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YAMHILL COUNTY, OREGON

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CHARLES STERN
COUNTY CLERK

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

91-112

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance)
Responding to LCDC Remand Or-)
der 89-RA-556, Amending the)
Yamhill County Zoning Ordin-)
ance, No. 310, as amended,)
to Make Textual Amendments to)
Exclusive Farm Use 20 and 40)
Acre Zones and to Adopt a New)
Official Zoning Map, Planning)
Docket G-2-90. Declaring an)
Emergency, to be effective)
May 28, 1991.)

ORDINANCE 519

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board), sat for the transaction of county business in special session on February 27, 1991, Commissioners Dennis L. Goecks, Ted Lopuszynski and Debi Owens being present.

WHEREAS, ORS 197.640 through 197.650 require periodic review of local comprehensive plans and land use regulations to ensure they are in compliance with the statewide land use planning goals and are coordinated with plans and programs of state agencies; and

WHEREAS, Yamhill County received notice of the commencement of periodic review from the Department of Land Conservation and Development (DLCD) in December 1985 and has since substantially completed the review of its comprehensive plan and land use regulations; and

WHEREAS, most land use issues raised by DLCD in its initial periodic review notice were deemed resolved by the Land Conservation and Development Commission's adoption of LCDC Order 87-RA-306 as thereafter amended; and

WHEREAS, on August 2, 1989 the Director of DLCD issued, on behalf of LCDC, LCDC Order 89-RA-556 which further amended LCDC Order 87-RA-306 and required the county to address certain specific issues regarding Statewide Planning Goals 3 and 5; and

WHEREAS, since the promulgation of LCDC Order 89-RA-556 the county has adopted other ordinances to deal with specified Goal 5 issues (Ordinance 491, pigeon mineral springs and floodplain overlay district amendments; Ordinance 511, Walker Creek area) apart from historic resources; and

WHEREAS, LCDC Order 89-RA-556 required the following action by the county to comply with Goal 3:

"1. In order to comply with Goal 3, the county must either:

"(a) Amend the plan to provide information addressing the requirements under OAR 660-05-015 and 020 which demonstrate that the 40-acre minimum lot size under the EF-40 Zone and the 20-acre minimum lot size under the AF-20 Zone are appropriate for the continuation of the existing commercial agricultural enterprise within the areas where those zones are applied. (The identification of commercial farms may be conducted on a countywide or sub-county basis); or

"(b) Amend the case-by-case review standards...for the creation of new farm parcels. ...

"2. Amend Sections 402.06 and 403.06 to require that dwellings customarily provided in conjunction with farm use be located only on parcels which are large enough to satisfy the Goal 3 minimum lot size standard (i.e., appropriate for the continuation of the existing commercial agricultural enterprise within the area)."

;and

WHEREAS, the Board first responded to the Goal 3 requirements of LCDC Order 89-RA-556 by proposing, in August and September, 1989, to satisfy Goal 3 by amending the zoning ordinance to establish additional case-by-case review standards for the creation of new farm parcels, but found in the course of public hearings that all persons testifying were opposed to the proposal because of the uncertainty regarding whether a dwelling could be established on a particular parcel; and

WHEREAS, the Board thereafter sought and received from DLCD and LCDC additional extensions through February, 1991 to determine whether sufficient objective data existed to support a conclusion that any one or more particular minimum lot sizes was appropriate for the continuation of the existing agricultural enterprise within various areas of the county; and

WHEREAS, in 1989 the county established an Advisory Committee on Agricultural Lands to consider the issue of the appropriate size of Yamhill County farm parcels for the continuation of existing

commercial agriculture, said committee comprised of a cross section of representatives from diverse interest groups in the county; and

WHEREAS, the county thereafter received a grant from DLCD to assist the county in engaging an agricultural expert to conduct research to aid the county in determining the appropriate size of Yamhill County farm parcels, resulting in the publication by James R. Pease and Jay R. Lorenz, Oregon State University, in May, 1990 of the "Agricultural Resource Lands Project - Completion Report on Long-range Goals, Databases, Criteria, and Proposed Standards for the Exclusive Farm Use Zone;" and

WHEREAS, the Board on May 17, 1990 conducted a joint public hearing on the Goal 3 issue with the Yamhill County Planning Commission and thereafter assigned the Planning Commission to take public testimony and attempt to develop a proposal to meet the requirements of Goal 3 while providing a certain level of certainty to property owners; and

WHEREAS, the Planning Commission thereafter held public hearings on the issue on June 7, July 12, July 26, August 16, September 13, October 18 and November 15, 1990, and voted on November 15, 1990 to recommend to the Board that the Board adopt amendments to the EF-40 and AF-20 districts to provide for (a) establishment of farm dwellings in most circumstances where the minimum lot size is met in the respective zone; (b) additional standards to allow establishment of farm dwellings on pre-existing lots smaller than the minimum lot size where it is established that the parcel is appropriate for the continuation of existing commercial agriculture; and (c) no further creation of new parcels less than the minimum 20 or 40 acre size in the respective zone; and

WHEREAS, the Board thereafter held public hearings on the Planning Commission's recommendations on January 9, January 16, February 6 and February 13, 1991, and determined that the citizens of Yamhill County overwhelmingly supported retention of the county's 20 acre and 40 acre farm zones upon their belief that such lot sizes were adequate to support the continuation of existing agricultural enterprise within the county; and

WHEREAS, the Board believes that the information developed by Dr. Pease in the study referred to above and the public testimony received in the eleven public hearings is adequate to justify 20 and 40 acre zones as compliant with Goal 3; and

WHEREAS, the Board also believes that the information on farm parcel sizes developed by Dr. Pease establishes that certain specific areas of the county in exclusive farm use zones which are currently zoned 20 acre minimum should be increased to 40 acre minimum and certain specific areas which are currently zoned 40

acre minimum should be decreased to 20 acre minimum with the result that it is necessary to adopt a new Official Zoning Map; and

WHEREAS, the Board finds that the information developed through the study of Dr. Pease and the eleven public hearings before the Planning Commission and the Board from August, 1989 through February, 1991 has established that 20 acre and 40 acre zones are appropriate for the continuation of the existing commercial agricultural enterprise in Yamhill County for the reasons stated in Exhibit "D;" and

WHEREAS, adoption of this Ordinance is necessary to satisfy Goal 3 and Oregon Administrative Rule requirements and LCDC Order 89-RA-556; NOW, THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. Effective May 28, 1991, Sections 402 and 403 of Ordinance 310, as amended by Ordinances 331, 408, 412, 426, 444 and 468 are hereby repealed and replaced by new Sections 402 and 403 contained in the attached Exhibit "A" which is by this reference made a part of this ordinance.

Section 2. The attached Exhibit "B" is set forth for the convenience of the reader. Exhibit "B" identifies changes from the version of Sections 402 and 403 in effect at the time of adoption of this ordinance. Language contained in brackets has been deleted and language underlined has been added. In the event a conflict between Exhibit "A" and Exhibit "B" shall occur, Exhibit "A" shall control.

Section 3. Effective May 28, 1991, the exclusive farm use 40 acre district shall be referred to as the "AF-40" district rather than the "EF-40" district.

Section 4. Zoning Map Amendments. Section 302 of Ordinance 310, 1982, is hereby amended as provided in this section.

- a. Effective May 28, 1991, the Official Zoning Map of Yamhill County as adopted by Ordinance 310, 1982, as amended, is hereby replaced by the "1991 Official Zoning Map." The "1991 Official Zoning Map" is hereby adopted by reference and declared to be a part of this Ordinance. The "1991 Official Zoning Map" may be referred to as Exhibit "C" to this Ordinance.
- b. The original "1991 Official Zoning Map" shall be signed by the Chairman of the Board, attested by the County Clerk, and located in the office of the Director of the Department of Planning and Development.

- c. At the time of adoption of this Ordinance, five copies of the "1991 Official Zoning Map," certified as true copies by the Chairman of the Board and attested by the County Clerk, shall be produced. One copy shall be permanently retained by the County Clerk, one copy shall be permanently retained by the Board of Commissioners and three copies shall be provided to the Department of Land Conservation and Development.
- d. Except as specifically modified by this Section, all other terms and provisions of Section 302 of Ordinance 310, 1982, shall remain in full force and effect.

Section 5. The "Goal 3 Justification" attached to this Ordinance as Exhibit "D" is incorporated into this Ordinance by this reference. Exhibit "D" is hereby adopted to support the Board's determination that this Ordinance complies with Goal 3 and OAR 660-05-015 and 020.

Section 6. This Ordinance is not severable. If any section or subsection contained in this Ordinance or any Exhibit is found to be invalid or unconstitutional by a court of competent jurisdiction, the entire Ordinance shall be considered invalid or unconstitutional.

Section 7. This ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, shall be effective on May 28, 1991.

DONE at McMinnville, Oregon this 27th day of February, 1991.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk

Dennis L. Goecks
Chairman DENNIS L. GOECKS

By: Elaine Pearcey
Deputy ELAINE PEARCEY

Ted Lopuszynski
Commissioner TED LOPUSZYNSKI

FORM APPROVED BY:

John M. Gray, Jr.
JOHN M. GRAY, JR.
Yamhill County Counsel

Debi Owens
Commissioner DEBI OWENS

402. AGRICULTURE/FORESTRY DISTRICT (AF-40)**402.01 Purpose.**

The purpose of the Agriculture/Forestry (AF-40) District is to identify and protect land designated as Agriculture/Forestry Large Holding (AFLH) 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 AF-40 Agriculture/Forestry District are primarily large, contiguous terrace, valley-floor or foothill holdings. In Agriculture/Forestry 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 AF-40 District, the following uses shall be permitted subject to the standards and limitations set forth in subsection 402.10 and any other applicable provisions of this ordinance:

- A. Farm uses as defined in ORS 215.203.
- B. Propagation and harvesting of a forest product.
- C. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed on the National Register of Historic Places as specified in ORS 358.480; and
- D. Livestock feeding yard, provided that it shall be located:
 - 1. At least 200 feet from the centerline of any watercourse used for domestic water supply; and
 - 2. At least 500 feet from any residential zoning district or urban growth boundary unless the applicant has received a conditional use permit pursuant to Section 1202.
- E. Accessory uses.

- F. Temporary structures as may be required during construction of any authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector.
- G. Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to the Type A application procedure set forth in Section 1301.
- H. Public warehouses, as exempted by ORS 586.210 to 586.561.

402.03 Uses Permitted Subject to Standards

The following uses shall be permitted subject to the standards and limitations set forth in Section 402.10 and in the section of this ordinance indicated in brackets following the use. The type of notice procedure required pursuant to Section 1301 of this ordinance is also indicated in the brackets.

- A. Fruit and vegetable stand for produce grown on the property or on property in the same ownership [1101, 1301.A].
- B. Winery [1101, 1301.A].
- C. Principal or secondary dwelling customarily provided in conjunction with farm use [402.07, 1301.A].
- D. A secondary dwelling located on the same lot or parcel as the dwelling of the farm operator that is occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator [402.07, 1301.A].
- E. Farm labor housing customarily provided in conjunction with a farm use [402.07, 1101, 1301.A].
- F. Principal or secondary dwelling in conjunction with forest use [401.06, 1301.A].
- G. Municipal water supply, storage, and other public utility facilities necessary for public service and approved by appropriate state and/or federal agencies, except commercial facilities for the purpose

of generating power for public use by sale, and transmission towers over 200 feet in height [1101, 1301.A].

H. Mobile home storage [1009].

I. Signs [1006].

402.04 Conditional Uses.

The following uses are allowed in the AF-40 District upon conditional use approval. Approval of these uses is subject to the Conditional Use criteria and requirements of Section 1202 of this ordinance and any other provision set forth below. Applications shall be reviewed under the Type B procedure of Section 1301:

- A. Principal dwelling not in conjunction with a farm use, subject to Subsections 402.08, 402.09 and 402.10.
- B. Secondary dwelling of the type listed below, not in conjunction with farm use, subject to Subsections 402.08 and 402.10:
 1. Guest house.
 2. Temporary mobile home for family members requiring special care, subject to the following:
 - a. The family member who requires special care is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence.
 - b. The permit for the mobile home for special care 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.
 - c. The permit for the mobile home for special care shall be granted to the applicant only and shall not be deemed to run with the land.

- d. In addition to the requirements of this Section, the mobile home shall be subject to the mobile home standards set forth in Section 1002.
- C. Retirement residence, subject to subsections 402.08, 402.09 and 402.10, and provided that the applicant has resided in the dwelling for five years prior to application and currently resides in the dwelling.
- D. Community centers owned and operated by a governmental agency or a nonprofit community organization, and hunting and fishing preserves, parks, playgrounds and campgrounds determined to be a principal use of the property.
- E. Dog kennel.
- F. Fruit and vegetable stand for produce not grown on the property, subject to Section 1101, Site Design Review.
- G. Commercial activities that are in conjunction with farm use, subject to Section 1101, Site Design Review.
- H. Operations conducted for the mining and processing of geothermal resources, or exploration, mining and processing of aggregate and other mineral or subsurface resources, subject to the standards of Section 404.
- I. Home occupation, subject to the standards and limitations set forth in Section 1004.
- J. The boarding of horses for profit.
- K. Personal use airports as provided by ORS Ch 215.
- L. Public or private school, including all buildings essential to the operation of a school.
- M. Golf course.
- N. Church.
- O. Commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height, subject to Section 1101, Site Design Review.

- P. Solid waste disposal site under state permit granted under ORS 459.245 by the Department of Environmental Quality, and subject to the solid waste disposal provisions of Section 1005 of this ordinance.

402.05 Prohibited Uses.

Subdivisions and planned unit developments shall be prohibited.

402.06 Nonconforming Uses.

Nonconforming uses found in the AF-40 District are subject to the nonconforming use provisions of Section 1205 as well as to any other applicable provisions of this ordinance.

402.07 Dwellings in Conjunction with Farm Use

- A. In the AF-40 District, prior to construction or placement of a farm dwelling, the applicant shall demonstrate that:

1. The parcel currently supports accepted farming practices, as described in ORS 215.203 (copy appended);
2. The day-to-day activities on the subject parcel are principally directed to the farm use of the land;
3. The dwelling is one that would be customarily provided in conjunction with farm use. At a minimum, this standard requires that the dwelling is for a person or persons actively engaged in the management of the farm or who perform labor on the farm; and
4. The proposed site can support residential use considering setback requirements, access, suitability for on-site sewage disposal, water, and utilities.

- B. A dwelling in conjunction with farm use can only be placed on a parcel large enough for commercial farming activities. Three review procedures are described in this section. If the applicant cannot meet the requirements of type one review, type two review shall apply. If the applicant cannot meet

the requirements of type two review, type three review shall apply:

1. Type One Review. If the subject parcel is 40 acres or greater, and meets all other requirements of this section, the proposed dwelling shall be deemed to meet the commercial standard.

2. Type Two Review. If the subject parcel is at least ten acres, but less than 40 acres, the applicant for a dwelling in conjunction with farm use must show that the parcel qualifies under either (a) or (b), below:
 - a. The parcel currently supports at least the following number of acres of the following types of crops:

i. Berries	4 acres
ii. Grapes	6 acres
iii. Vegetables	8 acres
iv. Christmas Trees	6 acres
v. Tree fruits or nuts	11 acres; or

 - b. The parcel is as large or larger than 40 percent of the farm parcels within one-half mile of its perimeter. For purposes of this analysis:
 - i. A parcel is considered to be within one-half mile of the perimeter of the subject parcel if any portion of the parcel is within one half mile of the subject parcel, as shown by zoning maps;

 - ii. A "farm parcel" in the area of the subject parcel is defined as the entirety of contiguous ownerships that receives farm tax deferral and consists of 10 acres or more; and

 - iii. In determining the acreage of a "farm parcel", the entire farm operation, including contiguous tax lots and those separated only by a road, owned by the same person or business, shall be considered a single farm parcel.

3. Type Three Review. Type three review is intended to provide a mechanism to review requests for dwellings on parcels that do not qualify under type one or two review, but are unusual because of type of crop raised or because farm practices on the parcel are such that the farm production is sufficiently great for it to be considered a commercial unit. To obtain dwelling approval under type three review, the applicant must demonstrate that:
 - a. The farm dwelling is necessary for the agricultural activity on the subject parcel, or the lack of the dwelling poses a significant hardship; and
 - b. One of the following standards can be met:
 - i. The parcel is capable of producing \$10,000 in gross sales of farm commodities, as shown by SCS soil survey yield data and Extension Service commodity price data, averaging prices from the previous three years; or
 - ii. The applicant can demonstrate that farm crops or livestock valued at a minimum of \$10,000 have been raised on the property, and sold, in each of the two previous years, or in three of the last five years.
- C. Commercial Farms Composed of Noncontiguous Parcels. A person whose farm operation is composed of noncontiguous parcels may obtain approval of a farm dwelling on one of the parcels even if that parcel, standing alone, would not meet minimum lot size standards, by demonstrating that the following standards are met:
1. All of the subject parcels meet the requirements of subsections (A)(1) and (A)(2) of this section, and the proposed homesite parcel meets the requirements of subsections (A)(3) and (A)(4) of this section:
 2. The subject farm is made up of parcels that total at least 80 acres;

3. All of the subject parcels are either owned or leased by the applicant. Any leased property used to calculate the size of the subject farm must have been farmed by the applicant for at least the prior three years and be leased by the applicant for at least the next five years;
4. The dwelling will be placed on a portion of the farm operation owned by the applicant; and
5. There are no dwellings on any of the subject farm parcels owned by the applicant.

402.08 Dwellings Not in Conjunction With Farm Uses.

In the AF-40 District, prior to construction or placement of a dwelling not in conjunction with farm use, the applicant shall demonstrate that the proposed dwelling:

- A. Is compatible with farm uses described in Subsection 402.02 (A) and is consistent with the intent and purposes set forth in ORS 215.243;
- B. Does not interfere seriously with accepted farming practices on adjacent lands devoted to farm 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;
- C. Does not materially alter the stability of the overall land use pattern of the area; and
- D. Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.

402.09 Disqualification from Farm Deferral and Declaratory Statement for Nonfarm Dwelling.

- A. Disqualification.

Prior to issuance of any residential building permit for an approved nonfarm dwelling on a nonfarm parcel, the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm use; and that additional tax or

penalty has been imposed, if any is applicable, as provided by ORS Ch 308.399 or ORS Ch 321.960.

B. Declaratory Statement.

Prior to issuance of any residential building permit for an approved nonfarm dwelling, the landowner shall sign an affidavit acknowledging the following declaratory statement and shall 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."

402.10 Standards and Limitations

In the AF-40 District, the following standards and limitations shall apply:

A. Dwelling Density.

1. The overall dwelling density shall not exceed one principal dwelling per 40 acres and 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 C or D, shall be allowed per 40 acres .
3. Conditional Uses. Not more than one dwelling allowed as a conditional use, as described in Subsection 402.04 A, shall be allowed on any parcel.

B. Parcel Size and Dimension.

1. Newly-Created Parcels. Any new farm parcel proposed to be created shall be a minimum of

40 acres. For nonfarm dwellings, as set forth in Subsection 402.04, any new parcel proposed to be created shall be a minimum of two and one-half acres and subject to the requirements for establishment of a nonfarm dwelling as provided in Subsection 402.08. For those uses, except dwellings, set forth in Subsection 402.04, any new parcel proposed to be created shall be the minimum size necessary for the use.

2. 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 AF-40 District and OAR 660-05-025.
3. Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 4:1. This provision shall not apply if the parcel abuts a public road for at least 300 feet.

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 50 feet, except when adjacent to a residential zoning district or urban growth boundary as provided in Subsection 402.02 D.
2. The minimum setback for signs shall be five feet.
3. The minimum setback for accessory uses shall be as provided in Subsection 402.10 H.

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. Accessory Use Standards and Requirements.

An accessory use shall comply with the standards and limitations for principal uses except as follows:

1. Structures.

- a. No separate accessory structures shall be erected within 10 feet of any other building on the same parcel, except that a greenhouse for personal, noncommercial use may adjoin a dwelling.
 - b. 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.
 - c. A swimming pool may be located in a required rear yard, provided it lies a minimum of five feet from the rear property line.
 - d. The minimum setback for a kennel shall be 50 feet from any property line and 500 feet from any off-site dwelling.
2. 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 402.10 F.
 3. Storage and Use of Certain Vehicles and Recreational Equipment. One travel trailer only 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, subject to the Type A application procedure set forth in Section 1301. In no case shall such a travel trailer be occupied for periods totalling more than three months in any year, and in no case shall any travel trailer be used as a principal dwelling or rented unless the necessary permits have been obtained.
- I. Off-Street Parking.
 1. In the AF-40 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 AF-40 District shall be determined by the Director, subject to the provisions of Section 1007.

403. AGRICULTURE/FORESTRY DISTRICT (AF-20)

403.01 Purpose.

The purpose of the Agriculture/Forestry (AF-20) District is to identify and protect land designated as Agriculture/Forestry Large Holding or Agriculture/Forestry Small Holding on the Comprehensive Plan that are generally suitable and used for labor-intensive, small-scale agricultural 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 agricultural 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. Soil and other characteristics of land in the AF-20 District commonly result in such areas not being well-suited to large-scale commercial agriculture or commercial forestry operations. However, many of these areas may be quite productive with intensive labor, and/or significant financial investment.

403.02 Permitted Uses.

In the AF-20 District, the following uses shall be permitted subject to the standards and limitations set forth in subsection 403.10 and any other applicable provisions of this ordinance:

- A. Farm uses as defined in ORS 215.203.
- B. Propagation and harvesting of a forest product.
- C. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed on the National Register of Historic Places as specified in ORS 358.480; and

- D. Livestock feeding yard, provided that it shall be located:
 - 1. At least 200 feet from the centerline of any watercourse used for domestic water supply; and
 - 2. At least 500 feet from any residential zoning district or urban growth boundary unless the applicant has received a conditional use permit pursuant to Section 1202.
- E. Accessory uses.
- F. Temporary structures as may be required during construction of any authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector.
- G. Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to the Type A application procedure set forth in Section 1301.
- H. Public warehouses, as exempted by ORS 586.210 to 586.561.

403.03 Uses Permitted Subject to Standards

The following uses shall be permitted subject to the standards and limitations set forth in Section 403.10 and in the section of this ordinance indicated in brackets following the use. The type of notice procedure required pursuant to Section 1301 of this ordinance is also indicated in the brackets.

- A. Fruit and vegetable stand for produce grown on the property or on property in the same ownership [1101, 1301.A].
- B. Winery [1101, 1301.A].
- C. Principal or secondary dwelling customarily provided in conjunction with farm use [403.07, 1301.A].
- D. A secondary dwelling located on the same lot or parcel as the dwelling of the farm operator that is occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose

assistance in the management of the farm use is or will be required by the farm operator [403.07, 1301.A].

- E. Farm labor housing customarily provided in conjunction with a farm use [403.07, 1101, 1301.A].
- F. Principal or secondary dwelling in conjunction with forest use [401.06, 1301.A].
- G. Municipal water supply, storage, and other public utility facilities necessary for public service and approved by appropriate state and/or federal agencies, except commercial facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height [1101, 1301.A].
- H. Mobile home storage [1009].
- I. Signs [1006].

403.04 Conditional Uses.

The following uses are allowed in the AF-20 District upon conditional use approval. Approval of these uses is subject to the Conditional Use criteria and requirements of Section 1202 of this ordinance and any other provision set forth below. Applications shall be reviewed under the Type B procedure of Section 1301:

- A. Principal dwelling not in conjunction with a farm use, subject to Subsections 403.08, 403.09 and 403.10.
- B. Secondary dwelling of the type listed below, not in conjunction with farm use, subject to Subsections 403.08 and 403.010:
 - 1. Guest house.
 - 2. Temporary mobile home for family members requiring special care, subject to the following:
 - a. The family member who requires special care is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence.

- b. The permit for the mobile home for special care 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.
 - c. The permit for the mobile home for special care shall be granted to the applicant only and shall not be deemed to run with the land.
 - d. In addition to the requirements of this Section, the mobile home shall be subject to the mobile home standards set forth in Section 1002.
- C. Retirement residence, subject to subsections 403.08, 403.09 and 403.10, and provided that the applicant has resided in the dwelling for five years prior to application and currently resides in the dwelling.
 - D. Community centers owned and operated by a governmental agency or a nonprofit community organization, and hunting and fishing preserves, parks, playgrounds and campgrounds determined to be a principal use of the property.
 - E. Dog kennel.
 - F. Fruit and vegetable stand for produce not grown on the property, subject to Section 1101, Site Design Review.
 - G. Commercial activities that are in conjunction with farm use, subject to Section 1101, Site Design Review.
 - H. Operations conducted for the mining and processing of geothermal resources, or exploration, mining and processing of aggregate and other mineral or subsurface resources, subject to the standards of Section 404.
 - I. Home occupation, subject to the standards and limitations set forth in Section 1004.

- J. The boarding of horses for profit.
- K. Personal use airports as provided by ORS Ch 215.
- L. Public or private school, including all buildings essential to the operation of a school.
- M. Golf course.
- N. Church.
- O. Commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height, subject to Section 1101, Site Design Review.
- P. Solid waste disposal site under state permit granted under ORS 459.245 by the Department of Environmental Quality, and subject to the solid waste disposal provisions of Section 1005 of this ordinance.

403.05 Prohibited Uses.

Subdivisions and planned unit developments shall be prohibited.

403.06 Nonconforming Uses.

Nonconforming uses found in the AF-20 District are subject to the nonconforming use provisions of Section 1205 as well as to any other applicable provisions of this ordinance.

403.07 Dwellings in Conjunction with Farm Use

- A. In the AF-20 District, prior to construction or placement of a farm dwelling, the applicant shall demonstrate that:
 - 1. The parcel currently supports accepted farming practices, as described in ORS 215.203 (copy appended);
 - 2. The day-to-day activities on the subject parcel are principally directed to the farm use of the land;

3. The dwelling is one that would be customarily provided in conjunction with farm use. At a minimum, this standard requires that the dwelling is for a person or persons actively engaged in the management of the farm or who perform labor on the farm; and
 4. The proposed site can support residential use considering setback requirements, access, suitability for on-site sewage disposal, water, and utilities.
- B. A dwelling in conjunction with farm use can only be placed on a parcel large enough for commercial farming activities. Three review procedures are described in this section. If the applicant cannot meet the requirements of type one review, type two review shall apply. If the applicant cannot meet the requirements of type two review, type three review shall apply:
1. Type One Review. If the subject parcel is 20 acres or greater, and meets all other requirements of this section, the proposed dwelling shall be deemed to meet the commercial standard.
 2. Type Two Review. If the subject parcel is at least ten acres, but less than 20 acres, the applicant for a dwelling in conjunction with farm use must show that the parcel qualifies under either (a) or (b), below:
 - a. The parcel currently supports at least the following number of acres of the following types of crops:

i. Berries	4 acres
ii. Grapes	6 acres
iii. Vegetables	8 acres
iv. Christmas Trees	6 acres
v. Tree fruits or nuts	11 acres; or
 - b. The parcel is as large or larger than 40 percent of the farm parcels within one-half mile of its perimeter. For purposes of this analysis:
 - i. A parcel is considered to be within one-half mile of the perimeter of the subject parcel if any portion of

the parcel is within one half mile of the subject parcel, as shown by zoning maps;

- ii. A "farm parcel" in the area of the subject parcel is defined as the entirety of contiguous ownerships that receives farm tax deferral and consists of 10 acres or more; and
 - iii. In determining the acreage of a "farm parcel", the entire farm operation, including contiguous tax lots and those separated only by a road, owned by the same person or business, shall be considered a single farm parcel.
3. Type Three Review. Type three review is intended to provide a mechanism to review requests for dwellings on parcels that do not qualify under type one or two review, but are unusual because of type of crop raised or because farm practices on the parcel are such that the farm production is sufficiently great for it to be considered a commercial unit. To obtain dwelling approval under type three review, the applicant must demonstrate that:
- a. The farm dwelling is necessary for the agricultural activity on the subject parcel, or the lack of the dwelling poses a significant hardship; and
 - b. One of the following standards can be met:
 - i. The parcel is capable of producing \$10,000 in gross sales of farm commodities, as shown by SCS soil survey yield data and Extension Service commodity price data, averaging prices from the previous three years; or
 - ii. The applicant can demonstrate that farm crops or livestock valued at a minimum of \$10,000 have been raised on the property, and sold, in each of the two previous years, or in three of the last five years.

- C. Commercial Farms Composed of Noncontiguous Parcels. A person whose farm operation is composed of noncontiguous parcels may obtain approval of a farm dwelling on one of the parcels even if that parcel, standing alone, would not meet minimum lot size standards, by demonstrating that the following standards are met:
1. All of the subject parcels meet the requirements of subsections (A)(1) and (A)(2) of this section, and the proposed homesite parcel meets the requirements of subsections (A)(3) and (A)(4) of this section;
 2. The subject farm is made up of parcels that total at least 40 acres;
 3. All of the subject parcels are either owned or leased by the applicant. Any leased property used to calculate the size of the subject farm must have been farmed by the applicant for at least the prior three years and be leased by the applicant for at least the next five years;
 4. The dwelling will be placed on a portion of the farm operation owned by the applicant; and
 5. There are no dwellings on any of the subject farm parcels owned by the applicant.

403.08 Dwellings Not in Conjunction With Farm Uses.

In the AF-20 District, prior to construction or placement of a dwelling not in conjunction with farm use, the applicant shall demonstrate that the proposed dwelling:

- A. Is compatible with farm uses described in Subsection 403.02 (A) and is consistent with the intent and purposes set forth in ORS 215.243;
- B. Does not interfere seriously with accepted farming practices on adjacent lands devoted to farm 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;

- C. Does not materially alter the stability of the overall land use pattern of the area; and
- D. Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.

403.09 Disqualification from Farm Deferral and Declaratory Statement for Nonfarm Dwelling.

A. Disqualification.

Prior to issuance of any residential building permit for an approved nonfarm dwelling on a nonfarm parcel, the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm use; and that additional tax or penalty has been imposed, if any is applicable, as provided by ORS Ch 308.399 or ORS Ch 321.960.

B. Declaratory Statement.

Prior to issuance of any residential building permit for an approved nonfarm dwelling, the landowner shall sign an affidavit acknowledging the following declaratory statement and shall 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."

403.010 Standards and Limitations

In the AF-20 District, the following standards and limitations shall apply:

A. Dwelling Density.

1. The overall dwelling density shall not exceed one principal dwelling per 20 acres and 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 (D), shall be allowed per 20 acres .
3. Conditional Uses. Not more than one dwelling allowed as a conditional use, as described in Subsection 403.04 (A), shall be allowed on any parcel.

B. Parcel Size and Dimension.

1. Newly-Created Parcels. Any new farm parcel proposed to be created shall be a minimum of 20 acres. For nonfarm dwellings, as set forth in Subsection 403.04, any new parcel proposed to be created shall be a minimum of two and one-half acres and subject to the requirements for establishment of a nonfarm dwelling as provided in Subsection 403.08. For those uses, except dwellings, set forth in Subsection 403.04, any new parcel proposed to be created shall be the minimum size necessary for the use.
2. 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 AF-20 District and OAR 660-05-025.
3. Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 4:1. This provision shall not apply if the parcel abuts a public road for at least 300 feet.

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 50 feet, except when adjacent to a residential zoning

district or urban growth boundary as provided in Subsection 403.02 (D).

2. The minimum setback for signs shall be five feet.
3. The minimum setback for accessory uses shall be as provided in Subsection 403.10 (H).

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. Accessory Use Standards and Requirements.

An accessory use shall comply with the standards and limitations for principal uses except as follows:

1. Structures.
 - a. No separate accessory structures shall be erected within 10 feet of any other building on the same parcel, except that a greenhouse for personal, noncommercial use may adjoin a dwelling.
 - b. 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.
 - c. A swimming pool may be located in a required rear yard, provided it lies a minimum of five feet from the rear property line.
 - d. The minimum setback for a kennel shall be 50 feet from any property line and 500 feet from any off-site dwelling.
2. 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 403.10 (F).
3. Storage and Use of Certain Vehicles and Recreational Equipment. One travel trailer only 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, subject to the Type A application procedure set forth in Section 1301. In no case shall such a travel trailer be occupied for periods totalling more than three months in any year, and in no case shall any travel trailer be used as a principal dwelling or rented unless the necessary permits have been obtained.

I. Off-Street Parking.

1. In the AF-20 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 AF-20 District shall be determined by the Director, subject to the provisions of Section 1007.

[END EXHIBIT "A"]

402. [EXCLUSIVE FARM USE DISTRICT (EF-40)]
AGRICULTURE/FORESTRY DISTRICT (AF-40)

402.01 Purpose.

The purpose of the [~~Exclusive Farm Use (EF-40)~~] Agriculture/Forestry (AF-40) District is to identify and protect land designated as Agriculture/Forestry Large Holding (AFLH) 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]~~ AF-40 Agriculture/Forestry District are primarily large, contiguous [relative-ly-flat] terrace, valley-floor or [~~low~~] foothill holdings. In [~~Exclusive Farm Use~~] Agriculture/Forestry 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 farm-lands.

402.02 Permitted Uses.

In the [EF]AF-40 District, the following uses shall be permitted subject to the standards and limitations set forth in subsection 402.[09]10 and any other applicable provisions of this ordinance:

A. Farm uses as defined in ORS 215.203.

~~[B. Fruit and vegetable stand for produce grown on the property or on property in the same ownership, or winery. The applicant will also be subject to Section 1101, Site Design Review.]~~

~~[C]B.~~ Propagation and harvesting of a forest product.

~~[D. The following types of housing:~~

~~1. Principal or secondary dwelling customarily provided in conjunction with farm use;~~

~~2. A secondary dwelling located on the same lot or parcel as the dwelling of the farm operator that is occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be~~

~~required by the farm operator,]~~

[3]C. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed on the National Register of Historic Places as specified in ORS 358.480; and

~~[4. Farm labor housing customarily provided in conjunction with a farm use, subject to the requirements of Section 1101, Site Design Review.~~

~~All housing permitted under this subsection shall be reviewed pursuant to the Type A application procedure in Section 1301 and shall be subject to the requirements of ORS Chapter 215 for farm dwellings as well as Subsections 402.06 and 402.09 of this ordinance.]~~

[E]D. Livestock feeding yard, provided that it shall be located:

1. At least 200 feet from the centerline of any watercourse used for domestic water supply; and
2. At least 500 feet from any residential zoning district or urban growth boundary unless the applicant has received a conditional use permit pursuant to Section 1202.

~~[F. Municipal water supply, storage, and other public utility facilities necessary for public service and approved by appropriate state and/or federal agencies, except commercial facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height. The applicant will also be subject to Section 1101, Site Design Review.]~~

[G]E. Accessory uses.

[H]F. Temporary structures as may be required during construction of any authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector.

~~[I. Mobile home storage, subject to Section 1009 for temporary permits.]~~

- [J]G. Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to the Type A application procedure set forth in Section 1301.
- [K. ~~Signs, pursuant to the sign provisions set forth in Section 1006.~~]
- [L]H. Public warehouses, as exempted by ORS 586.210 to 586.561.

402.03 Uses Permitted Subject to Standards

The following uses shall be permitted subject to the standards and limitations set forth in Section 402.10 and in the section of this ordinance indicated in brackets following the use. The type of notice procedure required pursuant to Section 1301 of this ordinance is also indicated in the brackets.

- A. Fruit and vegetable stand for produce grown on the property or on property in the same ownership [1101, 1301.A].
- B. Winery [1101, 1301.A].
- C. Principal or secondary dwelling customarily provided in conjunction with farm use [402.07, 1301.A].
- D. A secondary dwelling located on the same lot or parcel as the dwelling of the farm operator that is occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator [402.07, 1301.A].
- E. Farm labor housing customarily provided in conjunction with a farm use [402.07, 1101, 1301.A].
- F. Principal or secondary dwelling in conjunction with forest use [401.06, 1301.A].
- G. Municipal water supply, storage, and other public utility facilities necessary for public service and approved by appropriate state and/or federal agencies, except commercial facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height [1101, 1301.A].

H. Mobile home storage [1009].

I. Signs [1006].

402.0[3]4 Conditional Uses.

The following uses are allowed in the [EF] AF-40 District upon conditional use approval. Approval of these uses is subject to the Conditional Use criteria and requirements of Section 1202 of this ordinance and any other provision set forth below. Applications shall be reviewed under the Type B procedure of Section 1301:

- A. Principal dwelling not in conjunction with a farm use, subject to Subsections [~~402.07~~] 402.08, [and] 402.09 and 402.10.
- B. Secondary dwelling of the type listed below, not in conjunction with farm use, subject to Subsections 402.0[7]8 and 402.[~~09~~]10:
1. Guest house.
 2. Temporary mobile home for family members requiring special care, subject to the following:
 - a. The family member who requires special care is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence.
 - b. The permit for the mobile home for special care 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.
 - c. The permit for the mobile home for special care shall be granted to the applicant only and shall not be deemed to run with the land.
 - d. In addition to the requirements of this Section, the mobile home shall be subject to the mobile home standards set forth in Section 1002.

- C. Retirement residence, subject to subsections [402.07,] 402.08, and 402.09, and 402.10, and provided that the applicant has resided in the dwelling for five years prior to application and currently resides in the dwelling.
- D. Community centers owned and operated by a governmental agency or a nonprofit community organization, and hunting and fishing preserves, parks, playgrounds and campgrounds determined to be a principal use of the property.
- E. Dog kennel.
- F. Fruit and vegetable stand for produce not grown on the property, subject to Section 1101, Site Design Review.
- G. Commercial activities that are in conjunction with farm use, subject to Section 1101, Site Design Review.
- H. Operations conducted for the mining and processing of geothermal resources, or exploration, mining and processing of aggregate and other mineral or subsurface resources, subject to the standards of Section 404.
- I. Home occupation, subject to the standards and limitations set forth in Section 1004.
- J. The boarding of horses for profit.
- K. Personal use airports as provided by ORS Ch 215.
- L. Public or private school, including all buildings essential to the operation of a school.
- M. Golf course.
- N. Church.
- O. Commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height, subject to Section 1101, Site Design Review.
- P. Solid waste disposal site under state permit granted under ORS 459.245 by the Department of Environmental Quality, and subject to the solid waste disposal provisions of Section 1005 of this ordi-

nance.

402.0[4]5 Prohibited Uses.

Subdivisions and planned unit developments shall be prohibited.

402.0[5]6 Nonconforming Uses.

Nonconforming uses found in the [EF] AF-40 District are subject to the nonconforming use provisions of Section 1205 as well as to any other applicable provisions of this ordinance.

~~[402.06 Dwellings in Conjunction with Farm Uses.]~~

~~In the EF-40 District, prior to construction or placement of a dwelling customarily provided in conjunction with farm use, the applicant shall demonstrate that:~~

- ~~A. The parcel is a minimum of 40 acres or that size which is appropriate for the continuation of the existing commercial agricultural enterprise in the area, whichever is greater, consistent with the requirements of OAR 660-05-015 and 660-05-025;~~
- ~~B. The addition and location of new structures and improvements including dwellings, fences, roads, utilities, wells, etc., shall not impose undue limitations upon existing farm or forest uses in the area;~~
- ~~C. The parcel currently supports accepted farming practices, as described in Subsection 402.02 A; and~~
- ~~D. The day to day activities of an owner or manager are required to manage the land for farm use and the activities are principally directed to farm use of the land.]~~

402.07 Dwellings in Conjunction with Farm Use

- A. In the AF-40 District, prior to construction or placement of a farm dwelling, the applicant shall demonstrate that:
 - 1. The parcel currently supports accepted farming practices, as described in ORS 215.203 (copy appended);

2. The day-to-day activities on the subject parcel are principally directed to the farm use of the land;
3. The dwelling is one that would be customarily provided in conjunction with farm use. At a minimum, this standard requires that the dwelling is for a person or persons actively engaged in the management of the farm or who perform labor on the farm; and
4. The proposed site can support residential use considering setback requirements, access, suitability for on-site sewage disposal, water, and utilities.

B. A dwelling in conjunction with farm use can only be placed on a parcel large enough for commercial farming activities. Three review procedures are described in this section. If the applicant cannot meet the requirements of type one review, type two review shall apply. If the applicant cannot meet the requirements of type two review, type three review shall apply:

1. Type One Review. If the subject parcel is 40 acres or greater, and meets all other requirements of this section, the proposed dwelling shall be deemed to meet the commercial standard.
2. Type Two Review. If the subject parcel is at least ten acres, but less than 40 acres, the applicant for a dwelling in conjunction with farm use must show that the parcel qualifies under either (a) or (b), below:

a. The parcel currently supports at least the following number of acres of the following types of crops:

<u>i.</u>	<u>Berries</u>	<u>4 acres</u>
<u>ii.</u>	<u>Grapes</u>	<u>6 acres</u>
<u>iii.</u>	<u>Vegetables</u>	<u>8 acres</u>
<u>iv.</u>	<u>Christmas Trees</u>	<u>6 acres</u>
<u>v.</u>	<u>Tree fruits or nuts</u>	<u>11 acres; or</u>

b. The parcel is as large or larger than 40 percent of the farm parcels within one-half mile of its perimeter. For purposes of this analysis:

- i. A parcel is considered to be within one-half mile of the perimeter of the subject parcel if any portion of the parcel is within one half mile of the subject parcel, as shown by zoning maps;
- ii. A "farm parcel" in the area of the subject parcel is defined as the entirety of contiguous ownerships that receives farm tax deferral and consists of 10 acres or more; and
- iii. In determining the acreage of a "farm parcel", the entire farm operation, including contiguous tax lots and those separated only by a road, owned by the same person or business, shall be considered a single farm parcel.

3. Type Three Review. Type three review is intended to provide a mechanism to review requests for dwellings on parcels that do not qualify under type one or two review, but are unusual because of type of crop raised or because farm practices on the parcel are such that the farm production is sufficiently great for it to be considered a commercial unit. To obtain dwelling approval under type three review, the applicant must demonstrate that:

a. The farm dwelling is necessary for the agricultural activity on the subject parcel, or the lack of the dwelling poses a significant hardship; and

b. One of the following standards can be met:

i. The parcel is capable of producing \$10,000 in gross sales of farm commodities, as shown by SCS soil survey yield data and Extension Service commodity price data, averaging prices from the previous three years; or

ii. The applicant can demonstrate that farm crops or livestock valued at a minimum of \$10,000 have been raised on the property, and sold, in each

of the two previous years, or in three of the last five years.

C. Commercial Farms Composed of Noncontiguous Parcels. A person whose farm operation is composed of noncontiguous parcels may obtain approval of a farm dwelling on one of the parcels even if that parcel, standing alone, would not meet minimum lot size standards, by demonstrating that the following standards are met:

1. All of the subject parcels meet the requirements of subsections (A)(1) and (A)(2) of this section, and the proposed homesite parcel meets the requirements of subsections (A)(3) and (A)(4) of this section:
2. The subject farm is made up of parcels that total at least 80 acres;
3. All of the subject parcels are either owned or leased by the applicant. Any leased property used to calculate the size of the subject farm must have been farmed by the applicant for at least the prior three years and be leased by the applicant for at least the next five years;
4. The dwelling will be placed on a portion of the farm operation owned by the applicant; and
5. There are no dwellings on any of the subject farm parcels owned by the applicant.

402.0[7]8 Dwellings Not in Conjunction With Farm Uses.

In the [EF] AF-40 District, prior to construction or placement of a dwelling not in conjunction with farm use, the applicant shall demonstrate that the proposed dwelling:

- A. Is compatible with farm uses described in Subsection 402.02 (A) and is consistent with the intent and purposes set forth in ORS 215.243;
- B. Does not interfere seriously with accepted farming practices on adjacent lands devoted to farm 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;

- C. Does not materially alter the stability of the overall land use pattern of the area; and
- D. Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.

402.0[8]9 Disqualification from Farm Deferral and Declaratory Statement for Nonfarm Dwelling.

A. Disqualification.

Prior to issuance of any residential building permit for an approved nonfarm dwelling on a nonfarm parcel, the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm use; and that additional tax or penalty has been imposed, if any is applicable, as provided by ORS Ch 308.399 or ORS Ch 321.960.

B. Declaratory Statement.

Prior to issuance of any residential building permit for an approved nonfarm dwelling, the landowner shall sign an affidavit acknowledging the following declaratory statement and shall 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."

402.[09]10 Standards and Limitations

In the [EF] AF-40 District, the following standards and limitations shall apply:

A. Dwelling Density.

1. The overall dwelling density shall not exceed one principal dwelling per 40 acres and 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 402.0[2]3 C or D, shall be allowed per 40 acres .
3. Conditional Uses. Not more than one dwelling allowed as a conditional use, as described in Subsection 402.0[3-B]4 A, shall be allowed on any parcel.

B. Parcel Size and Dimension.

1. Newly-Created Parcels. Any new farm parcel proposed to be created shall be a minimum of 40 acres [~~or that size which is appropriate for the continuation of the existing commercial agricultural enterprise in the area, whichever is greater, consistent with the requirements of OAR 660-05-015 and 660-05-020~~]. For nonfarm dwellings, as set forth in Subsection 402.0[3]4, any new parcel proposed to be created shall be a minimum of two and one-half acres and subject to the requirements for establishment of a nonfarm dwelling as provided in Subsection 402.0[7]8. For those uses, except dwellings, set forth in Subsection 402.0[3]4, any new parcel proposed to be created shall be the minimum size necessary for the use.
2. 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 [EF] AF-40 District and OAR 660-05-025.
3. Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 4:1. This provision shall not apply if the parcel abuts a public road for at least 300 feet.

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 live-stock feeding or sales yard shall be 50 feet, except when adjacent to a residential zoning district or urban growth boundary as provided in Subsection 402.02 [E]D.
2. The minimum setback for signs shall be five feet.
3. The minimum setback for accessory uses shall be as provided in Subsection 402.[09]10 H.

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. Accessory Use Standards and Requirements.

An accessory use shall comply with the standards and limitations for principal uses except as follows:

1. Structures.
 - a. No separate accessory structures shall be erected within 10 feet of any other building on the same parcel, except that a greenhouse for personal, noncommercial use may adjoin a dwelling.
 - b. 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.
 - c. A swimming pool may be located in a required rear yard, provided it lies a minimum of five feet from the rear property line.
 - d. The minimum setback for a kennel shall be 50 feet from any property line and 500 feet from any off-site dwelling.

2. 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 402.[09]10 F.
3. Storage and Use of Certain Vehicles and Recreational Equipment. One travel trailer only 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, subject to the Type A application procedure set forth in Section 1301. In no case shall such a travel trailer be occupied for periods totalling more than three months in any year, and in no case shall any travel trailer be used as a principal dwelling or rented unless the necessary permits have been obtained.

I. Off-Street Parking.

1. In the [EF] AF-40 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 [EF] AF-40 District shall be determined by the Director, subject to the provisions of Section 1007.

403. AGRICULTURE/FORESTRY DISTRICT (AF-20)

403.01 Purpose.

The purpose of the Agriculture/Forestry (AF-20) District is to identify and protect land designated as Agriculture/Forestry Large Holding or Agriculture/Forestry Small Holding on the Comprehensive Plan that are generally suitable and used for labor-intensive, small-scale agricultural 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 agricultural 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 conserva-

tion of soil and water resources and fish and wildlife habitat shall be limited or prohibited. [~~Lands in this district usually provide a transition from commercial agriculture to forestry uses.~~] Soil and other characteristics of land in the AF-20 District commonly result in such areas not being well-suited to large-scale commercial agriculture or commercial forestry operations. However, many of these areas may be quite productive with intensive labor, and/or significant financial investment.

403.02 Permitted Uses.

In the AF-20 District, the following uses shall be permitted subject to the standards and limitations set forth in subsection 403.~~[09]~~10 and any other applicable provisions of this ordinance:

A. Farm uses as defined in ORS 215.203.

~~[B. Fruit and vegetable stand for produce grown on the property or on property in the same ownership, or winery. The applicant will also be subject to Section 1101, Site Design Review.]~~

~~[E]~~B. Propagation and harvesting of a forest product.

~~[D. The following types of housing:~~

~~1. Principal or secondary dwelling customarily provided in conjunction with farm use;~~

~~2. A secondary dwelling located on the same lot or parcel as the dwelling of the farm operator that is occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator;~~

~~[3]~~C. A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed on the National Register of Historic Places as specified in ORS 358.480; and

~~[4. Farm labor housing customarily provided in conjunction with a farm use, subject to the requirements of Section 1101, Site Design~~

Review.

~~All housing permitted under this subsection shall be reviewed pursuant to the Type A application procedure in Section 1301 and shall be subject to the requirements of ORS Chapter 215 for farm dwellings as well as Subsections 403.06 and 403.09 of this ordinance.]~~

[~~E~~]D. Livestock feeding yard, provided that it shall be located:

1. At least 200 feet from the centerline of any watercourse used for domestic water supply; and
2. At least 500 feet from any residential zoning district or urban growth boundary unless the applicant has received a conditional use permit pursuant to Section 1202.

~~[F. Municipal water supply, storage, and other public utility facilities necessary for public service and approved by appropriate state and/or federal agencies, except commercial facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height. The applicant will also be subject to Section 1101, Site Design Review.]~~

[G]E. Accessory uses.

[~~H~~]F. Temporary structures as may be required during construction of any authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector.

~~[I. Mobile home storage, subject to Section 1009 for temporary permits.]~~

[~~J~~]G. Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to the Type A application procedure set forth in Section 1301.

~~[K. Signs, pursuant to the sign provisions set forth in Section 1006.]~~

[~~L~~]H. Public warehouses, as exempted by ORS 586.210 to 586.561.

403.03 Uses Permitted Subject to Standards

The following uses shall be permitted subject to the standards and limitations set forth in Section 403.10 and in the section of this ordinance indicated in brackets following the use. The type of notice procedure required pursuant to Section 1301 of this ordinance is also indicated in the brackets.

- A. Fruit and vegetable stand for produce grown on the property or on property in the same ownership [1101, 1301.A].
- B. Winery [1101, 1301.A].
- C. Principal or secondary dwelling customarily provided in conjunction with farm use [403.07, 1301.A].
- D. A secondary dwelling located on the same lot or parcel as the dwelling of the farm operator that is occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator [403.07, 1301.A].
- E. Farm labor housing customarily provided in conjunction with a farm use [403.07, 1101, 1301.A].
- F. Principal or secondary dwelling in conjunction with forest use [401.06, 1301.A].
- G. Municipal water supply, storage, and other public utility facilities necessary for public service and approved by appropriate state and/or federal agencies, except commercial facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height [1101, 1301.A].
- H. Mobile home storage [1009].
- I. Signs [1006].

403.0[3]4 Conditional Uses.

The following uses are allowed in the AF-20 District upon conditional use approval. Approval of these uses is subject to the Conditional Use criteria and requirements

of Section 1202 of this ordinance and any other provision set forth below. Applications shall be reviewed under the Type B procedure of Section 1301:

- A. Principal dwelling not in conjunction with a farm use, subject to Subsections 403.0[7]8, 403.0[8]9 and 403.[09]10.
- B. Secondary dwelling of the type listed below, not in conjunction with farm use, subject to Subsections 403.0[7]8 and 403.[09]10:
 - 1. Guest house.
 - 2. Temporary mobile home for family members requiring special care, subject to the following:
 - a. The family member who requires special care is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence.
 - b. The permit for the mobile home for special care 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.
 - c. The permit for the mobile home for special care shall be granted to the applicant only and shall not be deemed to run with the land.
 - d. In addition to the requirements of this Section, the mobile home shall be subject to the mobile home standards set forth in Section 1002.
- C. Retirement residence, subject to subsections 403.0[7]8, 403.0[8]9 and 403.[09]10, and provided that the applicant has resided in the dwelling for five years prior to application and currently resides in the dwelling.
- D. Community centers owned and operated by a governmental agency or a nonprofit community organiza-

tion, and hunting and fishing preserves, parks, playgrounds and campgrounds determined to be a principal use of the property.

- E. Dog kennel.
- F Fruit and vegetable stand for produce not grown on the property, subject to Section 1101, Site Design Review.
- G. Commercial activities that are in conjunction with farm use, subject to Section 1101, Site Design Review.
- H. Operations conducted for the mining and processing of geothermal resources, or exploration, mining and processing of aggregate and other mineral or sub-surface resources, subject to the standards of Section 404.
- I. Home occupation, subject to the standards and limitations set forth in Section 1004.
- J. The boarding of horses for profit.
- K. Personal use airports as provided by ORS Ch 215.
- L. Public or private school, including all buildings essential to the operation of a school.
- M. Golf course.
- N. Church.
- O. Commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height, subject to Section 1101, Site Design Review.
- P. Solid waste disposal site under state permit granted under ORS 459.245 by the Department of Environmental Quality, and subject to the solid waste disposal provisions of Section 1005 of this ordinance.

403.0[4]5 Prohibited Uses.

Subdivisions and planned unit developments shall be prohibited.

403.0[5]6 Nonconforming Uses.

Nonconforming uses found in the AF-20 District are subject to the nonconforming use provisions of Section 1205 as well as to any other applicable provisions of this ordinance.

~~[403.06 Dwellings in Conjunction with Farm Uses.]~~

~~In the AF-20 District, prior to construction or placement of a dwelling customarily provided in conjunction with farm use, the applicant shall demonstrate that:~~

- ~~A. The parcel is a minimum of 20 acres or that size which is appropriate for the continuation of the existing commercial agricultural enterprise in the area, whichever is greater, consistent with the requirements of OAR 660-05-015 and 660-05-025;~~
- ~~B. The addition and location of new structures and improvements including dwellings, fences, roads, utilities, wells, etc., shall not impose undue limitations upon existing farm or forest uses in the area;~~
- ~~C. The parcel currently supports accepted farming practices, as described in Subsection 403.02 A; and~~
- ~~D. The day to day activities of an owner or manager are required to manage the land for farm use and the activities are principally directed to farm use of the land.]~~

403.07 Dwellings in Conjunction with Farm Use

A. In the AF-20 District, prior to construction or placement of a farm dwelling, the applicant shall demonstrate that:

- 1. The parcel currently supports accepted farming practices, as described in ORS 215.203 (copy appended);
- 2. The day-to-day activities on the subject parcel are principally directed to the farm use of the land;
- 3. The dwelling is one that would be customarily provided in conjunction with farm use. At a minimum, this standard requires that the dwelling is for a person or persons actively engaged in the management of the farm or who

perform labor on the farm; and

4. The proposed site can support residential use considering setback requirements, access, suitability for on-site sewage disposal, water, and utilities.

B. A dwelling in conjunction with farm use can only be placed on a parcel large enough for commercial farming activities. Three review procedures are described in this section. If the applicant cannot meet the requirements of type one review, type two review shall apply. If the applicant cannot meet the requirements of type two review, type three review shall apply:

1. Type One Review. If the subject parcel is 20 acres or greater, and meets all other requirements of this section, the proposed dwelling shall be deemed to meet the commercial standard.

2. Type Two Review. If the subject parcel is at least ten acres, but less than 20 acres, the applicant for a dwelling in conjunction with farm use must show that the parcel qualifies under either (a) or (b), below:

- a. The parcel currently supports at least the following number of acres of the following types of crops:

<u>i.</u>	<u>Berries</u>	<u>4 acres</u>
<u>ii.</u>	<u>Grapes</u>	<u>6 acres</u>
<u>iii.</u>	<u>Vegetables</u>	<u>8 acres</u>
<u>iv.</u>	<u>Christmas Trees</u>	<u>6 acres</u>
<u>v.</u>	<u>Tree fruits or nuts</u>	<u>11 acres; or</u>

- b. The parcel is as large or larger than 40 percent of the farm parcels within one-half mile of its perimeter. For purposes of this analysis:

- i. A parcel is considered to be within one-half mile of the perimeter of the subject parcel if any portion of the parcel is within one half mile of the subject parcel, as shown by zoning maps;

- ii. A "farm parcel" in the area of the

subject parcel is defined as the entirety of contiguous ownerships that receives farm tax deferral and consists of 10 acres or more; and

iii. In determining the acreage of a "farm parcel", the entire farm operation, including contiguous tax lots and those separated only by a road, owned by the same person or business, shall be considered a single farm parcel.

3. Type Three Review. Type three review is intended to provide a mechanism to review requests for dwellings on parcels that do not qualify under type one or two review, but are unusual because of type of crop raised or because farm practices on the parcel are such that the farm production is sufficiently great for it to be considered a commercial unit. To obtain dwelling approval under type three review, the applicant must demonstrate that:

a. The farm dwelling is necessary for the agricultural activity on the subject parcel, or the lack of the dwelling poses a significant hardship; and

b. One of the following standards can be met:

i. The parcel is capable of producing \$10,000 in gross sales of farm commodities, as shown by SCS soil survey yield data and Extension Service commodity price data, averaging prices from the previous three years; or

ii. The applicant can demonstrate that farm crops or livestock valued at a minimum of \$10,000 have been raised on the property, and sold, in each of the two previous years, or in three of the last five years.

C. Commercial Farms Composed of Noncontiguous Parcels. A person whose farm operation is composed of noncontiguous parcels may obtain approval of a farm dwelling on one of the parcels even if that parcel, standing alone, would not meet minimum lot size

standards, by demonstrating that the following standards are met:

1. All of the subject parcels meet the requirements of subsections (A)(1) and (A)(2) of this section, and the proposed homesite parcel meets the requirements of subsections (A)(3) and (A)(4) of this section;
2. The subject farm is made up of parcels that total at least 40 acres;
3. All of the subject parcels are either owned or leased by the applicant. Any leased property used to calculate the size of the subject farm must have been farmed by the applicant for at least the prior three years and be leased by the applicant for at least the next five years;
4. The dwelling will be placed on a portion of the farm operation owned by the applicant; and
5. There are no dwellings on any of the subject farm parcels owned by the applicant.

403.0[7]8 Dwellings Not in Conjunction With Farm Uses.

In the AF-20 District, prior to construction or placement of a dwelling not in conjunction with farm use, the applicant shall demonstrate that the proposed dwelling:

- A. Is compatible with farm uses described in Subsection 403.02 (A) and is consistent with the intent and purposes set forth in ORS 215.243;
- B. Does not interfere seriously with accepted farming practices on adjacent lands devoted to farm 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;
- C. Does not materially alter the stability of the overall land use pattern of the area; and
- D. Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and

size of the tract.

403.0[8]9 Disqualification from Farm Deferral and Declaratory Statement for Nonfarm Dwelling.

A. Disqualification.

Prior to issuance of any residential building permit for an approved nonfarm dwelling on a nonfarm parcel, the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm use; and that additional tax or penalty has been imposed, if any is applicable, as provided by ORS Ch 308.399 or ORS Ch 321.960.

B. Declaratory Statement.

Prior to issuance of any residential building permit for an approved nonfarm dwelling, the landowner shall sign an affidavit acknowledging the following declaratory statement and shall 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."

403.0[9]10 Standards and Limitations

In the AF-20 District, the following standards and limitations shall apply:

A. Dwelling Density.

1. The overall dwelling density shall not exceed one principal dwelling per 20 acres and 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 403.0[2]3 C or D, shall be allowed per 20 acres .

3. Conditional Uses. Not more than one dwelling allowed as a conditional use, as described in Subsection 403.0[3-B]4 A, shall be allowed on any parcel.

B. Parcel Size and Dimension.

1. Newly-Created Parcels. Any new farm parcel proposed to be created shall be a minimum of 20 acres [~~or that size which is appropriate for the continuation of the existing commercial agricultural enterprise in the area, whichever is greater, consistent with the requirements of OAR 660-05-015 and 660-05-020~~]. For nonfarm dwellings, as set forth in Subsection 403.0[3]4, any new parcel proposed to be created shall be a minimum of two and one-half acres and subject to the requirements for establishment of a nonfarm dwelling as provided in Subsection 403.0[7]8. For those uses, except dwellings, set forth in Subsection 403.0[3]4, any new parcel proposed to be created shall be the minimum size necessary for the use.
2. 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 AF-20 District and OAR 660-05-025.
3. Depth-to-Width Ratio. The maximum depth-to-width ratio for any newly-created parcel shall be 4:1. This provision shall not apply if the parcel abuts a public road for at least 300 feet.

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 live-stock feeding or sales yard shall be 50 feet, except when adjacent to a residential zoning district or urban growth boundary as provided in Subsection 403.02 [E]D.

2. The minimum setback for signs shall be five feet.
3. The minimum setback for accessory uses shall be as provided in Subsection 403.0[9]10 H.

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. Accessory Use Standards and Requirements.

An accessory use shall comply with the standards and limitations for principal uses except as follows:

1. Structures.

- a. No separate accessory structures shall be erected within 10 feet of any other building on the same parcel, except that a greenhouse for personal, noncommercial use may adjoin a dwelling.
- b. 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.
- c. A swimming pool may be located in a required rear yard, provided it lies a minimum of five feet from the rear property line.
- d. The minimum setback for a kennel shall be 50 feet from any property line and 500 feet from any off-site dwelling.

2. 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 403.~~[09]~~10 F.

3. Storage and Use of Certain Vehicles and Recreational Equipment. One travel trailer only 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, subject to the Type A application procedure set forth in Section 1301. In no

case shall such a travel trailer be occupied for periods totalling more than three months in any year, and in no case shall any travel trailer be used as a principal dwelling or rented unless the necessary permits have been obtained.

I. Off-Street Parking.

1. In the AF-20 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 AF-20 District shall be determined by the Director, subject to the provisions of Section 1007.

[END EXHIBIT "B"]

YAMHILL COUNTY ORDINANCE 519

GOAL 3 JUSTIFICATION

OUTLINE AND INDEX

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APPENDIX

- A. Excerpts from OSU report

PROPOSAL AND JUSTIFICATION REGARDING COMPLIANCE
WITH STATEWIDE GOAL 3

I. Introduction

The agricultural economy of Yamhill County is best described as diverse. Each of the following crops contributed more than \$1,000,000 in cash receipts in the county in 1989, according to Extension Service estimates: wheat, oats, hay, two separate varieties of grass seed, red clover seed, sweet cherries, grapes, filberts, berries, sweet corn, snap beans, nursery crops, cattle, hogs and pigs, dairy, chickens, and turkeys. In addition, seven other crops contributed over \$500,000 in sales.

All the various sectors, from such land-extensive commodities as grain and grazing, to the high value-per-acre vegetables, grapes, and Christmas trees, are important to the overall farm economy. Statewide Goal 3 and the Yamhill County Comprehensive Plan commit the county to conserve farmland, but that task is complicated by the diverse nature of the land use.

In order to adequately address Goal 3 standards, there must be a factual base of information describing the characteristics of agricultural land use in the county. In order to develop this database, the county contracted with James Pease of the Oregon State University (OSU) Extension Service and Department of Geosciences. Dr. Pease and his research team generated a profile of commercial agriculture, including farm size attributes and identification of regions of the county that exhibit similar characteristics. The research was guided by a local body, the Aglands Advisory Committee, appointed by the Board of Commissioners and comprised of farmers, realtors, foresters, a Commissioner, and local, state and federal agency personnel with involvement and expertise in agricultural issues. The results of the study will be addressed in subsequent sections of this report.

The Aglands Advisory Committee held four meetings in the spring of 1990 to address the issues. The County Planning Commission subsequently conducted seven public hearings through the summer and fall to receive testimony and deliberate on potential amendments to the County Exclusive Farm Use (EFU) zones to comply with Goal 3. They made a recommendation to the Board of County Commissioners (Board) based on the information they received. The Board then conducted four public hearings of their own.

The Board publicized the hearings far in excess of the legal requirement by distributing nearly 30,000 inserts in local newspapers describing potential actions and lands affected. The Board entertained oral and written testimony from approximately 50 individuals at the public hearings, which were attended by more than 150 people. The overwhelming indication from the citizens of Yamhill County was that the current system of zoning farm land in the county is working, and no changes should be made. Those testifying included several commercial farmers. This testimony supports the position held by many in the county during the original establishment of EFU zoning over a decade ago. The Board has endeavored to comply with the intent as well as the letter of Goal 1, and believes that the significant support for the current minimum lot sizes should not be overlooked.

Sources of information relied on in this justification, to supplement the OSU report and public testimony, include the *Census Of Agriculture*. Special tabulations of the census were developed from 1982 data upon request by the OSU Extension Service. These tabulations are the most current available, because they were not prepared for the 1987 census. Information regarding the location of agricultural fields by crop was supplied by the McMinnville office of the U.S. Agricultural Stabilization and Conservation Service. This data was collected from farm operators that receive federal assistance or disaster relief, so it is not an inventory of farms, but rather a significant sample. Data supplied by the Oregon State University Extension Service has also been relied on as a source of information regarding farm income and other characteristics of agriculture in the county. Other sources of data were utilized by the OSU research team, and are explained in the final report, titled *Yamhill County Agricultural Resource Lands Project: Completion Report on Long-range Goals, Databases, Criteria, and Proposed Standards for the Exclusive Farm Use Zone* (OSU report). Additional analysis was performed by the county, and new information was developed.

II. Existing Circumstances

There are currently two EFU zones in the county, the EF-40 (Exclusive Farm Use, 40-acre minimum lot size) and AF-20 (Agriculture/Forestry, 20-acre minimum lot size). The EF-40 zone designates areas of cultivated agriculture, primarily in the river bottoms and terraces associated with the North and South Yamhill Rivers, Willamette River, and Chehalem Creek. There are also areas zoned EF-40 at higher elevation where the land use is principally cultivated agriculture, such as in parts of the Red Hills, and north of the city of Yamhill. The AF-20 zone was applied to wooded tracts in mixed farm-forest areas, grazing or pasture land, and areas previously divided into small farms. Most of the land zoned AF-20 is located in uplands; for example Parrett Mountain, much of the Amity/Eola Hills, and Coast Range foothills. Also zoned AF-20 are the vegetated strips along waterways on the valley floor.

Yamhill County has utilized the AF-20 and EF-40 zoning since 1976. The 20- and 40-acre minimum lot sizes in those zones have proven to be successful in protecting commercial agriculture. In 1981, Yamhill County ranked ninth among Oregon counties in farm sales, and by 1989 had raised to seventh, according to Extension Service estimates. During that period, farm sales in the county increased by 73 percent, compared to 41 percent for the state as a whole. This data demonstrates that favorable conditions for commercial agriculture are in place in the County.

Preliminary information from the 1990 census of population indicates the rural population of Yamhill County has grown just over two percent in ten years, or about 500 people. Much of this growth has been in rural residential exception and urban growth areas, and not in exclusive farm use zones, so the amount of development in farming areas is actually not as great. The population of the county grew by about 18 percent during that period, so it is evident that current zoning is accomplishing the goal of directing growth to urban areas. Population projections for Yamhill County provided by the Center for Population Research and Census at Portland State University (dated 26 October 1990) are arranged in high, medium, and low estimates. Using the medium series, Yamhill County population is expected to grow by approximately 50 percent over the next 50 years, or roughly 10 percent per decade. This is less than the previous decade. With a similar proportion of that growth absorbed by urban and rural residential areas, the prospect for an unacceptable level of residential development in the farming areas of the county is slight.

Another important aspect to consider in analysis of past development activity in EFU zones is the effect of uncertainty on the part of property owners resulting from the debates over the re-examination of farm zoning prompted by periodic review and over secondary lands. These two issues have outcomes unpredictable to citizens, so, in fear of losing perceived property rights, the number of farm partition and dwelling requests increased in the county dramatically. Under ordinary circumstances, many of these requests would never have been made.

III. Minimum Lot Sizes

The Land Conservation and Development Commission (LCDC) and the state Department of Land Conservation and Development (DLCD) have instituted a series of requirements to be addressed by counties when establishing a minimum lot size for exclusive farm use zones. These requirements are summarized in this section.

A. Goal 3: *To preserve and maintain agricultural lands*

This goal statement, adopted by LCDC, is the basis for interpretive rules and case law. The broad goal language was supplemented by LCDC with instructions that farm-zone minimum lot sizes "*shall be appropriate for the continuation of the existing commercial agricultural enterprise within the area.*"

Further refinement of the meaning of the Goal 3 minimum lot size standard was undertaken by DLCD, and is codified in Oregon Administrative Rules (OAR) Chapter 660, Division 5 (Goal 3 Rule). Part of that refinement is a definition of "commercial agricultural enterprise." This term includes farm operations that will:

- Contribute in a substantial way to the area's existing agricultural economy
- Help maintain agricultural processors and established farm markets

The rules provide counties latitude in application of the minimum lot size standard, stating a specific acreage is not required to be used, i.e. case-by-case administration of the standard is permissible. Alternatively, multiple minimum lot sizes based on crops or areas of the county are acceptable.

Through the Aglands Advisory Committee and Planning Commission hearings, it became evident that a defined minimum lot size is desirable in order to provide a level of certainty to landowners regarding the use of their land. The new EFU ordinance incorporates a minimum acreage size for land divisions based upon the EF-40 and AF-20 zones that have existed in the County since 1976; however, in applications for farm dwellings, the 20 and 40 acre levels are used only as an administrative threshold. That is, provision for additional case-by-case review standards is included for parcels smaller than the "minimum" lot size. The minimum lot sizes are employed to recognize different farm areas of the county, as provided for in the rule. Ordinance structure and language is explained in section IV of this report.

The Goal 3 rule requires that minimum lot size determinations be based on identification of the types and sizes of commercial farms in the area. The study performed by the OSU research team, supplemented by other information, identified these characteristics. The conclusions based on this and other research are presented in subsection III.B of this report.

There is also direction in the Goal 3 rule that analysis of farm size should not be based on individual tax lots. The survey conducted by OSU included review of the ownership of each tax lot, and contiguously owned lots were considered as one parcel for the purpose of analysis of farm size. The rule states, *"a single farm unit may consist of any number of contiguous tax lots (including tax lots separated only by a road or highway), which are managed jointly as a single farm unit."* This direction was adhered to; it was assumed that the contiguous ownerships are managed as a single farm unit, however.

The contiguous ownership tracts were then arrayed in ascending order by size. Parcels with a farm use value less than \$5,000, as calculated by the County Assessor, were not considered because this value approximates an annual productive capability of \$10,000 for the parcel. This relationship is explained in the OSU report, beginning on page 13 (Appendix A). The cutoff was used so only commercial farms would be included. The rationale for the \$10,000 figure is provided in section IV.B.3 of this report. The Board determined that a parcel at least as large as 40 percent of the contiguous ownership tracts is indicative of the commercial agricultural enterprise, and therefore appropriate for a minimum lot size.

The 40 percentile figure is proper because it is large enough to establish the pattern of farms in the area, and it will insure compliance with the "substantial contribution" test described above, as supported by data explained in section III of this report. It is not necessary to consider the mid point, or median, size parcel, or larger, because the minimum lot size is an entry level to determine whether a farm is commercial, and a significant minority of farms is appropriate to determine what that level is. Forty percent is a significant minority. The results of evaluation of farm characteristics supports this view.

The county must develop an ordinance to preserve and maintain agricultural land. There has been considerable litigation regarding this requirement, and one of the interpretations is based on the premise that small tracts are more valuable per acre than larger ones. Therefore, part of maintaining agricultural land is ensuring the minimum lot size is not so low as to result in an escalation of property values to a point that there is a detrimental effect on commercial agriculture.

Difficulties with demonstrating conformity with the Goal 3 rule was addressed by Dr. Pease in a letter to DLCD (9 July 1990). Dr. Pease has been involved in several studies of characteristics of commercial farms, and concluded "Certain criteria in the rule are not measurable by information available from existing databases" and "The only way to document this level of information and detail is a door-to-door, kitchen table survey, which would be very expensive and which farmers would not be enthusiastic about." These difficulties were experienced by Yamhill County in this justification, but insofar as possible within the constraints of available data, the adopted EFU zoning is justified as consistent with the intent of the Goal 3 rule.

B. Agricultural Areas of Yamhill County

Part of the task of the OSU research team was to identify distinct agricultural regions of the county. Originally, the team identified seven regions based on landform, predominant crop type, soils, and expected parcelization pattern. This was undertaken in order to define the "existing commercial agricultural enterprise within the area." Regions exhibiting similar characteristics were subsequently combined into three areas, and analysis performed. The OSU researchers considered the association between the regions and the types of agriculture practiced within those regions, but empirical information was not presented to support the correlation. Subsequently, data on the location of the various commodities, provided by the Agricultural Stabilization and Conservation Service (ASCS), was plotted on a county map to determine patterns of cropping. The county performed additional analysis of the areas considering the new crop data and elevation. The three OSU regions were also divided again into smaller subareas for more precise analysis. From the information on farm parcel size and types of farming, four agricultural regions of the county were identified. The approximate zone lines are depicted in Appendix B.

1. Valley Floor

The OSU research team defined this area, as described in the completion report. The name "valley floor" is actually an approximation because the area includes some land on slopes above the river terraces that either support crops similar to the bottomlands, or exhibit farms of similar size, or both. This area accounts for over fifty percent of the study area. Part of the area within the region defined by the OSU team as valley floor was subsequently added to a different area because it displayed crop and farm size characteristics more similar to the Coast Range foothills, which are described in a following section of this report. The EF-40 zone is adopted for the valley floor.

The valley floor is composed of mostly two soil associations: Woodburn-Willamette and Amity-Aloha-Dayton. There is also a considerable area of Cloquato-Chehalis-Newberg association adjacent the Willamette and Yamhill Rivers. All these soils are depicted as having good suitability for farm crops on the General Soil Map (Soil Conservation Service, 1970), the best rating.

Analysis of the types of crops raised on the valley floor revealed there is such a mix that it is difficult to identify dominant commodities. Vegetables, berries, and nursery stock, which require irrigation, are most common south of Dayton in the Palmer Creek and Grand Island areas, but those crops are raised throughout the valley floor where irrigation is available. Grains and grasses are the most commonly grown crops on certain soils or where there is no irrigation, but they are also well represented in the Palmer Creek area because they are part of regular crop rotation. There are also a variety of other farm commodities raised on the valley floor, including orchards, Christmas trees, vegetable seeds, livestock, legumes, and poultry, that are distributed throughout the area.

The 40 percentile size of commercial farms in the valley floor area is 29.1 acres. Yamhill County has adopted a 40-acre minimum lot size for the valley floor. This size is "appropriate for the continuation of the existing commercial agricultural enterprise in the area" because it is as large as fully half of the commercial farm units in the area. This minimum lot size will protect existing parcels up to 80 acres. Contiguous ownerships are an appropriate unit for analysis for the reasons explained in the OSU report, beginning on page 12 (Appendix A).

A 40-acre farm can be expected to produce the following annual sales levels (from OSU report, Table 9):

Wheat	\$10,880
Grass	16,640
Vegetables	49,360
Tree fruits and nuts	36,640

These are the most commonly raised crops on the valley floor. With \$10,000 as a threshold for commercial farming activity, 40 acres is an appropriate size to comply with Goal 3. These products have existing markets, and channels for selling the crops are established in the county.

In the six years 1984 to 1989, there were an average of less than three farm partitions per year in the valley floor area in the EF-40 zone. Of these, only four parcels previously over 80 acres were reduced below that size. Given a 40-acre minimum lot size, 30 percent of the commercial farm parcels on the valley floor could be partitioned. This figure is actually too large because it considers contiguous

ownerships, many of which are comprised of multiple parcels. Therefore, there is less need for and likelihood of partitioning, because many of the ownerships are already in effect partitioned.

Regarding the Goal 3 rule standard of substantial contribution to the agricultural economy, according to the special tabulations of the 1982 Census of Agriculture, farms with sales greater than \$2,500 and over 40 acres accounted for 85 percent of the value of product sold in the County. Farms of the size 40 to 79 acres accounted for six percent of the total agricultural sales, nearly the same as the seven percent in the 160 to 239 acre range and eight percent in the 240 to 319 acre range. The median product sold from the farms in the 40 to 79 acre range was \$14,000, consistent with the \$10,000 threshold for commercial agriculture.

The evidence presented in the OSU report regarding the per-acre value of farmland at various sizes (Table 15) is inconclusive. There were not enough sales of parcels larger than 30 acres to determine a pattern of land values. The data includes only bare land, and there were too few transactions to produce a significant sample, particularly at the larger acreages. Additional information was supplied by

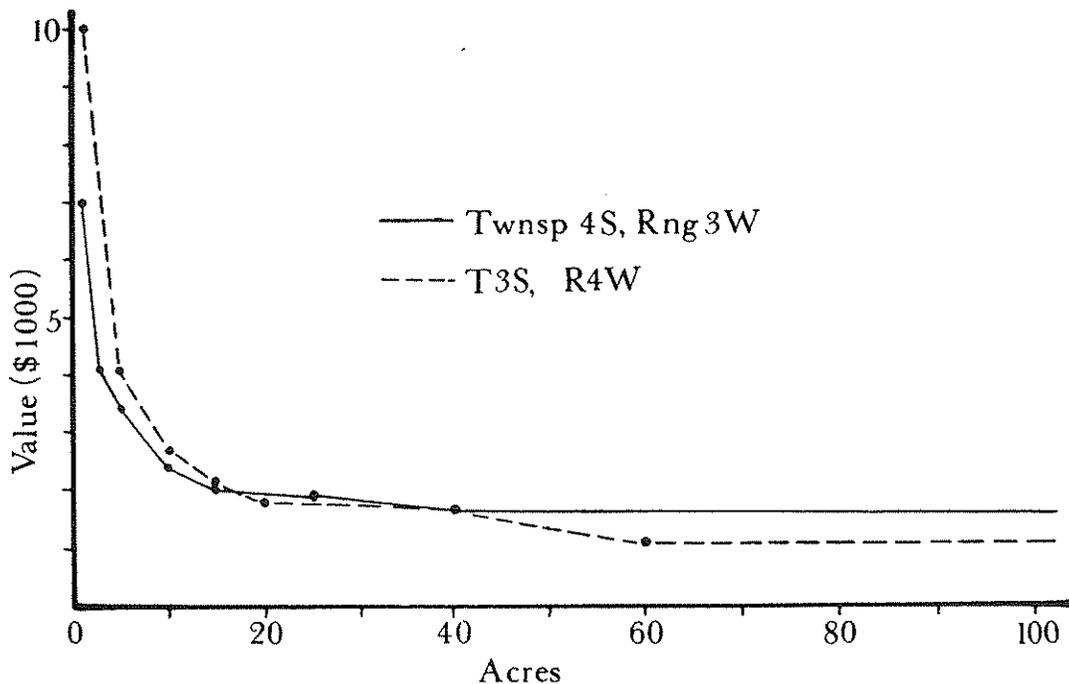


Figure 1. Land value curves - valley floor

the County Assessor to supplement the data in the OSU report. The Assessor's office performs analysis of land sales and develops value curves for the various appraisal areas of the county. The curves for selected areas of the valley floor are provided in Figure 1.

Values do not appear to decrease appreciably for parcels larger than 30 acres. A 40-acre minimum lot size will not be counter the goal of maintaining economically viable agricultural land.

A 40-acre minimum lot size in the valley floor will preserve and maintain agricultural lands. Historical information suggests very little partitioning activity has occurred with this minimum lot size. The current median farm unit is 40 acres in this area. The opportunity for future partitioning is sufficiently confined to only a small portion of farm units.

2. Interior Foothills

This area was also defined by the OSU research team, and it includes hill land in the county not adjacent to the Coast Range, and associated valleys. These are Parrett Mountain, Chehalem Mountain, the Red Hills, the uplands between the North Yamhill River and Chehalem Creek, the Chehalem Valley, and the Amity/Eola Hills. These are two separate blocks of land that are treated together because of similarity in farming practices and physical characteristics. The adopted zone for this area is AF-20.

The soils in the foothills areas are varied, but two associations are quite extensive. These are the Willakenzie and the Jory-Yamhill-Nekia associations. Less extensive but still common is the Laurelwood association. These soils are rated as having fair to poor suitability for farm crops on the General Soil Map, depending on the severity of slope. The poor soils predominate. An exception is the Chehalem Valley, which has bottomland soils. This area was incorporated because of existing small farm sizes.

Analysis of the crops raised in the foothills indicates much less diversity than the valley floor. Christmas trees, grapes, orchards (mostly filberts and sweet cherries), and livestock account for most of the farming activity. There is some grain planted in the foothills, but ASCS personnel indicated this is ground usually in permanent pasture, planted to oats for one year for weed control.

Most of the foothills area is characterized by hobby farms, small commercial farms, and non-farm activities. The commercial farms in the area typically raise high value-per-acre crops, predominantly filberts and grapes, and are usually not large compared to the valley floor. The 40 percentile farm size in this area is 19.5 acres.

Although a thorough investigation has not been completed, it is evident from soil and parcelization information that much of the area will qualify for secondary lands status when that legislation is adopted. The proposed minimum lot size for secondary lands is 20 acres. This minimum lot size will protect two-thirds of the existing parcels in the area.

A 20-acre farm can be expected to produce the following annual sales levels (from OSU report, Table 9):

Grapes	\$34,000.00
Tree fruits and nuts	18,320.00
Christmas trees	36,780.00

These are the most commonly raised crops in the foothills. Using \$10,000 as a threshold for commercial farming activity, it can be seen 20 acres is an appropriate size to comply with Goal 3. These crops have established markets and marketing channels in place in the county.

Regarding substantial contribution to farm markets, the data relied upon in the valley floor section of this report is county-wide. Since most of the commercial farms are on the valley floor, this lack of specificity was considered acceptable when analyzing that area. Determining the contribution made by foothills farms is more difficult. Segregating the information by crop type is not possible because tree fruits and nuts are grown on the valley floor as well as the foothills, and grapes are combined with berries. Christmas trees, are not in a separate category, either.

One source of information available is the 1989 Oregon Vineyard Report, prepared by the by the Oregon Agricultural Statistics Service (OASS). This report indicates the average vineyard in Yamhill County is 15.8 acres. Since nearly all the grapes produced in the county are in the foothills, this is a reasonable indication of the size of farms contributing substantially to that sector of the farm economy. The county also received testimony to this effect from seven commercial grape growers in conjunction with a quasi-judicial zone change in 1990.

According to the 1989-1990 Oregon Agriculture & Fisheries Statistics (prepared by OASS), the estimated average size of filbert operation in the county is 30 acres. This includes all operations, however, and some of the largest filbert orchards are on the valley floor, so in the foothills area, the typical filbert operation is certainly smaller. Even accounting for the operations that are not of a commercial scale, 20 acre is still a reasonable approximation of the typical existing commercial filbert operation in the interior foothills.

Land value curves for the interior foothills are provided in Figure 2. The northeast county line includes all of Parrett Mountain and the Red Hills, and most of the Chehalem Mountains. The values in this area are quite high relative to other rural areas of the county, but values do not rise at all above 25 acres and a substantial increase in value does not occur until the parcel is smaller than 20 acres. The "5-4" line shows a fairly smooth curve to 50 acres, but values do not increase dramatically until the property is smaller than 20 or 25 acres.

A 20-acre minimum lot size will protect commercial agriculture in the foothills area because it is consistent with the existing enterprise in the area, based on farm size and types of commodities produced. Twenty acres is large enough to carry on the types of farm operations suited to the area on a

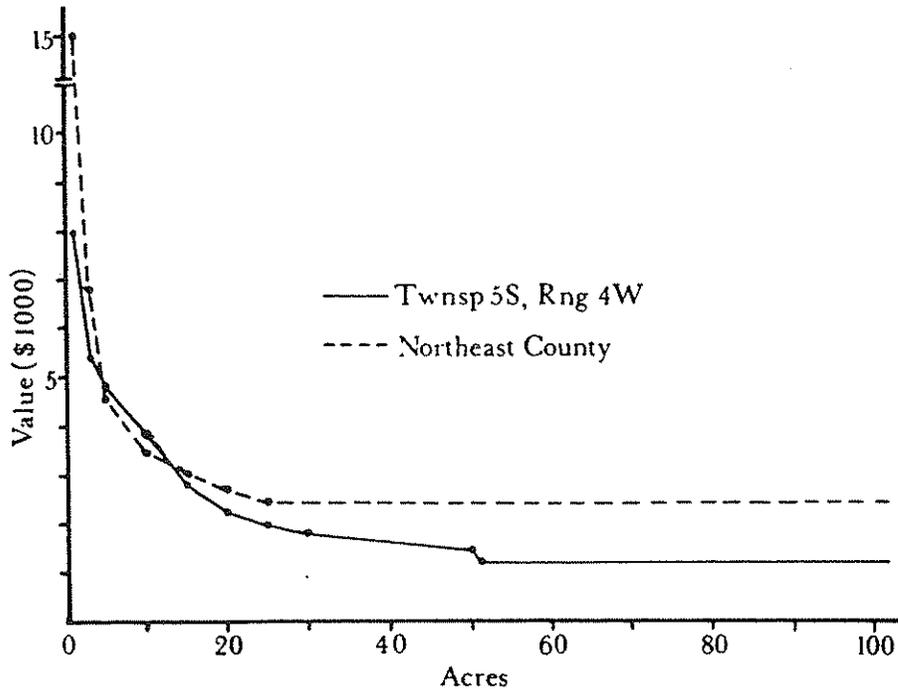


Figure 2. Land value curves - interior foothills

commercial scale, and insure protection of those farms contributing to the agricultural economy in a substantial way. Twenty acres will also provide for reasonable use of the foothills area where the resource quality is limited, but historical partitioning of the area has created an abundance of parcels of this general size.

The Board is also aware that in order to allow entry into farming by individuals without great financial means, there must be a mechanism to allow people to purchase a small parcel of ground and expand as resources allow. It is not in the best interests of commercial agriculture in the county to create a situation where only large farms are capable of expanding. It is most desirable for the owner to be able to reside on the property, and the 20-acre minimum lot size allows this staged growth to take place.

3. Lower Coast Range Foothills

The southern and central segments of this area were defined by the OSU research team. The central portion was considered by them with the interior foothills, and the south end associated with the upper Coast Range foothills. The northern portion of this area was extracted from the valley floor because this was a more appropriate match concerning farm attributes. This area is a strip of land in the transition between the valley floor and the commercial forest land in the Coast Range. In the northern part of this area, there is additional transition zone at higher elevation; this area is considered in the following section of this report. Land use is characterized by a mix of forest and farm uses. The farm products most commonly produced are livestock, hay, and Christmas trees. There is some grain produc-

tion in valley bottoms, and a few vineyards on suitable sites. The adopted zoning for the area is AF-20.

The soils in the area are diverse, but the most predominant appear to be Peavine and Olyic associations. These soils are depicted on the General Soil Map as having poor suitability for farm crops. Some of the broader valley bottoms in the area exhibit soils rated as fair, but these are not widespread. Using the same method of analysis described at the beginning of this section, farm sizes were examined. The crops grown in the foothills are not as varied as on the valley floor, and the farm operations are considerably smaller. The 40 percentile level of farm operations in the lower foothills is 21 acres.

The 20-acre minimum lot size is appropriate because the land has minimal resource productivity and because the area is already characterized by small farms. There were an average of 3.5 partitions approved in the lower foothills from 1984 through 1989, and only five of these resulted in parcels larger than 80 acres being reduced below that size. Partitioning increased in the years 1987, 1988, and 1989 over previous years due to the uncertainties described in Section II of this report. Regarding substantial contribution to the agricultural economy, due to physical capability and parcelization pattern, this area will not be a significant farming area regardless of lot size restrictions. Much of this area will undoubtedly be eligible for secondary lands designation when that option is made available. A definitive analysis of that possibility cannot be made now because the criteria for designation have not been determined, but the area certainly corresponds to the intent of the provisions as they have been described in the past.

The land value curves derived from County Assessor information is depicted in Figure 3. The graph clearly illustrates that land values do not rise appreciably until a parcel is smaller than 20 acres. In the upper curve, land value does not decrease at all for parcels larger than twenty acres. The appraisals are based on actual sales, and there may have been no sales of property larger than 20 acres. The lower curve exhibits lower values, but the noticeable increase does not occur until the parcel is somewhat smaller than 20 acres.

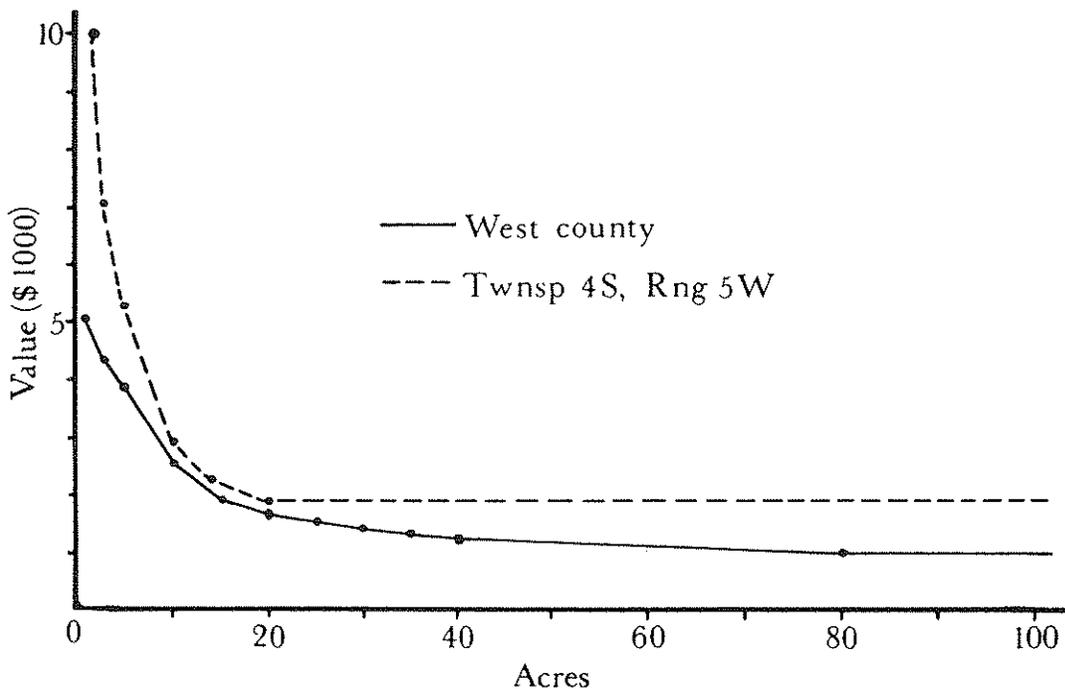


Figure 3. Land value curves - lower Coast Range foothills

4. Upper Coast Range Foothills

This area has characteristics similar to the lower foothills, with one major difference. The existing agricultural enterprise is characterized by larger farms than what predominates in the lower area. The 40 percentile farm size in this subarea is 43 acres. The adopted minimum lot size for this area is 40 acres. There were only two partitions approved in this area between 1984 and 1989, inclusive, and both of these were of property zoned AF-20. With an increased minimum lot size, farmland in the area will be protected. The land value curve for this area is nearly identical to the "3-4" line in Figure 1. A 40-acre minimum lot size is large enough to maintain viable agriculture as it is practiced in the area.

5. Small Holdings Areas and Other Potential Exception Areas

The OSU research team identified six 640-acre sections they characterized as "small holdings." The identified sections are:

Township 2 South, Range 4 West, Section 33
 Township 3 South, Range 2 West, Section 23
 Township 3 South, Range 3 West, Section 12
 Township 3 South, Range 3 West, Section 22
 Township 3 South, Range 3 West, Section 26
 Township 5 South, Range 4 West, Section 14

These areas were defined as sections in which over half of the farmland in an EFU zone is in ownerships smaller than 40 acres or less than \$7000 farm value. The Planning Commission and Board each considered what to do with these areas, and each body decided the most appropriate course is to combine them with the surrounding exclusive farm use areas until periodic review is completed, and then return to them and examine more closely the level of development and consider taking exceptions and rezoning them to a rural residential designation.

When this is accomplished, these areas will help relieve potential pressure for development on resource lands. The likely designation for the areas has not yet been considered, but further development of these areas will not substantially reduce their contribution to the agricultural economy because they are characterized by noncommercial types of farming already.

In addition, other areas of the county that may qualify for exceptions to Goal 3 will be examined with the intent of locating further rural residential sites to help relieve development pressure on farmland.

IV. Application of the Minimum Lot Size Standard

The Board of County Commissioners has determined that minimum lot sizes of 40 acres in the valley floor and part of the foothills, and 20 acres in most of the foothills are appropriate for continuation of the existing commercial agricultural enterprise within the respective areas. How these minimum lot sizes would be applied to the creation of new lots and new farm dwelling requests is explained in this section.

A. Creation of New Lots

Through the meetings with the Aglands Advisory Committee and hearings with the Planning Commission and Board, it was often repeated that one of the major difficulties the county must address in its farm zoning is the existence of numerous parcels created prior to statewide zoning that are smaller than the currently established minimum lot sizes. The historical development of many parts of the county has led to an abundance of individual parcels that have been rendered by economic changes inappropriately sized to be considered individual farm units.

Consequently, the Planning Commission recommended that the ordinance not provide for creation of new lots smaller than the minimum lot size. The attitude was that there are a sufficient number of small parcels in the county, and additional small holdings should not be encouraged in the EFU zones. That recommendation was followed, and the ordinance does not provide for new farm or nonfarm parcels smaller than the applicable minimum lot size. Since the minimum lot sizes addressed in Section III of this report were shown to comply with Goal 3, creation of new parcels as large or larger than

those thresholds will be permitted without additional review standards.

B. Dwellings in Conjunction with Farm Use

The ordinance language for the 40- and 20-acre zones are identical, except the different minimum lot sizes are inserted where appropriate. The structure of the farm dwelling standards is based on a three-level review. The first level of review is applied to parcels larger than the minimum lot size. The second level applies to parcels smaller than the minimum lot size, and employs additional review standards to insure the parcel is a commercial farm unit. The third tier is employed to provide further flexibility for parcels exhibiting unusual circumstances and that do not qualify under either of the first two tiers, but which are, nevertheless, legitimate commercial farming enterprises.

1. Standards for All Farm Dwellings

The review standards employed in all farm dwelling reviews are written to comply with the standards from the Goal 3 rule. An additional standard is included to clarify the statute language that a dwelling be "customarily provided in conjunction with farm use." A final criterion is provided to insure the proposed dwelling location is appropriate for residential use, considering utility facilities and services. These standards will insure compliance with the intent and letter of Goal 3 and the Goal 3 rule.

2. Type 1 Review

This level of review is employed for dwelling requests on parcels as large or larger than the minimum lot size. Only the size of the parcel and the standards explained above apply. This is sufficient because the analysis of what is a commercial agricultural enterprise has already been performed, and the respective lot sizes have been justified as consistent with Goal 3.

3. Type 2 Review

This type of review is implemented when the request is for a dwelling on a parcel of 10 or more, but less than 40, acres. There are two options employed in Type 2 review. The first is based on the number of acres of crop planted. The minimum acreage depends on the crop; the higher the per-acre value of the crop, the fewer acres needed to be considered commercial. For many crops, Type 2 review will not apply because more than 40 acres would be required anyway.

The acreages are based on the amount of land needed to produce \$10,000 annual sales, on average. The crop acreage figures were taken from Table 9 of the OSU report. The \$10,000 level was adopted because that sales figure was employed by the legislature in its marginal lands bill and by LCDC in the secondary lands pilot study. In addition, the Planning Commission received testimony from DLCD staff and a representative of 1000 Friends of Oregon that this was an appropriate threshold.

The second option under Type 2 review is a consideration of the surrounding farm sizes in the area of the request. The area of the request and the method of analysis is defined in the ordinance. A determination that the farm is at least as large as 40 percent of the farms in the area is required. The 40 percent figure is explained in Section III.A of this report. This option provides for a more detailed analysis of the existing commercial agricultural enterprise in the immediate vicinity. The method of analysis is prescribed in the ordinance, and the general farm dwelling review standards combine with this analysis to insure that any approval is consistent with the goal of protecting commercial agriculture.

4. Type 3 Review

The criteria for farm dwellings explained in subsection 1 above apply in Type 3 review, plus a requirement is included that a showing be made the dwelling is either necessary or the lack of it would impose significant hardship. There is no minimum lot size in this tier. Type 3 review also includes two options.

The first option is that evaluation of the on-site soils and crops reveals the parcel is capable of producing \$10,000 annual sales, using a three-year average of commodity prices. This option relates to the actual characteristics of the parcel, rather than the county-wide averages in Type 2. This tier complies with Goal 3 because the dwellings can only be approved on parcels that are demonstrated to be commercial agricultural units.

The second option is that the applicant can demonstrate an actual sales activity at a commercial level for more than one year. The Board is reluctant to include a provision that would require examination of individual's financial records. But there has been no other method determined that would allow placement of a dwelling in conjunction with a commercial farm that raise a commodity that is not land-dependent, such as a containerized nursery. The first tier 3 option is based solely on the productive capability of the land, and the information is available from objective sources. Information on less typical types of agriculture is not as readily available.

5. Farms Composed of Noncontiguous Parcels

A final option for approval of dwellings in conjunction with farm use is separate from the three tiers. This option is provided to allow flexibility for farmers that have several parcels, and the most appropriate dwelling location is on a parcel smaller than the minimum lot size.

To guard against abuse of the provision, the minimum farm size is double the minimum lot size of the zone, and there may be no existing dwellings on any of the owned portion of the farm. Leased land may count as part of the farm, but only under strict circumstances, and the dwelling may not be placed on leased land. Dwelling requests using this option are also subject to the general review criteria for farm dwellings explained at the beginning of this section.

V. Conclusion

The current system of zoning in Yamhill County has proven to be effective in maintaining and preserving farmland for farm uses. With certain modifications in ordinance language and the zoning map, the Exclusive Farm Use zones have been shown to comply with Goal 3 and the implementing rules while supporting the needs of agriculture and the citizens of the county.

The county takes seriously its commitment to Goal 1, and has exceeded its obligation in involving the public in decision-making regarding Goal 3. The unmistakable sentiment of much of the population of the county is that the current system of 20- and 40-acre farm zoning is appropriate and has succeeded in protecting commercial agriculture.

Since compliance with Goal 3 has been demonstrated by the facts in this justification statement, there is little if any reason for extensive downzoning. The effect of this would be to undermine the trust placed in the county in numerous decisions by many individuals in their purchase of property, in reliance on the ability to use the property in a certain manner. It is also in the best interests of the agricultural economy of the county to provide flexibility in zoning to allow young and new farmers the opportunity to practice agriculture when their financial constraints do not allow them to purchase eighty or one hundred acres.

The 40- and 20-acre minimum lot sizes for creation of new parcels will ensure the parcels are of sufficient size to farm efficiently at a commercial scale in the respective physiographic areas. The standards for review of new dwellings in conjunction with farm use provide a new measure of flexibility to property owners in the county while maintaining the requirements that only legitimate, existing commercial agricultural units qualify.

APPENDIX AFROM:

Yamhill County

AGRICULTURAL RESOURCE LANDS PROJECT

Completion Report on
Long-range Goals, Databases, Criteria, and Proposed Standards
for the Exclusive Farm Use Zone

Assessor Data

Assessor tax lot data are available countywide, are updated annually, and can be disaggregated by subareas. It includes size figures, land values, presence of dwellings, and rent values. Since land value is a function of parcel size and soil quality (by use of an adjustment formula for each soil type), it is a reasonably good measure of the relative agricultural productivity value of a parcel. Contiguous ownerships can be derived from the database and separated into three files: 1) all contiguous ownerships, 2) ownerships with dwellings, and 3) ownerships without dwellings by the all contiguous ownership file available from the Assessor's office.

We defined contiguous ownership as tax lots with the same name (or immediate family, i.e., spouse) that touched or were separated only by a road. Contiguous ownerships have also been

called "core farms" (Coughlin, 1988) and make a reasonable observation unit. Contiguous ownerships are recognized in OAR 660-05-015(7) as an appropriate farm unit for determining commercial farm sizes. Although the same person may own several non-contiguous tax lots, it is unknown (and unknowable without a door-to-door survey) whether they are operated as part of the core farm. Leased or rented lands, while representing about 30% of operated lands in Yamhill County, should not be used as a standard of comparison since the arrangements are temporary and to use them would necessitate allowing a percentage of the MPS to be leased or rented to be consistent. Also, according to the Profile of Commercial Agriculture for Linn County, the median percentage of farmland adjacent to the home parcel is 99.5% and for Clackamas County, 100%. The mean is 70% and 78%, respectively. These figures support the assumption that contiguously owned tax lots are a reasonable approximation of farm units.

Using Assessor land values, an estimate of gross sales potential can be made by determining the estimated percentage of gross sales represented by the land rent value. Since land rent is adjusted for each parcel by soil type, gross sales derived by a multiplier of land rent is automatically adjusted by soil quality. In other words, the best soil would have higher gross sales estimates than poorer soils. In deriving land value, the County Assessor multiplies the adjusted land rent by a capitalization factor. Since the capitalization factor is a

constant, it is a straightforward process to obtain a multiplier for land value of a parcel. We determined that 5% of gross sales represented a reasonable estimate of the land rent figure for Yamhill County. Assuming that typical expenses are 85% of gross sales (including operator labor) and 5% of gross sales is allocated to management and 5% to net profit (or return on investment), then land rent is about 5% of gross sales. This calculation was derived from data supplied by Extension economists. It is supported by estimates of the land rent percentage of gross sales made using the 1987 Census of Agriculture, Table 16.

Using this figure, the best-quality irrigated soil in Yamhill County is assessed at \$690/acre, which would give an estimate of gross sales of \$1380/acre, using a land multiplier of 2.0 (derived from the 5% land rent to gross sales discussed earlier). If processed vegetables are used as an indicator crop for the best irrigated soil, the gross sales average from 1989 Extension Commodity figures is \$1385/acre, which provides strong support for the estimate. Other crop combinations which could be used for this soil, such as field crops or rotations of berries and wheat or legumes, also support the estimate.

In this report, the gross sales is important because it is used as a "target" gross sales for calculating minimum ownership parcel sizes in Tier 2 for various commodities. To obtain the target gross sales we used a \$5,000 land value as an approximation of a \$10,000 gross sales threshold for commercial

farms and counted only contiguous ownership tracts without a dwelling so that land value data would not be distorted by the value of the homesite. In Yamhill County, homesite value can be obtained only on a record-by-record basis, which is infeasible due to staff time requirements for compilation. However, land values calculated by this procedure were nearly identical to values for all ownership tracts, with or without a dwelling.

The Assessor data obtained from the county was entered manually into a spreadsheet program (QUATTROPRO) and into DBASE-IV. The computer capabilities allowed us to sort by sections to define agricultural areas and to calculate medians, quartiles, and means. We also digitized a county highway map at a scale of 1:62,000. The database and map can be combined with appropriate software to produce mapped data for various purposes.

The Assessor database provided our basic data set. To screen for non-commercial parcels, we tried using a land value of \$7,000 (gross sales = \$14,000), but eventually abandoned this criterion because the presence of a homesite could not be separated from agricultural production value in the database unless we used only tracts without a dwelling, which would limit the database. We therefore used a 10-acre tract size as a threshold for commercial farms. This figure has been endorsed in Lane County by the Department of Land Conservation and Development (DLCD) and 1,000 Friends of Oregon.