least sixty (60) feet from a road, and at least ten (10) feet from any dwelling may be located a minimum distance of three (3) feet from the property line in a side yard or rear yard.
4. A swimming pool may be located in a required rear yard, provided it lies a minimum of five (5) feet from the rear property line.
5. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision area requirements of subsection 502.06(F).

[Subsection C amended 7/9/98, Ord. 648]

D. Parcel Coverage.

For any parcel of one (1) acre or more, but less than ten (10) acres, the maximum parcel coverage shall be ten (10) percent. For any parcel of less than one (1) acre, the maximum parcel coverage shall be fifteen (15) percent.

E. Access.

Before a dwelling may be established on any parcel as provided in this section, the parcel shall have a legal, safe and passable means of access by abutting at least twenty (20) feet either directly upon a public road, or by a private easement which is at least thirty (30) feet in width for its entire length and which also abuts upon a public road for at least thirty (30) feet. Nothing in this section shall be construed to vary or waive the requirements for creation of new access contained in any Land Division Ordinance legally adopted by Yamhill County.

F. Clear-Vision Areas.

A clear-vision area shall be maintained on the corner of any parcel at the intersection of any two of the following: County roads, public roads, private roads serving four or more parcels; and railroads. A clear-vision area shall contain no sight-obscuring structures or planting exceeding thirty (30) inches in within a triangle formed by the lot corner nearest the intersection, and the two points twenty (20) feet from this corner as measured along the parcel lines adjacent to the intersecting rights-of-way. Trees exceeding this may be located such that their branches extend into this triangle, provided they are maintained to allow at least twelve (12) feet of visual clearance within the triangle below the lowest hanging branches.

G. Height.

1. The maximum building height for any dwelling shall be thirty-five (35) feet;
[Amended 4/9/97; Ord. 624]
2. The maximum building height for all other structures shall be forty-five (45) feet, except for accessory structures on any parcel of less than ten (10) acres the maximum building height shall be thirty-five (35) feet; and
[Amended 4/9/97; Ord. 624]
3. Appurtenances usually required to be placed above the roof level and not intended for human occupancy such as spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys and wind generators are not subject to the height limitations of this ordinance.

H. Occupancy of Recreational Vehicles.

One (1) recreational vehicle shall be permitted to be parked on any parcel in conjunction with a principal dwelling, and may be used for the temporary accommodation of guests for a period of up to 30 days total in any year. In no case shall any recreational vehicle be used as a principal dwelling or rented unless and until the necessary permits have been obtained.

[Amended 7/9/98, Ord. 648]

I. Off-Street Parking.

1. In the VLDR Districts, prior to establishment of any dwelling, sufficient area must be provided to allow for at least one (1) emergency vehicle turnaround; and
2. Parking requirements for those uses which may generate traffic beyond what is normally expected in the VLDR Districts, including multi-family dwellings, shall be determined by the Director subject to the provisions of Section 1007.

J. Livestock.

The keeping of livestock shall be allowed subject to the following restrictions:

1. On any parcel of one-half ($\frac{1}{2}$) acre or less, the total number of fowl, rabbits and other similar small animals shall not exceed twenty-five (25) and no other livestock of any kind shall be permitted;
2. On any parcel of less than ten (10) acres, the total number of animal units shall not exceed one (1) for each one (1) acre of parcel area. Animal units shall be counted as follows: horse 1.0, cow over 18 months old 1.0, calf 0.6, cow and calf pair 1.35, sheep 0.2, pig 0.5 and goat 0.2.
[Amended 12/05/02; Ord. 720]

3. On any parcel of less than ten (10) acres, the total number of fowl, rabbits and other similar small animals shall not exceed twenty-five (25), plus one (1) for each five hundred (500) square feet of parcel area in excess of one-half ($\frac{1}{2}$) acre and the total number of bee colonies shall not exceed one (1) per two thousand (2,000) square feet of parcel area;
4. All livestock shall be properly fenced and contained so as to minimize adverse impacts to surrounding property owners; and
5. All animal food shall be stored in metal or other rodent-proof receptacles.

F:\Share\ZO\502_G-01-12Final.wpd

Docket G-01-12 - ORDINANCE AMENDMENTS

Language to be added is underlined and language to be deleted is ~~crossed out~~.

The explanations for the changes are noted in the boxes.

SECTION 600 – COMMERCIAL DISTRICTS

601. RECREATION COMMERCIAL DISTRICT (RC)

[Last Amended 12/05/02; Ord. 720]

601.01 Purpose.

The purpose of the RC District is to provide specialized commercial services in conjunction with a recreational use. This district is intended to meet present foreseeable demand for recreational commercial services both inside and outside urban growth boundaries where special location and space requirements are necessary for the recreational use. The size and intensity of development or facilities and uses within this district shall be commensurate with the capability of land and water areas to support the uses intended, and shall not result in any unusual service demands on nearby urban centers.

601.02 Permitted Uses.

In the RC District, the following uses shall be permitted subject to the standards and limitations set forth in subsection 601.07, and pursuant to Section 1101 for site design review.

- A. Resort;
- B. Entertainment facility, food store (maximum floor area of two thousand (2,000) square feet), gift, souvenir or antique shop, motel, restaurant or other similar uses in conjunction with a resort;
- C. Indoor commercial recreation facility;
- D. Golf course, golf course and driving range or driving range, not in conjunction with a golf course;
[Golf Course Added 12/05/02; Ord. 720]
- E. Miniature golf;
- F. RV park, subject to the RV park provisions of Section 1003;
- G. Dwelling in conjunction with a permitted use. Site design review is not required for the dwelling;
[Amended 7/9/98, Ord. 648]
- H. Accessory uses;
- I. Temporary structures as may be required during construction of an authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector;
- J. Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to the requirements in subsection 404.10;
- K. Community or municipal water supply system;

- L. Community or municipal sewer system; and
- M. Signs, pursuant to the sign provisions set forth in Section 1006.
- N. Country inn.

Need to add “Country Inn” as a permitted use in the RC district (Brookside Inn application).

The following would be added to the definitions found Section 200 of the Yamhill County Zoning Ordinance:

COUNTRY INN: A building where lodging and meal service for overnight guests are offered for compensation, having no more than 25 rooms for lodging. A Country Inn may offer meals to overnights guests or an equivalent number of patrons based on the maximum capacity of the inn.

601.03 Conditional Uses.

In the RC District, pursuant to the Type B application procedure as set forth in Section 1301, and subject to the conditional use review criteria listed in Section 1202, and subject to Section 1101 for site design review and any other applicable criteria established by this ordinance, the following uses may be allowed conditionally:

- A. Drive-in theater;
- B. Open-land commercial or private recreation use, such as zoo, racing circuit, motorcycle hill climb, skydiving facility and similar uses;
- C. Home occupation, subject to the standards and limitations set forth in Section 1004;
- D. Utility facility, subject to Section 1101 for site design review.

601.04 Similar Uses.

Any use not specifically listed as a permitted or conditional use in this district that is similar in character, scale and performance to the permitted uses specified in subsection 601.02 may be allowed as a similar use, subject to the provisions of Section 1206, and pursuant to the Type A application procedure set forth in Section 1301.

601.05 Prohibited Uses.

Uses of land and water not specifically mentioned in this section, and not allowed as a similar use, are prohibited in the RC District.

601.06 Nonconforming Uses.

Nonconforming uses found in the RC District are subject to the nonconforming use provisions of Section 1205 as well as any other applicable provisions of this ordinance.

601.07 Standards and Limitations.

In the RC District, the following standards and limitations shall apply:

A. Dwelling Density.

1. Not more than one (1) dwelling shall be permitted on any parcel.

B. Parcel Size and Dimension.

1. Minimum Parcel Size. The minimum parcel size for any use, including a PUD, shall be two (2) acres.
2. Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 3:1.

C. Setbacks.

1. Front Yard. The minimum front yard setback shall be thirty (30) feet, except as follows:
 - (a) The minimum setback for all yards for an RV park shall be twenty (20) feet when abutting a road and otherwise shall be ten (10) feet for all yards; and
 - (b) The minimum setback for all yards for signs shall be five (5) feet.
2. Side and Rear Yard. The minimum side and rear yard setbacks shall be thirty (30) feet, except as provided in this subsection.
3. An accessory structure not more than fifteen (15) feet in height, at least sixty (60) feet from a road and at least ten (10) feet from any dwelling, may be located a minimum distance of three (3) feet from the property line in a side yard or rear yard.
4. A swimming pool may be located in a required rear yard, provided it lies a minimum of five (5) feet from the rear property line.
5. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision area requirements of subsection 601.07(E).

[Amended 7/9/98, Ord. 648]

D. Access.

Before a dwelling may be established on any parcel as provided in this section, the parcel shall have a legal, safe and passable means of access by abutting at least twenty (20) feet either directly upon a public road, or by a private easement which is at least thirty (30) feet in width for its entire length and which also abuts upon a public road for at least thirty (30) feet. Nothing in this section shall be construed to vary or waive the requirements for creation of new access contained in any Land Division Ordinance legally adopted by Yamhill County.

E. Clear-Vision Areas.

A clear-vision area shall be maintained on the corner of any parcel at the intersection of any two of the following: County roads, public roads, private roads serving four or more parcels; and railroads. A clear-vision area shall contain no sight-obscuring structures or plantings exceeding thirty (30) inches in height within a triangle formed by the lot corner nearest the intersection, and the two points twenty (20) feet from this corner as measured along the parcel lines adjacent to the intersecting rights-of-way. Trees exceeding this height may be located such that their branches extend into this triangle, provided they are maintained to allow at least twelve (12) feet of visual clearance within the triangle below the lowest hanging branches.

F. Height.

1. The maximum building height for any dwelling shall be thirty-five (35) feet;
2. The maximum building height for all other structures shall be forty-five (45) feet; and
3. Appurtenances usually required to be placed above the roof level and not intended for human occupancy such as spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys and wind generators are not subject to the height limitations of this ordinance.

G. Off-street Parking.

Off-street parking and loading requirements for any use in the RC District shall be as provided in Section 1007.

Docket G-01-12 - ORDINANCE AMENDMENTS

Language to be added is underlined and language to be deleted is ~~crossed out~~.

The explanations for the changes are noted in the boxes.

902. WILLAMETTE RIVER GREENWAY OVERLAY DISTRICT (WRG)

902.01 Purpose.

The purpose of the WRG Overlay District is to:

- A. Protect and preserve the natural, scenic and recreational qualities of lands along the Willamette River in Yamhill County;
- B. Preserve and allow the restoration of historical sites, structures, facilities and objects on lands along the Willamette River;
- C. Implement the goals and policies of the Comprehensive Plan and of the State of Oregon's Willamette River Greenway program;
- D. Establish standards and requirements for the use of lands within the Willamette River Greenway of Yamhill County; and
- E. Provide for the review of any intensification, change of use or development of properties located within the Willamette River Greenway of Yamhill County.

902.02 Definitions.

For the purpose of this Section, the following words, terms and expressions shall be interpreted in accordance with the following definitions, unless the context requires otherwise:

- A. **BOAT MOORAGE** - a structure located within the waters of the Willamette River and attached to shore for the purpose of securing one or more boats.
- B. **CHANGE OF USE** - making a different use of the land or water than that which existed on December 6, 1975, including a change which requires construction, alterations of the land or water or other areas outside of existing buildings or structures and which substantially alters or affects the land or water.
- C. **DEVELOPMENT** - any activity within the WRG Overlay District which would alter the elevation of the land, remove or destroy plant life, cause structures of any kind to be installed, erected, or removed, or a change of any kind from the conditions existing as of the effective date of this Ordinance, but not including farm use.
- D. **INTENSIFICATION OF USE** - any additions which increase or expand the area or amount of an existing use, or the level of activity.
- E. **NATURAL VEGETATIVE FRINGE** - the natural vegetative area that provides a transition between the water of a River and to most landward edge of such natural vegetated area.
- F. **ORDINARY HIGH WATER** - the level to which waters ordinarily rise annually, usually represented by the line of permanent vegetation.

- G. **WATER-DEPENDENT USE** - a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water. Except as necessary for water-dependent uses or facilities, residences, parking lots, factories and trailer parks are not generally considered to be water-dependent uses.
- H. **WATER-RELATED USE** - a use which is not directly dependent upon access to a water body, but which provides goods or services that are directly associated with water-dependent land or waterway use, and which goods or services, if the use were not located adjacent to water, would be of lesser quality resulting in a public loss. Except where as necessary for water-dependent or water-related uses or facilities, highways, restaurants, businesses, factories, and trailer parks are not generally considered to be water-related uses.

902.03

Area of Application.

- A. The provisions of this Section shall apply to all land and water located within the WRG Overlay District of Yamhill County as indicated on the Official Zoning Map. The boundary of this District is shown in detail on the aerial photo maps of the Official Willamette River Greenway Boundary as adopted by the State of Oregon. A copy of this document is on file in the Yamhill County Department of Planning and Development and is hereby adopted by reference and declared to be a part of this Section. Interpretation of the exact location of the boundary shall be made by the Director through use of the aerial photo maps.
- B. The WRG Overlay District shall be combined with at least one (1) underlying zoning district and may be combined with any zoning district pursuant to this Ordinance. All property within the WRG Overlay District shall be subject both to the provisions of this Section and to the provisions of the underlying zoning district. Nothing in this Section shall be construed as a waiver or suspension of the provisions of any underlying zoning district, or any other applicable overlay district.

902.04

Use Provisions.

All uses of land and water provided for in the specific underlying zoning district may be permitted in the WRG Overlay District, with the provisions that those uses which would result in a change of use, intensification of use, or development within the WRG Overlay District shall require a Greenway permit pursuant to the procedures set forth in subsection 902.05 for obtaining a Greenway permit, except for the following uses, which shall not require a Greenway permit:

- A. Farm uses as follows: the current employment of land, including that portion of such lands under buildings supporting accepted farming practices, for the purpose of obtaining a profit in money by raising, harvesting and selling crops; or by the feeding, breeding, management and sale of, or the production of livestock, poultry, fur-bearing animals, or honey bee; or by dairying and the sale of dairy products and other agricultural or horticultural use or animal husbandry; or by any combination thereof. Farm use includes the preparation, storage and marketing of the products raised on such land for man's use and animal use;
- B. Activities to protect, conserve, enhance and maintain public recreational, scenic, historical and natural uses on public lands, except that any substantial increase in the level of development of existing public recreational, scenic, historical or natural uses on public lands shall require a Greenway permit and shall be subject to the procedures set forth in subsection 902.05;
- C. Signs, markers, aids, etc., placed by a public agency to serve the public;

- C. Signs, markers, aids, etc., placed by a public agency to serve the public;
- D. Reasonable emergency procedures necessary for the safety or protection of property from natural hazards;
- E. Landscaping, construction of driveways, modifications of existing structures or the construction of accessory structures, provided that such activities are conducted in conjunction with uses already existing on the same lot and that they are accomplished in a manner compatible with the purpose of this Section;
- F. Maintenance and repair that is usual and necessary for the continuance of an existing use;
- G. The propagation of timber or the cutting of timber for public safety or personal noncommercial use and which does not require a permit in accordance with the Oregon Forest Practices Act;
- H. Water intakes and utilities in conjunction with a dwelling or an agricultural use;
- I. Gravel removal between the low water marks in the Willamette River, conducted under permit from the State of Oregon and in a manner compatible with the purpose of this Section; and
- J. Customary dredging and channel maintenance conducted under permit from the State of Oregon.

Only rarely does notice on a Greenway permit need to be sent to the Oregon Department of Transportation. If notice is sent, it is not necessary to do it by certified mail with a return receipt. Nearly all of our notices to public agencies are by e-mail. Therefore, the last sentence of Section 902.05(Greenway permit application) is to be deleted.

902.05 Greenway Permit Application.

Except as provided in subsection 902.04, a Greenway permit shall be obtained before the start of any development, change of use or intensification of use within the WRG Overlay District. A Greenway permit may be authorized pursuant to the Type B application procedure set forth in Section 1301 and subject to compliance with the considerations and criteria in subsection 902.06. ~~In addition to the notification requirements of Section 1402, written notice of the request and action taken will be sent to the Oregon Department of Transportation by certified mail with return receipt requested.~~

902.06 Greenway Permit Considerations and Criteria.

Prior to issuance of a Greenway permit, the applicant must demonstrate compliance with the following considerations and criteria:

- A. That the proposal conforms with the use provisions and standards and limitations of the underlying zoning district.
- B. That the proposal is consistent with the purpose of the WRG Overlay District as provided in subsection 902.01.
- C. That the natural vegetative fringe along the river shall be maintained in order to assure scenic quality, protection of wildlife, protection from erosion and screening of uses from

- E. That lands exhibiting Class I-IV soils for agricultural production shall be preserved and maintained for farm use.
- F. That significant fish and wildlife habitats shall be protected.
- G. That significant natural and scenic areas, viewpoints and vistas shall be preserved.
- H. That areas of ecological, scientific, historical or archeological significance shall be protected, preserved, restored or enhanced to the maximum extent possible.
- I. That areas of annual flooding, flood plains and wetlands shall be preserved in their natural state to the maximum possible extent to protect water retention, overflow and other natural functions.
- J. That any harvesting of timber shall be done in a manner which will ensure that wildlife habitat and the natural scenic qualities found in the WRG Overlay District will be maintained and will be restored.
- K. That the proposed development, change of use or intensification of use is compatible with the site, the surrounding area and the environment.
- L. That areas considered for development, change of use or intensification of use, which have erosion potential, shall be protected from loss by appropriate means which are compatible with the character of the Willamette River Boundary.
- M. That any extraction of aggregate deposits and reclamation shall be conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise and safety.
- N. That recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of land and with minimum conflict with farm use.
- O. That maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.
- P. That any development shall be located away from the River to the greatest possible degree. A minimum building setback line of fifty (50) feet from the ordinary high water line of the Willamette River shall be maintained, except for buildings and structures in conjunction with a water-dependent use.
- Q. The public access where necessary and appropriate, shall be provided to and along the River by appropriate legal means for any public use or development:
- R. That the development, change or intensification of use shall provide the maximum possible landscaped area, open space or vegetation between the activity and the River.

902.07 Conditions of Approval.

In approving an application for a Greenway permit, the decision-making body may impose such conditions as it deems appropriate to ensure that the intent of this Section is carried out. Such conditions shall be reasonably related to the criteria set forth in subsection 902.06.

902.08 General Requirements.

Any Greenway permit authorized pursuant to this Ordinance shall be subject to the following additional requirements:

- A. An authorized Greenway permit is not personal to the applicant and shall be deemed to run with the land, provided the subsequent owner or developer adheres to the specific proposal originally approved and complies with any conditions of approval.
- B. A Greenway permit shall become null and void one (1) year from the date it is granted unless substantial construction has taken place. The Director may extend the Greenway permit for an additional period not to exceed one (1) year upon receipt of a written request for extension from the applicant demonstrating good cause for the delay and provided that the request to extend the permit is received by the Director prior to expiration of the original approval.

902.09 Appeals.

Appeal of any decision made pursuant to this Section shall be as provided in Section 1404 of this Ordinance.

902.10 Trespass by Public.

Nothing in this Section is intended to authorize public use of private property. Public use of Private property is a trespass unless appropriate easements and access have been acquired in accordance with law to authorize such use.

Docket G-01-12 - ORDINANCE AMENDMENTS

Language to be added is underlined and language to be deleted is ~~crossed out~~.

The explanations for the changes are noted in the boxes.

SECTION 1100 – SITE DESIGN

1101. SITE DESIGN REVIEW PROCESS AND STANDARDS

[Last amended 12/05/02; Ord. 720]

1101.01 Purpose.

The site design review process is intended to guide future growth and development in accordance with the Comprehensive Plan and other related county ordinances, to provide for an effective process and framework to review commercial and industrial development proposals, to insure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment, and to resolve potential conflicts that may arise between proposed developments and adjacent uses. This section shall apply to all development in all Commercial, Industrial, and Public Facilities Districts, all development in the PRO District, and all other uses as may be required by this ordinance in the AF, EF, F-80, AF-10, VLDR and LDR Districts.

There is a need to add AF, EF and F Districts to the purpose statement.

1101.02 Evaluation of Site Development Plans.

- A. The review of a site development plan shall be based upon consideration of the following:
 - 1. Characteristics of adjoining and surrounding uses;
 - 2. Economic factors relating to the proposed use;
 - 3. Traffic safety, internal circulation and parking;
 - 4. Provisions for adequate noise and/or visual buffering from noncompatible uses;
 - 5. Retention of existing natural features on site;
 - 6. Problems that may arise due to development within potential hazard areas.
 - 7. Comments and/or recommendations of adjacent and vicinity property owners whose interests may be affected by the proposed use.

- B. All development applications for site design review are subject to the development standards of the underlying zoning district and may be modified pursuant to satisfaction of the considerations provided in subsection 1101.02(A). The Director may waive submittal requirements consistent with the scale of the project being reviewed, upon determining that requirements requested to be waived are not necessary for an effective evaluation of the site development plan.

1101.03 Site Development Plan Review Procedures.

The Director shall review site development plans subject to the following procedures:

- A. Pre-application Conference. A pre-application conference shall be held prior to submittal. An application form together with appropriate ordinance requirements shall be provided to the applicant at the pre-application conference.
- B. Preliminary Site Development Plan Submittal and Review. A preliminary plan, together with a site design review application, shall be submitted for review in accordance with the requirements of this section and the underlying zoning district. The Director shall determine whether the application will be reviewed under the Type A or Type B application procedures set forth in Section 1301, based on the type, scale, location and potential impacts of the development. The Director shall inform the applicant in writing concerning compliance with applicable ordinance and development standards, and shall stipulate any modifications or changes necessary for final plan approval. If modifications or changes are not required, a preliminary plan may be approved as a final plan. [Amended 7/9/98, Ord. 648]
- C. Final Site Development Plan Submittal. If a final site development plan is required, the final plan shall be submitted for review in accordance with the requirements of this section. The Director shall inform the applicant in writing within fifteen (15) days of receipt of the final site plan of action taken for approval.
- D. Appeal of Director's Decision. The decision of the Director may be appealed to the Board, pursuant to the provisions of Section 1404 for appeals.

1101.04 Preliminary Site Development Plan Requirements.

The following site design information shall be represented at a scale of 1"=5', or an appropriate scale as may be approved by the Director:

- A. Existing site conditions as follows:
 - 1. Site topography at the following minimum intervals:
 - (a) Two (2) foot intervals for slopes of up to 15%;
 - (b) Five (5) or ten (10) foot intervals for slopes in excess of 15%; and
 - (c) Identification of areas exceeding 35% slopes.
 - 2. Site drainage, creeks, ponds or areas of standing water, potential flooding and soil or geologic hazard;
 - 3. Major trees 8" in diameter at five (5) feet height, together with areas of significant natural vegetation. Where the site is heavily wooded, an aerial photograph, not to exceed 1"=400' may be submitted; and only those trees that will be affected by the proposed development need be sited accurately;

4. Classification of soil types within the site and discussion of their suitable uses;
5. Existing structures, improvements, roadway access and utilities, together with the film volume and page number of all easements affecting the property; and
6. Existing land uses, ownerships, property lines and building locations on adjoining and adjacent property within three hundred and fifty (350) feet of the subject property.

B. Proposed changes and improvements to the site as follows:

1. Proposed site improvements, including:
 - (a) Boundary lines and dimensions for the property and proposed topographical changes;
 - (b) All proposed structures, including finish floor elevations and setbacks;
 - (c) Vehicular and pedestrian circulation patterns and parking, loading and service areas;
 - (d) Site drainage plan, including location of sumps or settling ponds; and
 - (e) A boundary survey and cross sections, and profiles as may be required by the Director.
2. Proposed utilities, including subsurface sewerage, water supply system and electrical services. Inverse elevations shall be shown for all underground transmission lines.
3. Proposed access to public roads and highways, railroads or other commercial or industrial transportation systems.
4. Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses.
5. Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks.

C. A written statement to accompany the site development plan, containing the following:

1. A statement of present ownership of all lands included within the proposed development; and
2. A schedule of expected development.

1101.05 Final Site Plan Requirements.

The final development plans shall include the same information required for a preliminary plan together with any revisions, adjustments or refinements that may be required for compliance with the general development standards.

- A. The final plan shall include the following information and shall be labeled by the Director as follows:
 - Exhibit A - Proposed Schedule of Development
 - Exhibit B- Site Analysis (map of existing conditions)
 - Exhibit C - Site plan
 - Exhibit D - Final Grading Plan
 - Exhibit E - Landscape Plan in accordance with Section 1010
 - Exhibit F - Cross Sections, Elevations and/or Architectural Drawings of Proposed Structures
- B. If submittal of any of the above exhibits are waived by the Director, justification to support such a decision shall be provided by the Director.
- C. Any proposed changes in connection with an approved plan shall be reviewed and approved in accordance with the same procedures set forth under this section.

1101.06 Compliance with Site Development Plans.

Compliance with conditions imposed in granting a site design review and adherence to the approved plot plan shall be required. Any departure from these conditions of approval and approved plans constitutes a violation of this ordinance. The Director may revoke any site design review approval for failure to comply with any prescribed condition of the approval or for any other violation of this ordinance.

[Amended 12/05/02; Ord. 720]

1101.07 Revocation of a Site Design Review.

[Added 12/05/02; Ord. 720]

The procedure for the revocation of a site design review shall be as follows:

- A. If, upon review by the Director, a failure to comply with any condition imposed in granting a site design review or other violations of this ordinance is found, the Director shall inform the applicant by registered letter and first class mail of the violation and shall require compliance within sixty (60) days, or the Director will take action under subsection (B) of this section to revoke approval of the site design review. The Director's letter, constituting Notice of Intent to Revoke, may be appealed to the Board within thirty (30) days of its mailing. The Board shall consider the appeal in accordance with Section 1403 and may affirm, reverse, or modify the Director's Notice of Intent to Revoke. The applicant must comply with the Board's Order on Appeal of

Notice of Intent to Revoke within thirty (30) days of the issuance of the Board's decision. If the applicant does not comply with the Boards Order within thirty (30) days, the Director shall take action under subsection (B) of this section to revoke approval of the site design review. The Director may extend the time for compliance if the applicant provides financial or other assurances suitable to the Director that the conditions of approval will be satisfied and maintained.

- B. If the violation is not corrected within the time required by subsection A, the Director shall notify the applicant by registered and first class mail that the site design review has been revoked, and that any subsequent action on the application will require a new application for site design review approval.

Docket G-01-12 - ORDINANCE AMENDMENTS

Language to be added is underlined and language to be deleted is ~~crossed out~~.
The explanations for the changes are noted in the boxes.

SECTION 1200 – LAND USE APPLICATION REVIEW CRITERIA AND GENERAL REQUIREMENTS

1204. EXCEPTIONS TO STATEWIDE GOALS.

[Last amended 3/19/98, Ord. 643]

Goal Two of the Statewide Planning Goals, ORS 197.732, and Oregon Administrative Rules, Chapter 660, Division 4, specify the requirements for approval of an exception to a statewide planning goal.

An exception may be adopted to allow a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. An applicant may apply for an exception pursuant to those provisions, and subject to the Type C procedure of Section 1301 of this ordinance. The Planning Commission shall hold a public hearing to consider a request for an exception. Their decision shall be in the form of a recommendation to the Board of Commissioners, who shall also hold a public hearing prior to making a final decision on the request.

Pursuant to HB 2438 (2005) need to add: That an exception may be adopted to allow a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use.

Docket G-01-12 - ORDINANCE AMENDMENTS

Language to be added is underlined and language to be deleted is ~~crossed-out~~.
The explanations for the changes are noted in the boxes.

**SECTION 1200 –
LAND USE APPLICATION REVIEW CRITERIA AND GENERAL REQUIREMENTS**

1207. LEGISLATIVE AMENDMENTS TO THE ZONING ORDINANCE [Last amended 7/9/98, Ord. 648]

1207.01 General Requirements.

Legislative Ordinance amendments are processed as follows:

- A. An amendment may be initiated by the Board, the Commission, or the Director.
- B. An owner of land may petition the Board, the Commission, or the Director to initiate such an amendment, but may not initiate the amendment by making such an application.

The notice requirements for legislative hearings is in 1402.02. Unfortunately, the following notice section refers to all of 1402, which also includes the quasi-judicial public notice standards. This section needs to be changed to specify the notice requirements of 1402.02.

- C. Such amendments shall be made only by the Board after review and recommendation by the Commission, and after public hearings have been held by both the Commission and Board, pursuant to Section 1402.02 of this ordinance.

The legislative change to the Yamhill County Zoning Ordinance needs to comply with the Yamhill County Comprehensive Plan. Since the Yamhill County Comprehensive Plan goals and policies have already been judged to comply with federal, state and local government rules and statutes, adopting findings to that effect is unnecessary.

- D. Approval of a legislative ordinance amendment shall include findings showing the amendment is consistent with ~~any applicable federal, state and local government rules and statutes, and~~ the comprehensive plan goals and policies. [Last amended 7/9/98, Ord. 648]
- E. Changes to the County zoning map which result from legislative ordinance amendments shall be made and become effective upon filing said ordinance with the County Clerk.

Docket G-01-12 - ORDINANCE AMENDMENTS

Language to be added is underlined and language to be deleted is ~~crossed-out~~.

The explanations for the changes are noted in the boxes.

SECTION 1300 – APPLICATION REQUIREMENTS AND PROCEDURES

1301. SUMMARY OF APPLICATION AND REVIEW PROCEDURES.

[Last Amended 12/05/02; Ord. 720]

1301.01 Type A, B and C Procedures

The review of applications received under the provisions of this ordinance shall be conducted according to one or more of the three procedures described below:

A. Type A Procedure

The following procedure shall be used when county ordinance requires Type A review of an application:

1. Prior to or at the time of filing an application, the applicant or the applicant's authorized representative shall meet with the Director or an authorized representative of the Department of Planning and Development in a pre-application conference to review requirements and concerns about the applicant's request;
2. The applicant shall submit an application to the Department on a form prescribed by the Director;
3. Upon receipt of a complete application the Director shall review the application and shall make a decision based on an evaluation of the proposal and on the applicable criteria in this ordinance. The Director may, at his/her discretion, forward the application to the Planning Commission and have the request processed under the Type C review procedures. [Amended 1/14/99; Ord. 668; 12/05/02; Ord. 720]
4. The applicant and the surrounding property owners who are entitled to notice pursuant to state law shall be notified in writing of the Director's decision and of the reasons for the decision. Others who may have an interest in the decision shall be notified by publication in a newspaper of general circulation in the county. [Amended 12/05/02; Ord. 720]
5. All decisions of the Director may be appealed to the Board if such an appeal is filed within 15 days from the date of the decision, pursuant to Section 1404 for appeals.

B. Type B Procedure.

The following procedure shall be used when county ordinance requires Type B review of an application:

1. Prior to or at the time of filing an application, the applicant or the applicant's authorized representative shall meet with the Director or an authorized representative of the Department of Planning and Development in a pre-application conference to review requirements and concerns about the applicant's request;

2. The applicant shall submit an application to the Department on a form prescribed by the Director;
3. Owners of land adjoining the subject property and others as required under the Type A provisions, the Board, and the Commission, shall be notified of the application. Others who may have an interest in the application shall be notified by publication in a newspaper of general circulation in the county. The Director shall have the right to provide written notice to such other persons as deemed appropriate. Those notified shall be given 15 days from the date of notification to either submit a written request for public hearing, or bring to the attention of the Director objections to approval or any adverse consequences or incompatibilities that may result from approval. A request for a hearing shall be in writing, shall state the basis for requesting the hearing and shall be accompanied by payment of a fee to cover the cost of the hearing. No fee shall be required if the hearing is requested by the Board, Commission, appropriate planning advisory committee, or the Director.

[Amended 12/05/02; Ord. 720]

ORS 215.427 has been amended to allow counties 150 days instead of 120 days to issue a final decision. Section 1301 needs to be amended to state 150 instead of 120.

4. If no timely written request for a public hearing is received by the Director, the Director shall either approve or deny the application. The Director may attach additional conditions to an approval based on comments received during the 15 day period following public notice. The Director shall make a decision based on an evaluation of the proposal within ~~120~~ 150 days of receipt of a complete application, or such longer period mutually agreed to by the Director and the applicant. The applicant and those who commented during the 15 day period following public notice shall be notified in writing of the Director's decision and the reasons for the decision. A decision of the Director made pursuant to this subsection may be appealed to the Board by filing pursuant to Section 1404 of this ordinance no later than 15 days from the date of the decision.
5. If the Director receives a timely written request for public hearing, as specified in this section, the Director shall schedule a public hearing before the Commission or hearings officer, according to the Type C procedure described in subsection 1301.01(C) and in accordance with the public notice requirements of Section 1402.

[Amended 12/05/02; Ord. 720]

C. Type C Procedure - Public Hearing Before the Commission or Hearings Officer.

The following procedure shall be used when county ordinance requires Type C review of an application.

1. Prior to or at the time of filing an application, a pre-application conference shall be conducted in which the applicant or the applicant's authorized representative shall meet with the Director or an authorized member of the department to review requirements and concerns about the applicant's request.
2. The applicant shall submit an application to the Department of Planning and Development on a form prescribed by the Director;
3. Upon receipt of a complete application, a public hearing shall be scheduled and public notice mailed and published according to the public notice requirements contained in Section 1402;

4. At the public hearing the county staff, the applicant, and other interested parties may present information relevant to the proposal, and may give reasons why the application should or should not be approved; [Amended 12/05/02; Ord. 720]
5. For applications that do not involve plan amendments, within 150 days of receipt of a completed application, or such longer period mutually agreed to by both the Director and the applicant, the application shall be approved or denied based on an evaluation of the proposal and applicable criteria as set forth in this ordinance; [Amended 12/05/02; Ord. 720]
6. The applicant shall be notified in writing of the decision and of the reasons for the decision; and
7. All decisions of the Commission or hearings officer may be appealed to the Board, if the appeal is filed within 15 days from the date of the decision, pursuant to Section 1404 for appeals.

1301.02 Effective Date of Decision.

The effective date of decision is the date of recording of the final order or, if the decision is such that no order is to be filed, the effective date of decision is the date of the letter notifying the applicant of the decision.

1301.03 Reapplication.

If an application is denied, no new application for the same or substantially similar action shall be filed for at least one year from the effective date of decision.

1301.04 Review by the Commission.

The Commission may, on its own motion, initiate review of any decision of the Director made pursuant to the review procedures of subsection 1301.01 if within 15 days of the decision, a request is received from one or more members of the Commission for review of the decision and at the next regularly scheduled meeting of the Commission a motion is passed to review the decision. Review by the Commission shall be subject to Section 1404 for appeals.

1301.05 Review by the Board.

The Board may, on its own motion, order review of any decision made pursuant to the review procedures of subsection 1301.01 if such a motion is made within 15 days of the decision, subject to Section 1403 for Board review.

1301.06 Effective Date of Application.

Approval of any land use application, as provided for in the review procedures of subsection 1301.01, shall not be effective, and no development permits shall be issued, until the appeal period has elapsed.

Docket G-01-12 - ORDINANCE AMENDMENTS

Language to be added is underlined and language to be deleted is ~~crossed out~~.
The explanations for the changes are noted in the boxes.

SECTION 1400 – ADMINISTRATIVE PROVISIONS

1401. ADMINISTRATION.

[Last amended 12/05/02; Ord. 720]

1401.01 Interpretation and Enforcement.

The Board shall have the authority and duty to interpret and enforce the provisions of this ordinance.

1401.02 Conformance to Ordinance Requirements.

All State, County and local officials, departments and employees vested with authority to issue permits, certificates or licenses shall adhere to and require conformance with the provisions of this ordinance.

1402. PUBLIC HEARINGS

1402.01 Notice of Quasi-Judicial Public Hearing.

Notice of any quasi-judicial public hearing authorized or required by this ordinance shall be published in a newspaper of general circulation in the county at least ten (10) days prior to the hearing date, and shall be sent to affected property owners within the following distance of the boundaries of the parcel which is the subject of the application or that larger distance determined appropriate by the Director:

1. Within 750 feet when the subject parcel is within a farm or forest district;
[Amended 12/05/02; Ord. 720]
2. Within 250 feet when the subject parcel is not within an urban growth boundary or a farm or forest district, or is partially within an urban growth boundary;
3. Within 100 feet when the subject parcel is entirely within an urban growth boundary.

The notice shall be sent by mail at least twenty (20) days prior to the hearing, or ten (10) days prior to the hearing date when two hearings are required. The address used by the Director in providing notice by mail shall be the address then existing in the tax records of Yamhill County.

[Amended 3/19/98, Ord. 643]

1402.02 Notice of Legislative Public Hearing.

Notice of any legislative public hearing authorized or required by this ordinance shall be published in a newspaper of general circulation in the county at least ten (10) days prior to the hearing date.

1402.03 Continuance of Hearing.

A public hearing may be continued as is necessary to gather additional information on the application or for other good reason and no additional notice need be given if the hearing is adjourned to a time and a date certain, unless otherwise ordered by the hearings body.

There is a need to clarify that the initial evidentiary hearing is a quasi-judicial hearing.

1402.04 Rules Governing Public Hearing.

The initial quasi-judicial evidentiary hearing shall be a de novo hearing and shall be conducted in accordance with the requirements of ORS 197.763. [Amended 12/05/02; Ord. 720]

1402.05 Appointment of Hearings Officer.

The Board may appoint or designate one (1) or more qualified persons as Hearings Officers, who shall have the authority to conduct any public hearing authorized or required by this ordinance.

1402.06 Ex Parte Contact.

In any land use application subject to a quasi-judicial hearing process, the Board, Commission, or Hearings Officer shall not:

- A. Communicate, directly or indirectly, with any party or his representative in connection with any issue involved except upon notice and with opportunity for all parties to participate;
- B. Take notice of any communication, reports, staff memoranda, or other materials prepared in connection with the particular case unless all parties are afforded an opportunity to contest the materials so noticed; or
- C. Inspect the property with any party or his representative unless all parties are given such notice as the Board determines to be fair and just.

1402.07 Testimony.

- A. Testimony presented at hearings shall be pertinent and based upon sound reasoning, and shall be incorporated into the record unless the Chair rules such information to be excluded from the record as immaterial, or of questionable fact, intent or merit, based upon objection raised by Commission or Board members or other parties having standing in the hearing.
- B. All testimony not excluded shall become a part of the hearing record, and in addition to verbal testimony, may be presented in written form or incorporated by reference.
- C. In ascertaining whether or not the party providing testimony has standing, the chair may ask that such party identify and/or document the basis of standing, or may question the source of the information, or the interest or qualifications of the party submitting testimony, or question how the party giving testimony might be beneficially or adversely affected by the action under consideration.
- D. In the event that it is determined that a party does not have standing because the party will not be beneficially or adversely affected by the action under consideration, the Chair may direct

that any prior testimony by that party be stricken from the record, and that further testimony from the party be prohibited.

- E. The Chair may set reasonable and fair time limits for oral presentation of testimony.
- F. Minutes of the meeting shall be accepted as the official hearing record. A verbatim transcript is not required.

1403. REVIEW BY THE BOARD.

1403.01 Review by the Board.

Review by the Board at a public hearing shall be accomplished in accordance with its own adopted Rules of Procedure and the requirements of this ordinance. The Board may continue its hearing to gather additional evidence or to consider the application more completely. Unless otherwise provided by the Board, no additional notice need be given of continued hearings if the matter is continued to a time certain.

1403.02 Notice Requirements.

Notice of hearing and a record of the proceeding shall be the same as required for initial hearings on proposed actions as provided in Section 1402.

1403.03 Review on Record.

Unless otherwise provided in subsection 1402.04 or by the Board under subsection 1403.04, the review of the decision of the Commission or Hearings Officer by the Board shall be confined to the record of the proceeding, which shall include: [Amended 12/05/02; Ord. 720]

- A. All materials, pleading, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the Director, Commission or Hearings Officer as evidence;
- B. All materials submitted by the Director with respect to the application;
- C. The transcript or tape of the public hearing of the Commission or Hearings Officer;
- D. The findings and action of the Director, Commission or Hearings Officer and the notice of review; and
- E. Argument confined to the record by the parties or their legal representatives at the time of review before the Board.

1403.04 De Novo Hearing.

The Board may, at its option, whether or not upon a motion of a party, hold a de novo hearing or admit additional testimony and other evidence with or without holding a de novo hearing, if it is satisfied that the testimony or other evidence could not have been presented upon initial hearing and action. In deciding such admission, the Board shall consider:

- A. Prejudice to parties;

- B. Convenience of locating the evidence at the time of initial hearing;
- C. Surprise to opposing parties;
- D. When notice was given to other parties as to the attempt to admit; and
- E. The competency, relevancy and materiality of the proposed testimony and other evidence.

Upon a decision to admit additional testimony or evidence or to hear the entire matter de novo, the presentation of such testimony and evidence shall be governed by the procedures applicable to the presentation of such matters at the initial hearing.

1403.05 Board Action.

The Board may affirm, modify or reverse all or part of the action of the Director, Commission, or Hearings Officer, or may remand the matter to the decision-making body for additional review or information. In all cases the Board shall make findings to justify its action which are based upon the record before it and any additional testimony or other evidence it receives.

1404. APPEALS.

Sections 1404.01 and 1404.02 need to clarify that a land use decision made by the Planning Director, Planning Commission or Hearings Officer may be appealed to the Board of Commissioners.

1404.01 Appeals From Decisions of the ~~Commission or the~~ Planning Director.

Where it is alleged that there is error in any order, requirements, decision or determination land use decision made by the Director in the interpretation of this ordinance, an appeal therefrom may be made by an affected party only to the Board on a form prescribed by the Director. Such written appeal shall be filed with the Director within fifteen (15) days of the decision on a proposed action and shall be accompanied by the appropriate filing fee. Upon determination that the appeal request is complete and in order, a public hearing before the Board shall be scheduled and public notice mail and published according to the public notice requirements contained in Section 1402.

[Amended 3/19/98, Ord. 643]

- A. Board Action.

In hearing and deciding such an appeal:

1. The Board may affirm, modify or reverse all or part of the action of the Director so long as such action is in conformity with the ordinance;
2. The Board shall make findings based on the testimony or other evidence received by it as justification for its action; and
3. The Board, on its own motion, may order review of any decision of the Director within fifteen (15) days of the decision, pursuant to Section 1403 for Board review.

B. Commission Action.

The Commission, on its own motion, may order review of any decision of the Director within fifteen (15) days of the decision, pursuant to subsection 1301.04. The decision of the Commission shall be final unless appealed to the Board.

1404.02 Appeals From Decisions of the Commission or Hearings Officer.

Where it is alleged that there is error in any ~~order, requirement, decision or determination~~ land use decision made by the Commission or Hearings Officer, an appeal therefrom shall be made by an affected party only to the Board on a form prescribed by the Director. Such written appeal shall be filed with the Director within fifteen (15) days of the decision on a proposed action and shall be accompanied by the appropriate filing fee. The Board, on its own motion, may order review of any decision of the Commission or Hearings Officer within fifteen (15) days of the decision, pursuant to Section 1403 for Board review.

1404.03 Standing to Appeal.

- A. A decision by the Director, Planning Commission or Board of Commissioners to approve or deny an application or docket item request may be appealed provided the appellant has satisfied Subsections 1, 2, and 3:
1. Filed a written appeal, accompanied by the appropriate filing fee, with the Director within the time required by this ordinance submitted in accordance with Subsection B of this section;
 2. Appeared before the Commission, hearings officer or Board orally or in writing; and
 3. Meets one of the following criteria:
 - (a) Was entitled by this ordinance to notice and hearing prior to decision appealed; or
 - (b) Is aggrieved or has interests adversely affected by the decision.
- B. Any appeal filed shall be in writing, shall explain the basis of the appeal and shall include one or more of the following:
1. A reference to the ordinance provisions or plan policies providing the basis of the appeal.
 2. Reasons why the decision is factually or legally incorrect.
 3. A description of new information or additional facts which should have been considered in the decision.
 4. A description of any mitigating factors which might be taken to make the decision acceptable.

1405. FORMS AND FEES.

1405.01 Forms.

Petitions, applications and appeals provided for in this ordinance shall be made on forms prescribed by the Director. Applications shall be accompanied by plans and specifications, drawn to scale, showing the area and dimensions of the parcel to be used or developed; the sizes and locations on the parcel of existing and proposed structures; the intended use of each structure; the number of dwelling units, if any, to be accommodated thereon; the relationship of the lot or site to adjacent and surrounding lands; and such other information as is needed to determine compliance with this ordinance.

1405.02 Filing Fees.

For the purpose of defraying expenses involved in processing applications, fees shall be paid to the Director in favor of Yamhill County upon the filing of an application. Said fees and the amounts thereof shall be established by order of the Board. All fees shall be nonrefundable except when an application is withdrawn or deferred prior to the preparation, publication and issuance of any public hearing notice. Refunds shall be made at the authorization of the Board. Upon recommendation from the Director or the hearings body or upon its own motion, the Board may waive, for just cause, any filing fee established by this Section.

1406. REMEDIES FOR UNLAWFUL STRUCTURES OR LAND USE.

1406.01 In the event a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used, or any land is, or is proposed to be, used, in violation of an ordinance or regulation designed to implement the Yamhill County Comprehensive Plan, the governing body of the county or a person whose interest in real property in the county is or may be affected by the violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, or remove the unlawful location, construction, maintenance, repair, alteration or use.

1406.02 No person shall locate, construct, maintain, repair, alter, or use a building or other structure or use or transfer land in violation of this ordinance or any ordinance lawfully adopted by Yamhill County.