

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

95-267

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance)
 Amending the Yamhill County Zoning)
 Ordinance No. 310, as Amended, to)
 Make Textual Amendments to the)
 Forestry District, Exclusive Farm) ORDINANCE 591
 Use District, and Agriculture/)
 Forestry District; Applicant)
 Yamhill County; Planning Docket)
 G-9-94; and Declaring an Emergency.)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in special session on May 10, 1995, Commissioners Dennis L. Goecks, Robert Johnstone, and Thomas E.E. Bunn being present.

WHEREAS, on December 29, 1993, the county enacted Ordinance 565 to, among other things, implement those provisions of House Bill 3661 (1993 Oregon Laws Chapter 792) that allow establishment of dwellings on certain lots of record;

WHEREAS, there is a definition of "owner" in Ordinance 565 which applies to forest template and other dwellings and which is based on the definition of "owner" under HB 3661 for certain lots of record dwellings, and as a result, the owner definition found in Ordinance 565 is more restrictive than HB 3661; and

WHEREAS, it was the intent of the Board that the "owner" definition in Ordinance 565 be no more restrictive than State requirements under HB 3661; Now Therefore,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. Sections 401, 402 and 403 of the Yamhill County Zoning Ordinance No. 310, as amended, are hereby amended as provided and specified in the attached Exhibit "A", and made part of this ordinance by reference.

Section 2. This ordinance is severable. If any section or subsection contained in this ordinance or any of its exhibits is found to be invalid or unconstitutional by a court of last resort, that section or subsection shall be severed from this ordinance and the remainder of this ordinance shall remain valid.

Section 3. This ordinance being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage.

DONE at McMinnville, Oregon this 10 day of May, 1995.

ATTEST

CHARGES STERN
County Clerk

BY: Jaymie Mitchell
Deputy CLERK JAYMIE MITCHELL

FORM APPROVED BY:

John C. Pinkstaff
JOHN C. PINKSTAFF
Assistant County Counsel

YAMHILL COUNTY BOARD OF COMMISSIONERS

Dennis L. Goecks
Chairman DENNIS L. GOECKS

Robert Johnstone
Commissioner ROBERT JOHNSTONE

Thomas E. E. Bunn
Commissioner THOMAS E. E. BUNN

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EXHIBIT "A" TO ORDINANCE 591

**Amending FORESTRY DISTRICT, F-80 (SECTION 401),
EXCLUSIVE FARM USE DISTRICT, EF-80, EF-40, AND EF-20 (SECTION 402) and
AGRICULTURE/FORESTRY DISTRICT, AF-20, AF-40, AF-80 (SECTION 403)
OF YAMHILL COUNTY ZONING ORDINANCE NO. 310 AS AMENDED**

NOTE: New language is underlined and deleted language is [bracketed].

* * *

1. Section 401.03 is amended as follows:

401.03 Dwellings Permitted Subject to Standards.

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

- A. Principal dwelling on a tract of at least 160 contiguous acres. A tract separated only by a public road or a waterway is considered contiguous, subject to Type A notice procedures.
- B. Principal dwelling where an owner of tracts that are not contiguous, but are in the same county or adjacent counties and zoned for forest use, when added together total 200 or more acres, subject to the deed restriction requirements of Section 401.11 and Type a notice procedures.
- C. Principal dwelling, subject to Type A notice procedures and the following standards and criteria:
 - 1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - (a) prior to January 1, 1985; or
 - (b) by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
 - 2. The tract on which the dwelling is to be sited does not include a dwelling.

3. The tract on which the dwelling is to be sited is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species.
 4. The tract on which the dwelling is to be located is within 1,500 feet of a public road that is maintained and either paved or surfaced with rock. The road shall not be a United States Forest Service road or Bureau of Land Management road.
 5. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 6. The dwelling **is not prohibited by, and** complies with, the Comprehensive Plan and other provisions of this ordinance **and other provisions of law**, including but not limited to floodplain, greenway, and airport overlay restrictions.
 7. The property owner shall submit a stocking survey report to the County Assessor, and the Assessor shall verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
 8. The county assessor shall be notified that the governing body intends to allow the dwelling.
 - 9. For purposes of this section 401.03 C, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.**
- D. Principal dwelling, except as provided in subsection D of this Section, subject to Type A notice procedures and the following standards and criteria:
1. There are no other dwellings on the subject tract; and
 2. The remainder of the subject tract shall be consolidated into one parcel, which shall not be eligible for an additional dwelling; and
 3. The lot or parcel is predominantly composed of soils are capable of producing 0 to 49 cubic feet per acre of wood fiber; and
 - a. All or part of at least three other lots or parcels that existed on January 1, 1993, not inside an Urban Growth Boundary, are within a 160-acre square centered on the center of the subject tract; and

- b. At least three dwellings existed on January 1, 1993, on the other lots or parcels; or
 4. The lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre of wood fiber; and
 - a. All or part of at least seven other lots or parcels that existed on January 1, 1993, not inside an Urban Growth Boundary, are within a 160-acre square centered on the center of the subject tract; and
 - b. At least three dwellings existed on January 1, 1993, on the other lots or parcels; or
 5. The lot or parcel is predominantly composed of soils that are capable of producing more than 85 cubic feet per acre of wood fiber; and
 - a. All or part of at least 11 other lots or parcels that existed on January 1, 1993, not inside an Urban Growth Boundary, are within a 160-acre square centered on the center of the subject tract; and
 - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993, on the other lots or parcels.
 6. If the tract on which the dwelling will be sited abuts a public road that existed on January 1, 1993, the measurement under subsections 4.a, 5.a, or 6.a may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road.
- E. Principal dwelling on a tract of 60 or more acres that abuts a road or perennial stream, subject to Type A notice procedures and the following standards and criteria:
 1. There are no other dwellings on the subject tract; and
 2. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed, and the tract shall not be eligible for an additional dwelling.
 3. The lot or parcel is predominantly composed of soils are capable of producing 0 to 49 cubic feet per acre of wood fiber; and
 - a. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and

- b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993, on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract; or
4. The lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre of wood fiber; and
 - a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
 - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993, on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract; or
5. The lot or parcel is predominantly composed of soils that are capable of producing more than 85 cubic feet per acre of wood fiber; and
 - a. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
 - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993, on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract.
6. The measurement under subsections 4.a, 5.a, or 6.a of this section shall be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road or stream.
7. The one dwelling required to be on the same side of the road or stream required to be on the same side of the road or stream required in subsections 4.b, 5.b, or 6.b of this section may be outside the width of the rectangle described in subsection 7 of this section if it is within one-quarter mile of the subject tract.
8. If the road crosses the subject tract on which the dwelling is to be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

2. Section 401.12 is amended as follows:

401.12 Definitions

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

- A. Auxiliary - A use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- B. Campground - An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. The park or campground may be public or private.
- B. Commercial tree species - Trees recognized under rules adopted under ORS 527.715 for commercial production.
- C. Forest operation - Any commercial activity relating to the growing or harvesting of any tree species as defined in ORS 527.620(6).
- ~~D. Owner - Includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.]~~

D. ~~[E]~~ Tract - One or more contiguous lots or parcels under the same ownership.

3. **Section 402.03 is amended to read:**

402.03 Permitted Dwellings

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

- A. Principal or secondary dwelling customarily provided in conjunction with farm use, under the following circumstances (Type B notice):
 - 1. The subject farm or ranch is currently employed for farm use, as defined Subsection 402.10.

2. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale as defined in subsection 4 of this section.
3. There is no other dwelling on the subject farm or ranch that is vacant or currently occupied by persons not working on the subject farm or ranch and could reasonably be used as the requested farm or ranch dwelling.
4. a. Type One Review. The subject parcel currently has established at least the number of acres for one of the following types of crops:

Berries	23 acres
Grapes	23 acres
Field crops	52 acres
Christmas trees	22 acres
Tree fruits or nuts	57 acres
Horticulture or specialty crops	25 acres
Hay & Silage	85 acres
Pasture & Grazing	97 acres
Seed Crops	130 acres
Vegetables	139 acres

For the purposes of this subsection, the crop type categories are those defined by the U.S. Census of agriculture. a crop type is considered "established" if it is planted and being managed using accepted farming practices as defined in Section 402.10; or

- b. Type Two Review. For requests for dwellings that do not qualify under Type One Review, the applicant must demonstrate that farm crops or livestock valued at a minimum of \$40,000 have been raised on the property, and sold, in each of the two previous years, or in three of the last five years; or
- c. Type Three Review. For requests for dwellings that do not qualify under Type One or Two Review, the applicant must demonstrate that the farm is of a commercial scale. The determination of whether the farm is "commercial" will be based upon whether the farm:
 - i. Contributes in a substantial way to the area's existing agricultural economy; and
 - ii. Helps maintain agricultural processors and established farm markets;

- iii. When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered.
- B. A secondary dwelling on property used for farm use under the following circumstances (Type A notice):
1. The dwelling is located on the same lot or parcel as the dwelling of the farm operator.
 2. The dwelling is occupied by a grandparent, grandchild, parent, child, brother or sister of the farm operator or the operator's spouse whose assistance in the management of the existing commercial farm use is or will be required by the farm operator.
 3. The farm operator shall continue to play the predominant role in the management of the farm. A farm operator is a person who operates a farm, doing the work and making day-to-day decisions about such things as planting, harvesting, feeding, and marketing.
- C. Seasonal farm worker housing, subject to Section 1101 for Site Design Review (Type B notice) when:
1. The housing is limited to occupancy by seasonal farm workers and their immediate families.
 2. The housing shall be occupied for no more than nine months (273 days) per year.
- D. Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in the county inventory as historic property and on the National Register of Historic Places (Type A notice).
- E. Principal dwelling not provided in conjunction with farm use on a lot or parcel created before January 1, 1993, subject to the following standards and criteria (Type B notice):
1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.
 2. The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II soils.

3. The dwelling will be sited on a lot or parcel created before January 1, 1993.
 4. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern of the area, the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated shall be considered.
 5. The dwelling complies with other conditions the county considers necessary, including but not limited to provision for sewage disposal, emergency vehicle access, and public road approach.
 6. Any approval of a dwelling not in conjunction with farm use under this section is subject to the provisions of subsection 402.08 of this ordinance.
- F. Principal dwelling subject to the following standards and criteria Type A notice):
1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - (a) prior to January 1, 1985; or
 - (b) by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
 2. The tract on which the dwelling is to be sited does not include a dwelling.
 3. The lot or parcel is not high-value farmland as defined in Subsection 402.10(E).
 4. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 5. The dwelling is not prohibited by, and complies with, the Comprehensive Plan and other provisions of this ordinance, and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
 6. The County Assessor shall be notified that the county intends to allow the dwelling.
 7. For purposes of this section 402.03 F, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law,

father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.

- G. Principal dwelling not in conjunction with farm use, subject to the following standards and criteria (Type A notice):
1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - a. Prior to January 1, 1985; or
 - b. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
 2. The tract on which the dwelling is to be sited does not include a dwelling.
 3. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 4. The dwelling **is not prohibited by, and** complies with the Comprehensive Plan and other provisions of this ordinance, **and other provisions of law,** including but not limited to floodplain, greenway, and airport overlay restrictions.
 5. The tract on which the dwelling is to be sited is:
 - a. Composed predominantly of high-value farmland as defined in subsection 402.10(E)(2) or (3); and
 - b. Twenty-one acres or less in size.
 6. The tract on which the dwelling is to be sited is:
 - a. Bordered on at 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993; or
 - b. Bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. No more than two of the four dwellings may be within an Urban Growth Boundary.

7. The County Assessor shall be notified that the county intends to allow the dwelling.
 8. For purposes of this section 402.03 G, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.
- H. Principal dwelling not in conjunction with farm use, subject to the following standards and criteria (Type A notice):
1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - a. prior to January 1, 1985; or
 - b. by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
 2. The tract on which the dwelling is to be sited does not include a dwelling.
 3. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 4. The dwelling **is not prohibited by, and** complies with, the Comprehensive Plan and other provisions of this ordinance, **and other provisions of law,** including but not limited to floodplain, greenway, and airport overlay restrictions.
 5. The tract on which the dwelling is to be sited is on high-value farmland as defined in subsection 402.10(E)(1).
 6. A hearings officer of the Oregon Department of Agriculture, under the provisions of ORS 183.413 to 183.497, determines that:
 - a. The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity;
 - b. The dwelling will comply with the provisions of ORS 215.296 (1); and

c. The dwelling will not materially alter the overall land use pattern of the area.

7. The County Assessor shall be notified that the county intends to allow the dwelling.

8. For purposes of this section 402.03 H, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.

4. Section 402.03.10 is amended to read:

402.10 Definition of Terms Used in this Section

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

A. Campground - An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

B. Commercial Activities in Conjunction with Farm Use - The processing, packaging, treatment, and wholesale distribution and storage of a product derived primarily, but not entirely, from farm activities on the premises. Also, retail sales of agricultural products, supplies and services directly related to the production and harvesting of agricultural products. Such uses include, but are not limited to, the following:

- Storage, distribution and sale of feed, fertilizer, seed, chemicals, and other products used for commercial agriculture;
- Livestock auction or sales yards;
- Farm equipment storage and repair facilities;
- Storage, repair, or sale of fencing, irrigation pipe and pumps, and other commercial farm-related equipment and implements;
- Veterinarian clinics;

- Slaughtering of animals, including attendant retail and wholesale sales;
- Wineries not listed as a permitted use.

C. Farm Use - The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use also includes the current employment of land for the primary purpose of obtaining profit in money by stabling or training equines. "Farm use" includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species. It does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3), or land described in ORS 321.267(1)(e) or 321.415(5).

"Current employment" of land for farm use includes:

- Farmland, the operation or use of which is subject to any farm-related government program;
- Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
- Land planted in orchards or other perennials prior to maturity;
- Wasteland, dry or covered with water, neither economically tillable nor grazeable, lying in adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
- Land under buildings supporting accepted farming practices;
- Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
- Land lying fallow for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family;
- Any land described under ORS 321.267 (1)(e) or 321.415 (5); and

Any land in an exclusive farm use zone used for the storage of agricultural products that would otherwise be disposed of through open field burning or propane flaming.

D. Golf course - An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:

1. A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes.
2. A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes.
3. A "non-regulation golf course" means a golf course or golf course-like development that does not meet this definition of golf course, including but not limited to executive golf courses, par three golf courses, pitch and putt courses, miniature golf courses, and driving ranges. Non-regulation golf courses are not permitted by this section.
4. An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course and conforms to the following:
 - a. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course include parking, maintenance buildings, cart storage and repair, practice range or driving range, clubhouse, restrooms, lockers and showers, food and beverage service, pro shop, and a practice or beginners course as part of an 18 hole or larger golf course.
 - c. Accessory uses to a golf course do not include sporting facilities unrelated to golf such as tennis courts, swimming pools, or weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing.
 - d. A use is accessory to a golf course only when limited in size and orientation to serve the needs of persons and their guests who patronize the golf course to golf.

- e. Commercial activities such as food and beverage service and pro shop are accessory to a golf course only when located in the clubhouse.

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

- (1) Soils rated Class I, II, prime, or unique, either irrigated or not irrigated.
- (2) The following Class III soils: Carlton, Chehalem, Dayton, Jory, Laurelwood, Nekia, Willakenzie, Woodburn, and Yamhill.
- (3) The following Class IV soils: Carlton, Dayton, Jory, Laurelwood, Willakenzie, and Yamhill.

Soil classes are those of the Soil Conservation Service in its most recent publication prior to November 4, 1993.

~~[F. Owner - Includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.]~~

~~[G].~~ Seasonal Farm Worker - Any person who, for an agreed remuneration or rate of pay, performs temporary labor for another to work in production of farm products or planting, cultivating or harvesting of seasonal agricultural crops or in forestation or reforestation of lands, including but not limited to the planting, transplanting, tubing, precommercial thinning and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash and other related activities.

~~[H].~~ Tract - One or more contiguous lots or parcels under the same ownership.

5. Section 403.03 is amended to read

403.03 Dwellings Permitted Subject to Standards

The following residential uses shall be permitted in the Agriculture/Forestry District subject to the standards and limitations set forth in Sections 403.09, 403.10 and 403.11 and satisfaction of the criteria specified for each use. Furthermore, the decision-making body may attach reasonable conditions to approvals in order to insure compliance with relevant criteria. The following uses are subject to the Type A notice requirements of Section 1301 unless otherwise stated.

- A. Principal or secondary dwelling customarily provided in conjunction with farm use, subject to Type B notice procedures, under the following circumstances:

1. The subject farm or ranch is currently employed for farm use, as defined Subsection 403.12.
2. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale as defined in subsection 4 of this section.
3. There is no other dwelling on the subject farm or ranch that is vacant or currently occupied by persons not working on the subject farm or ranch and could reasonably be used as the requested farm or ranch dwelling.
4. a. Type One Review. The subject parcel currently has established at least the number of acres for one of the following types of crops:

Berries	23 acres
Grapes	23 acres
Field crops	52 acres
Christmas trees	22 acres
Tree fruits or nuts	57 acres
Horticulture or specialty crops	25 acres
Hay & Silage	85 acres
Pasture & Grazing	97 acres
Seed Crops	130 acres
Vegetables	139 acres

For the purposes of this subsection, the crop type categories are those defined by the U.S. Census of agriculture. A crop type is considered "established" if it is planted and being managed using accepted farming practices as defined in Section 402.10; or

- b. Type Two Review. For requests for dwellings that do not qualify under Type One Review, the applicant must demonstrate that farm crops or livestock valued at a minimum of \$40,000 have been raised on the property, and sold, in each of the two previous years, or in three of the last five years; or
- c. Type Three Review. For requests for dwellings that do not qualify under Type One or Two Review, the applicant must demonstrate that the farm is of a commercial scale. The determination of whether the farm is "commercial" will be based upon whether the farm:
 - i. Contributes in a substantial way to the area's existing agricultural economy; and

- ii. Helps maintain agricultural processors and established farm markets;
 - iii. When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered.
- B. A secondary dwelling on property used for farm use under the following circumstances:
 - 1. The dwelling is located on the same lot or parcel as the dwelling of the farm operator.
 - 2. The dwelling is occupied by a grandparent, grandchild, parent, child, brother or sister of the farm operator or the operator's spouse whose assistance in the management of the existing commercial farm use is or will be required by the farm operator.
 - 3. The farm operator shall continue to play the predominant role in the management of the farm. A farm operator is a person who operates a farm, doing the work and making day-to-day decisions about such things as planting, harvesting, feeding, and marketing.
- C. Seasonal farm worker housing, subject to Type B notice procedures and Section 1101 for Site Design Review when:
 - 1. The housing is limited to occupancy by seasonal farm workers and their immediate families.
 - 2. The housing shall be occupied for no more than nine months (273 days) per year.
- D. Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in the county inventory as historic property and on the National Register of Historic Places.
- E. Principal dwelling not provided in conjunction with farm or forest use on a lot or parcel created before January 1, 1993, subject to Type B notice procedures and the following standards and criteria:
 - 1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.

2. The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II soils.
 3. The dwelling will be sited on a lot or parcel created before January 1, 1993.
 4. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern of the area, the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated shall be considered.
 5. The dwelling complies with other conditions the county considers necessary, including but not limited to provision for sewage disposal, emergency vehicle access, and public road approach.
 6. The lot or parcel has not received special tax assessment under ORS 321.730 or ORS 321.815 in three out of the last five years.
 7. Any approval of a dwelling not in conjunction with farm use under this section is subject to the provisions of subsection 403.08 of this ordinance.
- F. Principal dwelling not provided in conjunction with farm use on a newly created parcel not predominantly devoted to forest use, subject to Type B notice procedures and the following standards and criteria:
1. The originating lot or parcel is:
 - a. larger than the minimum lot size;
 - b. not stocked to the requirements under ORS 527.610 to 527.770;
 - c. composed of at least 95 percent Class VI through VIII soils; and
 - d. composed of at 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber.
 2. Any parcel created for a dwelling from the originating lot or parcel described in subsection 1 of this section will not be smaller than 20 acres.
 3. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.

4. The dwelling will not materially alter the stability of the overall land use pattern of the area.
 5. Any approval of a dwelling not in conjunction with farm use under this section is subject to the provisions of subsection 403.08 of this ordinance.
 6. The lot or parcel has not received special tax assessment under ORS 321.730 or ORS 321.815 in three out of the last five years.
- G. Principal dwelling on a lot or parcel not predominantly devoted to forest use on January 1, 1993, subject to the following standards and criteria:
1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - a. prior to January 1, 1985; or
 - b. by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
 2. The tract on which the dwelling is to be sited does not include a dwelling.
 3. The lot or parcel is not high-value farmland as defined in Subsection 403.12 E.
 4. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 5. The dwelling is not prohibited by, and complies with, the Comprehensive Plan and other provisions of this ordinance, and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
 6. The county assessor shall be notified that the governing body intends to allow the dwelling.
 7. For purposes of this section 403.03 F, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.

- H. Principal dwelling not in conjunction with farm use on a lot or parcel not predominantly devoted to forest use on January 1, 1993, subject to the following standards and criteria:
1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - a. Prior to January 1, 1985; or
 - b. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
 2. The tract on which the dwelling is to be sited does not include a dwelling.
 3. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 4. The dwelling is not prohibited by, and complies with, the Comprehensive Plan and other provisions of this ordinance, and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
 5. The tract on which the dwelling is to be sited is:
 - a. Composed predominantly of high-value farmland defined in Section 403.12(E)(2) or (3); and
 - b. Twenty-one acres or less in size.
 6. The tract on which the dwelling is to be sited is:
 - a. Bordered on at 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993; or
 - b. Bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. No more than two of the four dwellings may be within an Urban Growth Boundary.
 7. The county assessor shall be notified that the governing body intends to allow the dwelling.

8. For purposes of this section 403.03 G, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.

I. Principal dwelling not in conjunction with farm use on land not predominantly devoted to forest use on January 1, 1993, subject to the following standards and criteria:

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - a. prior to January 1, 1985; or
 - b. by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
2. The tract on which the dwelling is to be sited does not include a dwelling.
3. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
4. The dwelling **is not prohibited by, and** complies with, the Comprehensive Plan and other provisions of this ordinance, **and other provisions of law,** including but not limited to floodplain, greenway, and airport overlay restrictions.
5. The tract on which the dwelling is to be sited is on high-value farmland defined in Section 403.12 (E)(1).
6. A hearings officer of the Oregon Department of Agriculture, under the provisions of ORS 183.413 to 183.497, determines that:
 - a. The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity;
 - b. The dwelling will comply with the provisions of ORS 215.296 (1); and
 - c. The dwelling will not materially alter the overall land use pattern of the area.

7. The county assessor shall be notified that the governing body intends to allow the dwelling.
8. For purposes of this section 403.03 H, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.
- J. Principal dwelling on a tract of at least 160 contiguous acres of land that was in forest use on January 1, 1993, subject to the siting standards in Sections 403.09 and 403.10. A tract separated only by a public road or a waterway is considered contiguous.
- K. Principal dwelling where an owner of tracts that are not contiguous, but are in the same county or adjacent counties and zoned for forest use, when added together total 200 or more acres, subject to the siting standards in Sections 403.09 and 403.10 and the deed restriction requirements of Section 401.11 and Type A notice procedures.
- L. Principal dwelling on a lot or parcel predominantly devoted to forest use on January 1, 1993, subject to the following standards and criteria:
 1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
 - a. prior to January 1, 1985; or
 - b. by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.
 2. The tract on which the dwelling is to be sited does not include a dwelling.
 3. The tract on which the dwelling is to be sited is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species.
 4. The tract on which the dwelling is to be located is within 1,500 feet of a public road that is maintained and either paved or surfaced with rock.
 5. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
 6. The dwelling is not prohibited by, and complies with, the Comprehensive Plan and other provisions of this ordinance, and other provisions of

law, including but not limited to floodplain, greenway, and airport overlay restrictions.

7. The property owner shall submit a stocking survey report to the County Assessor, and the Assessor shall verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.
8. The county assessor shall be notified that the governing body intends to allow the dwelling.
9. **For purposes of this section 403.03 H, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.**

M. Principal dwelling on a lot or parcel predominantly devoted to forest use on January 1, 1993, except as provided in subsection N of this Section, subject to the following standards and criteria:

1. There are no other dwellings on the subject tract; and
2. The remainder of the subject tract shall be consolidated into one parcel, which shall not be eligible for an additional dwelling; and
3. The lot or parcel is predominantly composed of soils are capable of producing 0 to 49 cubic feet per acre of wood fiber; and
 - a. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
 - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993, on the other lots or parcels; or
4. The lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre of wood fiber; and
 - a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
 - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993, on the other lots or parcels; or

5. The lot or parcel is predominantly composed of soils that are capable of producing more than 85 cubic feet per acre of wood fiber; and
 - a. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
 - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993, on the other lots or parcels.
 6. If the tract on which the dwelling will be sited is abuts a public road that existed on January 1, 1993, the measurement under subsections 4.a, 5.a, or 6.a may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road.
- N. Principal dwelling on a tract of 60 or more acres predominantly devoted to forest use on January 1, 1993, that abuts a road or perennial stream, subject to the following standards and criteria:
1. There are no other dwellings on the subject tract; and
 2. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed, and the tract shall not be eligible for an additional dwelling; and
 3. The lot or parcel is predominantly composed of soils are capable of producing 0 to 49 cubic feet per acre of wood fiber; and
 - a. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
 - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993, on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract; or
 4. The lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre of wood fiber; and
 - a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
 - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993, on the other lots or parcels, one of

which is on the same side of the road or stream as the subject tract; or

5. The lot or parcel is predominantly composed of soils that are capable of producing more than 85 cubic feet per acre of wood fiber; and
 - a. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
 - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993, on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract.
6. The measurement under subsections 4.a, 5.a, or 6.a of this section shall be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road or stream.
7. The one dwelling required to be on the same side of the road or stream pursuant to subsections 4.b, 5.b, or 6.b of this section may be outside the width of the rectangle described in subsection 7 of this section if it is within one-quarter mile of the subject tract.
8. If the road crosses the subject tract on which the dwelling is to be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

6. Section 403.12 is amended to read:

403.12 Definition of Terms Used in this Section

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

- A. **Auxiliary** - A use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- B. **Campground** - An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds

authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

- C. Commercial Activities in Conjunction with Farm Use - The processing, packaging, treatment, and wholesale distribution and storage of a product derived primarily, but not entirely, from farm activities on the premises. Also, retail sales of agricultural products, supplies and services directly related to the production and harvesting of agricultural products. Such uses include, but are not limited to, the following:
- Storage, distribution and sale of feed, fertilizer, seed, chemicals, and other products used for commercial agriculture;
 - Livestock auction or sales yards;
 - Farm equipment storage and repair facilities;
 - Storage, repair, or sale of fencing, irrigation pipe and pumps, and other commercial farm-related equipment and implements;
 - Veterinarian clinics;
 - Slaughtering of animals, including attendant retail and wholesale sales;
 - Wineries not listed as a permitted use;
- D. Commercial tree species - Trees recognized under rules adopted under ORS 527.715 for commercial production.
- E. Farm Use - The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use also includes the current employment of land for the primary purpose of obtaining profit in money by stabling or training equines. "Farm use" includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species. It does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3), or land described in ORS 321.267(1)(e) or 321.415(5).

"Current employment" of land for farm use includes:

- Farmland, the operation or use of which is subject to any farm-related government program;
 - Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
 - Land planted in orchards or other perennials prior to maturity;
 - Wasteland, dry or covered with water, neither economically tillable nor grazeable, lying in adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
 - Land under buildings supporting accepted farming practices;
 - Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
 - Land lying fallow for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family;
 - Any land described under ORS 321.267 (1)(e) or 321.415 (5); and
 - Any land in an exclusive farm use zone used for the storage of agricultural products that would otherwise be disposed of through open field burning or propane flaming.
- F. Forest operation - Any commercial activity relating to the growing or harvesting of any tree species as defined in ORS 527.620(6).
- G. Golf course - An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:
1. A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes.
 2. A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes.
 3. A "non-regulation golf course" means a golf course or golf course-like development that does not meet this definition of golf course, including

but not limited to executive golf courses, par three golf courses, pitch and putt courses, miniature golf courses, and driving ranges. Non-regulation golf courses are not permitted by this section.

4. An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course and conforms to the following:
 - a. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course include parking, maintenance buildings, cart storage and repair, practice range or driving range, clubhouse, restrooms, lockers and showers, food and beverage service, pro shop, and a practice or beginners course as part of an 18 hole or larger golf course.
 - c. Accessory uses to a golf course do not include sporting facilities unrelated to golf such as tennis courts, swimming pools, or weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing.
 - d. A use is accessory to a golf course only when limited in size and orientation to serve the needs of persons and their guests who patronize the golf course to golf.
 - e. Commercial activities such as food and beverage service and pro shop are accessory to a golf course only when located in the clubhouse.

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

1. Soils rated Class I, II, prime, or unique, either irrigated or not irrigated.
2. The following Class III soils: Carlton, Chehalem, Dayton, Jory, Laurelwood, Nekia, Willakenzie, Woodburn, and Yamhill.
3. The following Class IV soils: Carlton, Dayton, Jory, Laurelwood, Willakenzie, and Yamhill.

Soil classes are those of the Soil Conservation Service in its most recent publication prior to November 4, 1993.

~~I. Owner - Includes the wife, husband, son, daughter, mother, father, brother, brother in law, sister, sister in law, son in law, daughter in law, mother in law, father in law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or~~

~~grandchild of the owner or business entity owned by any one or combination of these family members.]~~

I [~~J~~]. Seasonal Farm Worker - Any person who, for an agreed remuneration or rate of pay, performs temporary labor for another to work in production of farm products or planting, cultivating or harvesting of seasonal agricultural crops or in forestation or reforestation of lands, including but not limited to the planting, transplanting, tubing, precommercial thinning and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash and other related activities.

J [~~K~~]. Tract - One or more contiguous lots or parcels under the same ownership.

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