

FILED  
MAR 20 1998

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance Amending )  
Yamhill County Zoning Ordinance No. 310, )  
as Amended, and Amending Yamhill County )  
Land Division Ordinance No. 205, 1979, as )  
Amended, to Make Required and Housekeeping )  
Changes; Docket G-4-97 and G-1-98; )  
and Declaring an Emergency. )

ORDINANCE 643

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in special session on March 19, 1998, Commissioners Ted Lopuszynski, Thomas E. E. Bunn, and Robert Johnstone, being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. On January 8, 1998 and January 22, 1998, the Yamhill County Planning Commission held public hearings on Planning Dockets G-4-97 and G-1-98 to consider a proposal to amend Yamhill County Zoning Ordinance No. 310, as amended ("the YCZO") and to amend Yamhill County Land Division Ordinance No. 205, 1979, as amended ("the LDO"), for the purpose of making certain required amendments to comply with state statutes and administrative rules, and to make certain housekeeping amendments, which include minor corrections and changes. The proposal contained several components.

First, modifications of YCZO Sections 202, 301.01, 401.03, 401.04, 401.09, 401.10, 501, 502, 502.02, 502.03, 503, 601.02, 701.02, 702.03, 801.03, 802.02, 803.02, 905, 906, 1005.01, 1204, 1205.03, and 1400 as set forth in Exhibit "A" attached hereto and incorporated herein.

Second, modifications to YCZO Sections 402.01, 402.02, 402.03, 402.04, 402.07, 402.08, 402.09, and 402.10 as set forth in Exhibit "B" attached hereto and incorporated herein.

Third, modifications to YCZO Sections 403.02, 403.03 and 403.04, 403.07, 403.08, 403.09, 403.10, 403.11 and 403.12 as set forth in Exhibit "C" attached hereto and incorporated herein.

Fourth, repeal of YCZO Section 1011 and adoption of YCZO Section 907 as set forth in Exhibit "D" attached hereto and incorporated herein.

Fifth, modifications to LDO Sections 1.000, 3.010, 9.010, 9.015, 9.020, 10.030 and 11.100 as set forth in Exhibit "E" attached hereto and incorporated herein. Exhibit "F" attached hereto and

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incorporated herein contains explanations from the Department of Planning and Development intended to assist the reader in understanding the changes made to the YCZO and the LDO. The exhibit also constitutes the county's finding on this legislative ordinance. Where a conflict exists between Exhibit "E" and the operative part of this ordinance, the operative part of this ordinance shall control.

B. On February 26, 1998, and March 19, 1998, the Board held public hearings to consider Dockets G-4-97 and G-1-98. At the conclusion of the hearing on March 19, 1998, the Board voted unanimously to modify the YCZO and the LDO as provided in the operative part of this ordinance.

C. The Board has determined that adoption of this ordinance will be in the best interest of the citizens of Yamhill County; Now, Therefore,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. Sections 202, 301.01, 401.03, 401.04, 401.09, 401.10, 501, 502, 502.02, 502.03, 503, 601.02, 701.02, 702.03, 801.03, 802.02, 803.02, 905, 906, 1005.01, 1204, 1205.03, and 1400 of the Yamhill County Zoning Ordinance, No. 310, as amended, are hereby amended as provided and specified in the attached Exhibit "A", which is by this reference made a part of this ordinance. Materials and language contained in brackets are hereby deleted from Ordinance 310 as amended, and materials underlined are added to those ordinances.

Section 2. Sections 402.01, 402.02, 402.03, 402.04, 402.07, 402.08, 402.09, and 402.10 of the Yamhill County Zoning Ordinance, No. 310, as amended, are hereby amended as provided and specified in the attached Exhibit "B", which is by this reference made a part of this ordinance. Materials and language contained in brackets are hereby deleted from Ordinance 310 as amended, and materials underlined are added to those ordinances.

Section 3. Sections 403.02, 403.03 and 403.04, 403.07, 403.08, 403.09, 403.10, 403.11 and 403.12 of the Yamhill County Zoning Ordinance, No. 310, as amended, are hereby amended as provided and specified in the attached Exhibit "C", which is by this reference made a part of this ordinance. Materials and language contained in brackets are hereby deleted from Ordinance 310 as amended, and materials underlined are added to those ordinances.

Section 4. Section 1011 of the Yamhill County Zoning Ordinance, No. 310, as amended, is hereby repealed and section 907 as set forth in Exhibit "D" attached hereto and incorporated herein is hereby added to and made a part of the Yamhill County Zoning Ordinance, No. 310, as amended.

Section 5. Sections 1.000, 3.010, 9.010, 9.015, 9.020, 10.030 and 11.100 of the Yamhill County Land Division Ordinance, No. 205, 1979, as amended, are hereby amended as provided and specified in the attached Exhibit "E", which is by this reference made a part of this ordinance. Materials and language contained in brackets are hereby deleted from Ordinance 205 as amended, and materials underlined are added to those ordinances.

THE UNIVERSITY OF  
MICHIGAN LIBRARY  
SERIALS ACQUISITION  
300 N ZEEB RD  
ANN ARBOR MI 48106-1500  
TEL 734 763 1000  
FAX 734 763 1001

Section 6. The explanation of the amendments under this ordinance set forth in Exhibit "F", which is attached hereto and incorporated into this ordinance by reference, is hereby adopted to support the Board's determination that this ordinance is necessary and proper.

Section 7. Severability Clause. If any section or subsection contained in this ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall continue in full force and effect unless those parts, standing alone, are incapable of being executed in accordance with legislative intent.

Section 8. 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 19th day of March, 1997.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN  
County Clerk

*Ted Lopuszynski*  
Chairman TED LOPUSZYNSKI

*Carol Ann White*  
CAROL ANN WHITE

*Robert Johnstone*  
Commissioner ROBERT JOHNSTONE

FORM APPROVED BY:

*John C. Pinkstaff*  
JOHN C. PINKSTAFF  
Assistant County Counsel

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

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Accepted by Yamhill County  
Board of Commissioners on  
3-19-98 by Board Order  
# 98-190



UNITED STATES DEPARTMENT OF AGRICULTURE  
WASHINGTON, D. C.

## EXHIBIT A

3/2/98

1. Section 202, Definitions, shall be amended to delete the following definitions:

*[AIRCRAFT APPROACH SECTOR: The approach safety area having a minimum length of 5000 feet, extending beyond the end of an aircraft landing sector, and continuing upward/outward for each 20 feet of horizontal distance. See diagram in Section 1011.*

*AIRCRAFT LANDING SECTOR: That clear area generally extending beyond each end of a primary landing surface, from the end thereof, starting at the runway elevation and projecting upward/outward at a slope/angle of 1 foot upward/outward for each 20 feet of horizontal distance to a point 50 feet above the runway elevation. See diagram in Section 1011.*

*AIRCRAFT PRIMARY LANDING SURFACE: That runway and adjacent area generally a minimum of 250 feet in width and extending either 200 feet past each end of a hard-surface improved runway or running the full length of any other runway.]*

2. Section 202, Definitions, shall be amended to add the following definitions:

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

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

3. **Residential home** shall be added as a permitted use in the following zoning districts:

Section 501, Agriculture/Forestry Small Holding District

Section 502, Very Low Density Residential Districts (VLDR-5, VLDR-2.5, VLDR-1)

Section 503, Low Density Residential Districts (LDR-12,000, LDR-9,000, LDR-6,750)

4. Section 301, Classification of Districts, shall be amended as follows:

**301. CLASSIFICATION OF DISTRICTS**

**301.01 Districts.** For the purposes of this ordinance, the unincorporated area of Yamhill County, Oregon, is hereby divided into the following districts:

A. Natural Resource Districts

Forestry District ..... [F-40] **F-80**

Exclusive Farm Use [40-acre] District

**80 acre minimum**.....**EF-80**

**40 acre minimum**.....EF-40

**20 acre minimum**.....**EF-20**

Agriculture/Forestry Large Holding District

**80 acre minimum**.....**AF-80**

**40 acre minimum**.....**AF-40**

**20 acre minimum**.....AF-20

Mineral Resource District .....MR

Parks, Recreation, and Open Space District.....PRO

B. Rural Residential Districts

Agriculture/Forestry Small Holding District..... AF-10

Very Low Density Residential

5-Acre District .....VLDR-5

[Very Low Density Residential]

2 ½ Acre District .....VLDR-2 ½

[Very Low Density Residential]

1 Acre District .....VLDR-1

Low Density Residential

12,000 District.....LDR-12,000

[Low Density Residential]

9,000 District .....LDR-9,000

[Low Density Residential]

6,750 District .....LDR-6,750

- C. Commercial Districts
  - Recreation Commercial District .....RC
  - Neighborhood Commercial District .....NC
  - Highway/Tourist Commercial District .....HC
- D. Industrial Districts
  - Resource Industrial District .....RI
  - Light/General Industrial District .....LI
  - Heavy Industrial District .....HI
- E. Public Facility Districts
  - Public Assembly/Institutional District .....PAI
  - Public Works/Safety District .....PWS
  - Public Airports/Landing Fields District .....PALF
- F. Overlay Districts
  - Floodplain Overlay District .....FP
  - Willamette River Greenway Overlay District.....WRG
  - Planned Unit Development Overlay District .....PUD
  - Limited Use Overlay District .....LU**
  - Watershed Overlay District .....WS**
  - Scenic Waterway Overlay District .....SW**
  - Airport Overlay District.....AP**

5. Section 401.03, Forestry District, Dwellings Permitted Subject to Standards, shall be amended to add the following language:

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

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.]* **shall not be:**

(a) **A United States Bureau of Land Management Road; or**

(b) **A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or state agency.**

6. Section 401.04, Forestry District Conditional Uses, shall be amended as follows:

V. One manufactured dwelling **or the temporary residential use of an existing building,** in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the existing resident, subject to the following:

1. The resident or relative of the resident is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence.
2. The permit for the *[manufactured]* **temporary** dwelling for the term of hardship shall be valid for a period of two years or a shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.
3. The permit for the *[manufactured]* **temporary** dwelling for the term of hardship shall be granted to the applicant only and shall not be deemed to run with the land.
4. The temporary dwelling shall use the same subsurface sewage disposal system as the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.
5. *[The temporary dwelling shall be removed when it is no longer needed to house the relative that required special care.]*

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

7. Section 401.09, Forestry District, Fire Siting and Construction Standards for Dwellings and Structures, shall be amended to add the following language:

F. A primary fire break shall be constructed no less than 30 feet wide. **The fire break is only required to be constructed on land surrounding the dwelling that is owned or controlled by the owner.** The primary firebreak could include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed.

G. A secondary firebreak of not less than [50] **100** feet outside the primary firebreak shall also be constructed. **The fire break is only required to be constructed on land surrounding the dwelling that is owned or controlled by the owner. Vegetation within the secondary firebreak should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent spread of fire into the crowns of the larger trees.** Dead fuels shall be removed. The secondary fire break shall be increased **to 150 feet** if the dwelling or structure is located on a slope of **greater than 25%** or other fire hazards exist.

8. Forestry District Section 401.10(A), Standards and Limitations, shall be amended to add the following language:

5. Lot line adjustments.

a. When one or more parcels subject to a proposed adjustment are larger than the minimum lot size in the zone, the same number of parcels shall be as large or larger than the minimum lot size after the adjustment. When all parcels subject to a proposed adjustment are as large or larger than the minimum lot size in the zone, no parcel shall be reduced below the applicable minimum lot size.

b. **Any parcels subject to an alteration in size through a lot-line adjustment shall be shown to be at least as economically efficient for forest practices, provide for continuous growing and harvesting of forest tree species at least as well as, and conserve other forest values at least as well as did the parcel prior to adjustment.**

c. If the proposed adjustment involves the transfer of a dwelling from one parcel to another, the parcel that will acquire the dwelling must receive approval for the dwelling under Section 401.03.

9. Very Low Density Residential District, Permitted Uses Section 502.02(A) shall be amended as follows:

A. Farm uses as follows: The current employment of land, including that portion of such lands under buildings supporting accepted farming practices, for the raising, harvesting and selling of crops; or for the feeding, breeding, management and sale of, or the production of livestock, poultry, furbearing animals, or honey bees; or for dairying and the sale of dairy products and other agricultural or horticultural use or animal husbandry; or for any combination thereof. Farm use includes the preparation, storage and marketing of the products raised on such land for man's use and animal use. **The number of livestock and other animals that may be raised on a parcel is subject to the limitations in subsection 502.06(J).**

10. Very Low Density Residential Section 502.03(C), Conditional Uses, shall be amended to add the following language:

C. Operations conducted for the exploration of oil, natural gas or geothermal resources **subject to the requirements in subsection 404.10;**

Sections 601.02(J), 701.02(F), 702.03(A), 801.03(D), 802.02(J), and 803.02(F) shall be amended to add the following language:

Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to **the requirements in subsection 404.10** [*the Type A application procedure set forth in Section 1301*];

11. Sections 905 and 906 shall be amended to include a zoning district abbreviation:

905. WATERSHED OVERLAY DISTRICT (**WS**)

906. SCENIC WATERWAY OVERLAY DISTRICT (**SW**)

12. Section 1005, Solid Waste Disposal Facilities, shall be amended as follows:

1005.01 Standards and Requirements.

The following standards and requirements shall apply to all applications to site a solid waste disposal facility.

A. The application shall be processed pursuant to Subsection **1301** Type C procedures.

B. The application shall include a written justification for the request, pursuant to the conditional use provisions of [*the*] Subsection [*1202.05 A-E*] **1202.02**.

13. Section 1204 shall be amended to read as follows:

1204. EXCEPTIONS TO STATEWIDE GOALS.

Goal Two of the Statewide Planning Goals, ORS 197.732, and Oregon Administrative Rules, Chapter 660, Division 4, specify the requirements for approval of an exception to a statewide planning goal. An applicant may apply for an exception pursuant to those provisions, and subject to the Type C procedure of Section 1301 of this ordinance. **The Planning Commission shall hold a public hearing to consider a request for an exception. Their decision shall be in the form of a recommendation to the Board of Commissioners, who shall also hold a public hearing prior to making a final decision on the request.**

14. Section 1205, Nonconforming Uses, shall be amended as follows:

1205.03 Review Criteria.

A. The Director shall authorize alteration, restoration or replacement of a nonconforming use or structure pursuant to subsection 1205.01, and subject to the Type A application procedure set forth in Section 1301, when any of the following circumstances apply:

1. The alteration is necessary to comply with any lawful requirements for alteration of said use or structure.

2. Restoration or replacement is made necessary by fire, casualty, or natural disaster. Any restoration or replacement approved pursuant to this subsection shall be commenced within one (1) year from the occurrence of the fire, casualty or natural disaster, or be subject to the provisions of subsection 1205.06.

B. In any other circumstance, the alteration, restoration or replacement of a nonconforming use or structure pursuant to subsection 1205.01 may be authorized by the Director, subject to the Type [B] A application procedure set forth in Section 1301, and provided that the applicant demonstrates that the proposal satisfies the following criteria:

1. That the alteration of use would result in a reduction in nonconformity of the use, or would have no greater adverse impact on the surrounding area than the existing nonconforming uses or than those uses permitted by this ordinance.

2. That the alterations of structures or physical improvements would result in a reduction in nonconformity of the structures or improvements or would have no greater adverse impact on the surrounding area than existing nonconforming structures or physical improvements or than those permitted by this ordinance.

1205.04 Conditions of Approval.

In approving the alteration, restoration or replacement of a nonconforming use, the decision-making body may impose such conditions as it deems appropriate to ensure that the intent of this section is carried out. Such conditions shall be reasonably related to the criteria set forth in subsection 1205.03. **Except as provided in ORS 215.215, no condition shall be placed on the alteration of a nonconforming use when the alteration was only necessary to comply with state or local health or safety requirements or to maintain the existing structures associated with the use.**

15. Section 1400, Administrative Provisions, shall be amended as follows:

1402. **PUBLIC HEARINGS**

**Notice of Quasi-Judicial Public Hearing.**

Notice of any quasi-judicial public hearing authorized or required by this ordinance shall be published in a newspaper of general circulation in the county at least ten (10) days prior to the hearing date, and shall be sent to affected property owners within [250] **the following distance** of the boundaries of the parcel which is the subject of the application or that larger distance determined appropriate by the Director[.]:

- 1. **Within 500 feet when the subject parcel is within a farm or forest district;**
- 2. **Within 250 feet when the subject parcel is not within an urban growth boundary or a farm or forest district, or is partially within an urban growth boundary;**
- 3. **Within 100 feet when the subject parcel is entirely within an urban growth boundary.**

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

1403. **REVIEW BY THE BOARD**

1403.03 Review on Record.

Unless otherwise provided by the Board under subsection 1403.04, the review of the decision of the [Director,] Commission or Hearings Officer by the Board shall be confined to the record of the proceeding, which shall include:

1404. APPEALS

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

Where it is alleged that there is error in any order, requirements, decision or determination made by the Director in the interpretation of this ordinance, an appeal therefrom may be made by an affected party only to the Board on a form prescribed by the Director. Such written appeal shall be filed with the Director within fifteen (15) days of the decision on a proposed action and shall be accompanied by the appropriate filing fee. Upon determination that the appeal request is complete and in order, a public hearing before the Board shall be scheduled and public notice mail and published according to the public notice requirements contained in Section 1402. *[An affected party who has had an opportunity to request a hearing, pursuant to the Type B application procedure as set forth in Section 1301, and has not so requested a hearing, shall have waived his right to appeal the decision of the Director to the Board.]*

16. Section 402, Exclusive Farm Use District, shall be amended as shown in Exhibit B.
17. Section 403, Agriculture Forestry Large Holding District, shall be amended as shown in Exhibit C.
18. Section 1011 shall be renumbered as Section 907, and amended as shown in Exhibit D.
19. The Yamhill County Land Division Ordinance shall be amended as shown in Exhibit E.

FA...ZORHDFT.643



## EXHIBIT B

3/2/98

**402. EXCLUSIVE FARM USE DISTRICT (EF-80, EF-40, and EF-20)****402.01 Purpose.**

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

**402.02 Permitted Uses.**

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

- A. Farm uses as defined in Subsection 402.10
- B. Farm stands, subject to Section 1101, Site Design Review, if:
  - 1. The structures are designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and
  - 2. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings and public entertainment.
  - 3. The activities at a farm stand are limited to promotion and sale of agricultural products and educational activities directly related to agriculture.
- C. Propagation and harvesting of a forest product.
- D. Creation of, restoration of, or enhancement of wetlands.
- [E. *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. A facility for the processing of farm crops located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. The application will also be subject to Section 1101, Site Design Review.**

F. Utility facilities necessary for public service, 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. A facility is "necessary" if it must be situated in an agricultural zone in order for the service to be provided.

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

H. Winery, as defined in subsection 402.10, subject to Section 1101, Site Design Review.

I. Operations for the exploration of minerals as defined by ORS 517.750.

J. Operations for the exploration for and the production of geothermal resources as defined by ORS 522.005, and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a wellhead, **subject to the requirements of Section 404.10.**

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

L. The following transportation facilities:

1. Climbing and passing lanes within the right of way existing as of July 1, 1987.
2. Reconstruction or modification of public roads and highways, **including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but** not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
3. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

4. Minor betterment of existing public roads and highway-related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous to publicly owned property utilized to support the operation and maintenance of public roads and highways.

M. Alteration, restoration or replacement of a lawfully established dwelling that:

1. Has intact exterior walls and roof structure;
2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
3. Has interior wiring for interior lights;
4. Has a heating system; and
5. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. **A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling replaced under this section shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.**
6. **A secondary farm dwelling authorized pursuant to Section 402.03(F)(4)(c) may only be replaced by a manufactured dwelling.**

**N. Public or private school, including all buildings essential to the operation of a school, subject to the Type application procedures. The school must be at least three miles from an urban growth boundary, and is not permitted on a tract identified as high-value farmland. Existing facilities on high-value farmland that are wholly within a farm use zone may be maintained, enhanced, or expanded.**

- O. Churches and cemeteries in conjunction with churches, subject to the Type application procedures. The uses must be at least three miles from an urban growth boundary, and are not permitted on a tract identified as high-value farmland. Existing facilities on high-value farmland that are wholly within a farm use zone may be maintained, enhanced, or expanded.
  
- P. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.
  
- O. On-site filming and activities accessory to on-site filming, as defined in ORS 215.306(4), may be conducted subject to ORS 30.930 to 30.947, when it involves no more than 45 days on any site within any one-year period and does not involve erection of sets that would remain in place for longer than any 45-day period.

**402.03 Permitted Dwellings**

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

**A. Principal dwelling customarily provided in conjunction with farm use on high-value farmland, subject to the following (Type A notice):**

1. The subject tract is currently employed for farm use, and produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract.
  
2. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (1) of this Section.
  
3. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract.

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

1. **The subject tract is currently employed for farm use, and produced at least \$40,000 (1994 dollars) in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract.**
2. **The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (1) of this Section.**
3. **Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract.**

**[A.]C. Principal [or secondary] dwelling customarily provided in conjunction with farm use on a parcel at least 160 acres in size that is not high-value farmland, under the following circumstances (Type A [B] notice):**

1. The subject [*farm or ranch*] **tract** is currently employed for farm use, as defined in Subsection 402.10(C).
2. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale as defined in subsection 4 of this section.
3. **Except for permitted seasonal farm worker housing, [T] there is no other dwelling on the subject tract [*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:*

|  |                  |
|--|------------------|
| <i>Berries</i>                         | <i>23 acres</i>  |
| <i>Grapes</i>                          | <i>23 acres</i>  |
| <i>Field crops</i>                     | <i>52 acres</i>  |
| <i>Christmas trees</i>                 | <i>22 acres</i>  |
| <i>Tree fruits or nuts</i>             | <i>57 acres</i>  |
| <i>Horticulture or specialty crops</i> | <i>25 acres</i>  |
| <i>Hay &amp; Silage</i>                | <i>85 acres</i>  |
| <i>Pasture &amp; Grazing</i>           | <i>97 acres</i>  |
| <i>Seed Crops</i>                      | <i>130 acres</i> |
| <i>Vegetables</i>                      | <i>139 acres</i> |

*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:*
  - a.[i] *Contributes in a substantial way to the area's existing agricultural economy; and*
  - b.[ii] *Helps maintain agricultural processors and established farm markets;*
  - c.[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.]*

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

1. **The subject tract is at least as large as the median size of those commercial farm tracts capable of generating at least \$10,000 in annual gross sales that are located within the study area defined in subsection (6) of this Section.**
2. **The subject tract is capable of producing annual gross sales of county indicator crops, as determined by OAR 660-33-135(4), at a level equal to or greater than the median of those farms within the study area defined in subsection (6) of this Section.**
3. **The subject tract is currently employed for a farm use at a level capable of producing the annual gross sales required in subsection (2) of this Section. If no farm use has been established at the time of application, land-use approval shall be subject to a condition that no building permit for a residence may be issued prior to the establishment of the farm use required in this subsection.**
4. **The subject lot or parcel on which the dwelling is proposed is at least 10 acres in size.**

5. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract.
  
6. In order to identify the commercial farm tracts to be used in subsections (1) and (2) of this Section, the gross sales capability of each tract in the study area, including the subject tract, must be determined, using the gross sales figures provided by the Land Conservation and Development Commission pursuant to OAR 660-33-135(4) as follows:
  - a. Identify the study area. This includes all the land in the tracts wholly or partially within one mile of the perimeter of the subject tract;
  - b. Determine for each tract in the study area the number of acres in every land classification from the county assessor's data;
  - c. Determine the potential earning capability for each tract by multiplying the number of acres in each land class by the gross sales per acre for each land class provided by the Land Conservation and Development Commission pursuant to OAR 660-33-135(4). Add these to obtain a potential earning capability for each tract;
  - d. Identify those tracts capable of grossing at least \$10,000 based on the data generated in subsection (6)(c) of this Section;
  - e. Determine the median size and gross sales capability for those tracts capable of generating at least \$10,000 in annual gross sales to use in subsections (1) and (2) of this Section.

E.[B] A secondary dwelling for a relative of the farm operator [on property used for farm use] under the following circumstances (Type A notice):

1. The tract is currently employed for farm use, as defined in Subsection 402.10(C), at a commercial scale.
- 2.[1.] The dwelling shall be [is] located on the same lot or parcel as the dwelling of the farm operator.
- 3.[2.] The dwelling shall be [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 and farm use of the existing commercial farm use is or will be required by the farm operator.
- 4.[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.

**F. A secondary dwelling customarily provided in conjunction with farm use for farm help, under the following circumstances (Type A notice):**

- 1. The secondary dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator.**
- 2. There is no other dwelling on lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm and that could reasonably be used as a secondary farm dwelling.**
- 3. The principal farm dwelling to which the proposed dwelling would be accessory satisfies one of the following:**
  - a. On land identified as high-value farmland, the principal farm dwelling is located on a farm operation that is currently employed for farm use, and produced at least \$80,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract; or**
  - b. On land not identified as high-value farmland, the principal farm dwelling is located on a farm operation that is currently employed for farm use, and produced at least \$40,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract.**
- 4. The secondary dwelling will be located:**
  - a. On the same lot or parcel as the principal farm dwelling; or**
  - b. On the same tract as the principal farm dwelling when the lot or parcel on which the secondary dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or**
  - c. On a lot or parcel on which the principal farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the County Clerk. The deed restriction shall require the secondary dwelling to be removed when the lot or parcel is conveyed to another party. The secondary dwelling may remain if it is re-approved as a principal dwelling under this ordinance.**

**G.[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.

**H.[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).

**I.[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.*]

**6. The tract on which the dwelling is to be sited does not include a dwelling.**

**7. Prior to issuance of a residential building permit, the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm or forest use; and that additional tax or penalty has been imposed, if any is applicable, as provided by ORS 308.370 or 308.765 or ORS 321.352, 321.730, and**

**321.815. A parcel that has been disqualified under this subsection shall not re-qualify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.**

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

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

**J.[F] Principal lot-of-record dwelling not on high-value farmland, subject to the following standards and criteria (Type A notice):**

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
  - (a) and has been owned continuously by such owner since prior to January 1, 1985; or
  - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
2. The tract on which the dwelling is to be sited does not include a dwelling.
3. 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(D) [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.

**K.[G]** Principal lot-of-record dwelling on Class III and IV high-value farmland, subject to the following standards and criteria (Type A notice):

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
  - a. and has been owned continuously by such owner since prior to January 1, 1985; or
  - b. by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
2. The tract on which the dwelling is to be sited does not include a dwelling.
3. 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(K) [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.

**L.[H]** Principal lot-of-record dwelling on Class I and II high-value farmland, subject to the following standards and criteria (Type [A] C notice):

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
  - a. and has been owned continuously by such owner since prior to January 1, 1985; or
  - b. by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
2. The tract on which the dwelling is to be sited does not include a dwelling.
3. 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. The Planning Commission determines that:
  - a. The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity;
  - b. The dwelling will comply with the provisions of Section 402.07(A); and
  - c. The dwelling will not materially alter the overall land use pattern of the area.

7. The County Assessor shall be notified that the county intends to allow the dwelling.
8. For purposes of this section 402.03(L) [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.
9. The State Department of Agriculture shall be provided notice of the application at least twenty (20) days prior to the public hearing before the Planning Commission.

**402.04 Conditional Uses.**

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

- A. **One manufactured dwelling, or the temporary use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or relative, as defined in ORS 215, of the resident, subject to the following:**
  1. The resident or relative of the resident is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence [*or has other documented, temporary hardship that can reasonably be reduced by placement of the manufactured dwelling*].
  2. The permit for the manufactured dwelling for the term of hardship shall be valid for a period of two years or a shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.
  3. The permit for the [*manufactured*] **temporary** dwelling for the term of hardship shall be granted to the applicant only and shall not be deemed to run with the land.
  4. In addition to the requirements of this Section, the manufactured dwelling shall be subject to the standards set forth in Section 1002.
  5. The temporary dwelling shall use the same subsurface sewage disposal system as the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.

6. *[The temporary dwelling shall be removed when it is no longer needed to house the relative that required special care.]*

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

- B. A facility for the primary processing of forest products, subject to Subsection 402.07(B).
- C. Residential home or facility, as defined in ORS 197.660, in an existing dwelling.
- D. Community centers, parks, or playgrounds owned and operated by a governmental agency or a nonprofit community organization, subject to Section 1101, Site Design Review.
- E. Dog kennel, **except dog kennels are not allowed on a tract identified as high-value farmland. Existing dog kennels on high-value farmland that are wholly within a farm use zone may be expanded subject to conditional use approval.**
- F. The propagation, cultivation, maintenance, and harvesting of aquatic **or insect** species. **The insect species must comply with ORS 215.283(2)(o). Notice shall be mailed to the State Department of Agriculture at least 20 days prior to any administrative decision or initial public hearing on the application.**
- G. Commercial activities that are in conjunction with farm use as defined in Section 402.10(B), **but not including the processing of farm crops which are a permitted use as described in subsection 402.02(E)**, subject to Section 1101, Site Design Review.
- H. The following mineral, aggregate, oil, and gas uses, subject to the standards of Section 404:
1. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted in this Section.
  2. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral, and other subsurface resources subject to ORS 215.298.
  3. Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement more than two miles from one or more vineyards, totaling 40 acres or more, planted as of the date of application for processing.
  4. Processing of other mineral resources and other subsurface resources.

- I. Home occupation, subject to the standards and limitations set forth in Section 1004.
- J. The following transportation facilities:
  - 1. Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
  - 2. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings not resulting in the creation of new land parcels.
  - 3. Improvement of public road and highway related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
- K. Personal use airports subject to Subsection [402.07(B)] **402.07(C)**.

[L.] *Public or private school, including all buildings essential to the operation of a school, three or more miles from an urban growth boundary.*

**L.[M]** Golf course, as defined in subsection 402.10(D), **except new golf courses are not allowed on a tract identified as high-value farmland. Existing golf courses on high-value farmland that are wholly within a farm use zone may be expanded to a total of no more than 36 holes, subject to conditional use approval and provided the expansion is consistent with the definition in Section 402.10(D).**

[N.] *Churches and cemeteries in conjunction with churches three or more miles from an urban growth boundary.*

**M.[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 Subsection 402.07(D) and Section 1101, Site Design Review.

**N.[P]** Roads, highways and other transportation facilities and improvements not allowed under Subsections 402.02[(L)] **(K)** or 402.04[(H)] **(J)**, subject to *[adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply]* **compliance with OAR 660-12.**

**O.[Q]** Private parks, playgrounds, hunting and fishing preserves and campgrounds as defined in subsection 402.10(A), subject to Section 1101, Site Design Review, **except such uses are not allowed on a tract identified as high-value farmland. Existing facilities on high-value farmland that are wholly within a farm use zone may be expanded subject to conditional use approval.**

**402.05 Prohibited Uses**

Subdivisions and planned unit developments shall be prohibited.

**402.06 Nonconforming Uses**

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

**402.07 Additional Standards for Approval of Conditional Uses**

A. In the Exclusive Farm Use District, prior to establishment of a conditional use, the applicant shall demonstrate compliance with the following criteria in addition to other requirements of this ordinance:

1. The use will not force significant change in accepted farming or forest practices on surrounding lands devoted to farm or forest use.
2. The use will not significantly increase the cost of accepted farming or forest practices on surrounding lands devoted to farm or forest use.

B. A facility for primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in [ORS 215.203(2)] **Section 402.10(C)**. Such facility may be approved for a one-year period which is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.

C. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through a waiver action by the Oregon Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to applicable rules of the Oregon Aeronautics Division.

D. A power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise on a tract not identified as high-value farmland, or 12 acres on a tract identified as high-value farmland, unless an exception is taken pursuant to OAR 660, Division 4.

**402.08** *[Disqualification from Farm or Forest 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 under subsection 402.03(E) or (F), the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm or forest use; and that additional tax or penalty has been imposed, if any is applicable, as provided by ORS 308.370 or 308.765 or ORS 321.352, 321.730, and 321.815. A parcel that has been disqualified under this subsection shall not requalify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.*

**B.** *Declaratory Statement.*

*Prior to issuance of any residential building permit for an approved nonfarm dwelling, the landowner may be required to sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Yamhill County:*

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

**Permit Expiration Dates**

**A. Notwithstanding other provisions of this Ordinance, a discretionary decision, except for a land division, approving a proposed development in the Exclusive Farm Use district is void two years from the date of the final decision if the development action is not initiated in that period. An extension period of up to 12 months may be granted if:**

- 1. An applicant makes a written request for an extension prior to expiration of the development approval period, stating the reasons that prevented the applicant from beginning or continuing development within the approval period; and**
- 2. The Planning Director determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.**

**B. Approval or denial of an extension granted under this rule is an administrative decision, is not a land-use decision described in ORS 197.015, and is not subject to appeal as a land-use decision. However,**

the Board, on its own motion, may order review of the decision of the Director within 15 days of the decision.

C. Additional one-year extensions may be authorized by the Planning Director where applicable criteria for the decision have not changed.

402.09. Standards and Limitations.

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

A. Dwelling Density.

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

B. Parcel Size and Dimension.

1. Newly-Created Parcels.

- a. Any new farm parcel proposed to be created shall be a minimum of 80 acres in the EF-80 district, 40 acres in the EF-40 district, and 20 acres in EF-20 district.
- b. Any new nonfarm parcel proposed to be created for nonfarm uses other than dwellings shall be no larger than the minimum size necessary for its use.

2. Lot-line adjustments. Any parcels subject to an alteration in size through a lot-line adjustment shall be shown to be of a size at least as appropriate to maintain the existing commercial agricultural enterprise in the area as were the parcels prior to adjustment. When one or more parcels subject to a proposed adjustment are larger than the minimum lot size in the zone, the same number of parcels shall be as large or larger than the minimum lot size after the adjustment. When all parcels subject to the proposed adjustment are as large or larger than the minimum lot size in the zone, no parcel shall be reduced below the applicable minimum lot size. **If the proposed adjustment involves the transfer of a dwelling from one parcel to another, the parcel that will acquire the dwelling must receive approval for the dwelling under the terms of this ordinance.**

3. Existing Lots. Any permitted or conditional use provided for in this District may be established on an existing lot subject to satisfaction of the applicable requirements of the Exclusive Farm Use District.

4. 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 E] 200 feet from the centerline of any watercourse used for domestic water supply, 500 feet from any residential zoning district or urban growth boundary unless the applicant has received a conditional use permit pursuant to Section 1202, and 50 feet from property lines in all other circumstances.
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(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. 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.
  - b. A swimming pool may be located in a required rear yard, provided it lies a minimum of five feet from the rear property line.
  - c. 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(F).
3. Storage and Use of Certain Structures and Recreational Equipment
  - a. 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 totaling 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.
  - b. Temporary structures as may be required during construction of any authorized permanent structure may be placed. Such temporary structure shall be removed within 30 days of occupancy of the permanent structure.

- c. One manufactured dwelling may be stored on a lot or parcel for a period not to exceed nine months upon approval of the Director, with one extension of up to nine months if unusual circumstances are shown to exist. In no case shall a stored manufactured dwelling be connected to water or sewage disposal facilities.

I. Off-Street Parking.

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

**402.10 Definition of Terms Used in this Section**

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 - As authorized under subsection 402.04(G), a commercial activity in conjunction with farm use is:

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

- Wineries not listed as a permitted use

- Rental or lease of facilities, with or without a fee, in conjunction with an agricultural use for events such as parties, receptions, and banquets with the primary intent of indirect promotion of the product harvested or processed on the site.

- Four or more promotional events in a calendar year that are directly related to the marketing of products harvested or processed on the site that are reasonably expected to attract more than 750 visitors daily. An "event" shall not exceed three consecutive days.

C. Farm Use - The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" also includes the current employment of land for the primary purpose of obtaining profit in money by stabling or training equines **including but not limited to providing riding lessons, training clinics and schooling shows.** "Farm use" includes the preparation, [*and*] storage **and disposal by marketing or otherwise** of the products **or by-products** raised on such land for human **or animal use.** [*use and animal use and disposal by marketing or otherwise.*] "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species[. *It*] **and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission.** "Farm use" **includes the on-site construction and maintenance of equipment and facilities used for the activities described in the subsection.** "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3), or land described in ORS 321.267(1)(e) or 321.415(5).

"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 perennial 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. 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.
- G. Tract - One or more contiguous lots or parcels under the same ownership.
- H. Winery - As authorized under subsection 402.02[(H)] (G), a winery is a facility that produces and sells wine and conforms to the following attributes:
- 1. A winery herein defined has a maximum annual production of:
    - a. Less than 50,000 gallons and:
      - i. Owns an on-site vineyard of at least 15 acres;
      - ii. Owns a contiguous vineyard of at least 15 acres;
      - iii. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of vineyard contiguous to the winery; or
      - iv. Obtains grapes from any combination of a, b, or c above; or

- b. At least 50,000 gallons and no more than 100,000 gallons and:
  - i. Owns an on-site vineyard of at least 40 acres;
  - ii. Owns a contiguous vineyard of at least 40 acres;
  - iii. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of vineyard contiguous to the winery; or
  - iv. Obtains grapes from any combination of a, b, or c above. [*and*]
  - [v. *A winery with a capacity of at least 50,000 gallons shall demonstrate the ability to obtain a minimum of 50 percent of the grapes used for production of wine from planted vineyard that is owned by or on long-term lease by the winery or the winery operator, or from a planted vineyard or vineyards from which the winery has a long-term contract to purchase grapes, or a combination thereof. A "long-term lease" or "long-term contract" shall have an effective duration of at least three years from the date of winery approval.*]

c. **Prior to the issuance of building permits, the applicant shall provide evidence that the vineyards described in subsections (a) and (b) have been planted, or the contract has been executed, as applicable.**

- 2. The winery shall allow only the sale of:
  - a. Wines produced in conjunction with the winery; and
  - b. Items directly related to wine, the sales of which are incidental to the retail sale of wine on-site and do not exceed 25 percent of the total gross receipts of the retail facility. Such items include those served by a limited service restaurant, as defined in ORS 624.010.
- 3. Permitted on-site marketing of wine includes up to three events of one to three days in duration during a calendar year intended to draw customers to the site for the tasting and purchase of wine, with an anticipated maximum of 750 daily visitors. The frequency and duration of these events may be limited through site design review approval based on the adequacy of public facilities. Rent or lease of space within or adjacent to the winery facility for events such as parties, receptions, and banquets that are not directly related to promotion of the wine is not included in this definition of a winery.



## EXHIBIT C

3/2/98

## 403. AGRICULTURE/FORESTRY DISTRICT (AF-20, AF-40, AF-80)

## 403.01 Purpose.

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

## 403.02 Permitted Uses.

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

- A. Farm uses as defined in Subsection 403.12(E).
- B. Farm stands, if:
  - 1. The structures are designed and used for the sale of farm crops and livestock grown on farms in the local agricultural area, including the sale of retail incidental items, if the sales of the incidental items make up no more than 25 percent of the total sales of the farm stand; and
  - 2. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings and public entertainment.
- C. Winery, as defined in [ORS 215.452, 1991 Replacement Part] Section 403.12(K), subject to Section 1101, Site Design Review.
- D. Accessory uses, including buildings other than dwellings customarily provided in conjunction with farm use.
- [E. *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. A facility for the processing of farm crops located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. The application will also be subject to Section 1101, Site Design Review.**
- F. The following forest uses:
1. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.
  2. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.
  3. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.
  4. Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.
  5. Temporary forest labor camps limited to the duration of the forest operation requiring the use.
- G. Towers and fire stations for forest fire protection.
- H. Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- I. Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height on land not principally devoted to forest use. The applicant will also be subject to Section 1101, Site Design Review. A facility is "necessary" if it must be situated in a farm or forest zone in order for the service to be provided.
- J. Local distribution lines within existing rights-of-way (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.
- K. The following transportation facilities:
1. Climbing and passing lanes within the right of way existing as of July 1, 1987.

2. Reconstruction or modification of public roads and highways, **including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but** not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
  3. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.
  4. Minor betterment of existing public roads and highway-related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous to publicly owned property utilized to support the operation and maintenance of public roads and highways.
- L. Operations for the exploration of minerals as defined by ORS 517.750.
- M. Operations for the exploration for and the production of geothermal resources as defined by ORS 522.005, and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a wellhead, **subject to the requirements of Section 404.10.**
- N. Alteration, restoration or replacement of a lawfully established dwelling that:
1. Has intact exterior walls and roof structure;
  2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  3. Has interior wiring for interior lights;
  4. Has a heating system; and
  5. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. **A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling replaced under this section shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another**

dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.

6. A secondary farm dwelling authorized pursuant to Section 403.03(F)(4)(c) may only be replaced by a manufactured dwelling.

O. Creation of, restoration of, or enhancement of wetlands.

P. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.

Q. Uninhabitable structures accessory to fish and wildlife enhancement.

R. Caretaker residences for public parks and fish hatcheries.

S. Destination resorts reviewed and approved pursuant to ORS 197.435 to ORS 197.465 and Goal 8, except destination resorts are not allowed on a tract identified as high-value farmland.

T. Private hunting and fishing operations without any accommodations.

U. Public or private school, including all buildings essential to the operation of a school, subject to the Type application procedures. The school must be located at least three miles from an urban growth boundary, and is not permitted on a tract identified as high-value farmland. Existing schools on high-value farmland that are wholly within a farm use zone may be maintained, enhanced or expanded.

V. Churches and cemeteries in conjunction with churches, subject to the Type application procedures. The facilities must be located at least three miles from an urban growth boundary, and are not permitted on a tract identified as high-value farmland. Existing facilities on high-value farmland that are wholly within a farm use zone may be maintained, enhanced or expanded.

W. A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

X. On-site filming and activities accessory to on-site filming, as defined in ORS 215.306(4), may be conducted subject to ORS 30.930 to 30.947, when it involves

no more than 45 days on any site within any one-year period and does not involve erection of sets that would remain in place for longer than any 45-day period.

#### 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] Section 403.11 and satisfaction of the criteria specified for each use. Furthermore, the decision-making body may attach reasonable conditions to approvals in order to insure compliance with relevant criteria. The following uses are subject to the Type A notice requirements of Section 1301 unless otherwise stated.

**A. Principal dwelling customarily provided in conjunction with farm use on a tract that is predominantly high-value farmland, subject to the following (Type A notice):**

1. The subject tract was predominantly in agricultural use on January 1, 1993.
2. The subject tract is currently employed for farm use, and produced at least \$80,000 (1994 dollars) in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract.
3. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (1) of this Section.
4. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract.

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

1. The subject tract was predominantly in agricultural use on January 1, 1993.
2. The subject tract is currently employed for farm use, and produced at least \$40,000 (1994 dollars) in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract.
3. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (1) of this Section.
4. Except for permitted seasonal farm worker housing, there is no other dwelling on the subject tract.

[A.]C. Principal [or secondary] dwelling customarily provided in conjunction with farm use on a parcel at least 160 acres in size that is not high-value farmland, under the following circumstances [(Type B notice)]:

1. The subject [farm or ranch] tract is currently employed for farm use, as defined in Subsection 403.12(E).
2. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale as defined in subsection 4 of this section.
3. Except for permitted seasonal farm worker housing, [T] there is no other dwelling on the subject tract [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<br>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:*

- a.[i] Contributes in a substantial way to the area's existing agricultural economy; and
- b.[ii] Helps maintain agricultural processors and established farm markets;
- c.[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.

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

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

- b. Determine for each tract in the study area the number of acres in every land classification from the county assessor's data;
- c. Determine the potential earning capability for each tract by multiplying the number of acres in each land class by the gross sales per acre for each land class provided by the Land Conservation and Development Commission pursuant to OAR 660-33-135(4). Add these to obtain a potential earning capability for each tract;
- d. Identify those tracts capable of grossing at least \$10,000 based on the data generated in subsection (7)(c) of this Section;
- e. Determine the median size and gross sales capability for those tracts capable of generating at least \$10,000 in annual gross sales to use in subsections (2) and (3) of this Section.

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

- 1. The tract is currently employed for farm use, as defined in Subsection 403.12(E), at a commercial scale.
- 2.[1] The dwelling shall be [is] located on the same lot or parcel as the dwelling of the farm operator.
- 3.[2] The dwelling shall be [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 and farm use of the existing commercial farm use is or will be required by the farm operator.
- 4.[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.

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

- 1. The secondary dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator.
- 2. There is no other dwelling on lands designated EF or AF owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm and that could reasonably be used as a secondary farm dwelling.

3. The principal farm dwelling to which the proposed dwelling would be accessory satisfies one of the following:

- a. On land identified as high-value farmland, the principal farm dwelling is located on a farm operation that is currently employed for farm use, and produced at least \$80,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract.
- b. On land not identified as high-value farmland, the principal farm dwelling is located on a farm operation that is currently employed for farm use, and produced at least \$40,000 in gross annual income from the sale of farm products in each of the last two years, or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the gross income attributed to the tract.

4. The secondary dwelling will be located:

- a. On the same lot or parcel as the principal farm dwelling; or
- b. On the same tract as the principal farm dwelling when the lot or parcel on which the secondary dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or
- c. On a lot or parcel on which the principal farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the County Clerk. The deed restriction shall require the secondary dwelling to be removed when the lot or parcel is conveyed to another party. The secondary dwelling may remain if it is re-approved as a principal dwelling under this ordinance.

G.[C] Seasonal farm worker housing on a tract that was predominantly in agricultural use on January 1, 1993, 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.

H.[D] Replacement dwelling to be used in conjunction with farm use on a tract that was predominantly in agricultural use on January 1, 1993 if the existing dwelling has

been listed in the county inventory as historic property and on the National Register of Historic Places.

- L.[E] Principal dwelling not provided in conjunction with farm [*or forest use on a lot or parcel created before January 1, 1993*] **use on a tract that was predominantly in agricultural use on January 1, 1993**, subject to Type B notice procedures and the following standards and criteria:
1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.
  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.*]
  6. **The tract on which the dwelling is to be sited does not include a dwelling.**
  - [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.*]
  7. **Prior to issuance of a residential building permit, the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm or forest use; and that additional tax or penalty has been imposed, if any is applicable, as provided by ORS 308.370 or 308.765 or ORS 321.352, 321.730, and 321.815. A parcel that has been disqualified under this subsection shall not re-qualify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.**
  8. **Prior to issuance of a residential building permit, the landowner shall sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Yamhill County:**

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

J.[F] Principal dwelling and creation of a new parcel 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 was predominantly in agricultural use on January 1, 1993 and is:
  - a. larger than the minimum lot size;
  - b. not stocked to the requirements under ORS 527.610 to 527.770;
  - c. composed of at least 95 percent Class VI through VIII soils; and
  - d. composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber.
2. Any parcel created for a dwelling from the originating lot or parcel described in subsection (1) of this section will not be smaller than 20 acres.
3. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.
4. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern of the area, the county will consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area.
- [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.]*

- 5. The dwelling complies with other conditions the county considers necessary, including but not limited to provision for sewage disposal, emergency vehicle access, and public road approach.
- 6. Prior to issuance of a residential building permit, the applicant shall provide evidence that the county assessor has disqualified the lot or parcel for valuation at true cash value for farm or forest use; and that additional tax or penalty has been imposed, if any is applicable, as provided by ORS 308.370 or 308.765 or ORS 321.352, 321.730, and 321.815. A parcel that has been disqualified under this subsection shall not re-qualify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.
- 7. Prior to issuance of a residential building permit, the landowner shall sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Yamhill County:

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

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

- 1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
  - a. And has been owned continuously by such owner since prior to January 1, 1985; or
  - b. by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
- 2. The tract on which the dwelling is to be sited does not include a dwelling.
- 3. The lot or parcel is not high-value farmland as defined in Subsection 403.12 (H).

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 (K) [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.

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

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
  - a. and has been owned continuously by such owner since prior to January 1, 1985; or
  - b. By devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
2. The tract on which the dwelling is to be sited does not include a dwelling.
3. 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 (H)(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 least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on them on January 1, 1993; or
  - b. 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 (L) [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.

M.[7] Principal lot-of-record dwelling not in conjunction with farm use on land on a lot or parcel which is predominantly Class I and II high-value farmland and was not predominantly devoted to forest use on January 1, 1993, subject to the following standards and criteria:

- 1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
  - a. and has been owned continuously by such owner since prior to January 1, 1985; or
  - b. by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
- 2. The tract on which the dwelling is to be sited does not include a dwelling.
- 3. 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 Section 403.12(H)(1).
6. The Planning Commission determines that:
  - a. The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity;
  - b. The dwelling will comply with the provisions of Section 403.07(A); and
  - c. The dwelling will not materially alter the overall land use pattern of the area.
7. The county assessor shall be notified that the governing body intends to allow the dwelling.
8. For purposes of this section 403.03 (M) [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.
9. The State Department of Agriculture shall be provided notice of the application at least twenty (20) days prior to the public hearing before the Planning Commission.

N.[J] Principal dwelling on a large 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, 403.11 and the following: A tract separated only by a public road or a waterway is considered contiguous.

1. The dwelling will be sited on land that contains the following minimum acreage:
  - a. At least 160 contiguous acres of land zoned for forest use; or
  - b. At least 200 acres of land zoned for forest use that is not contiguous but is located entirely within Yamhill County or partially in an adjacent county.
2. There are no other dwellings on the parcels which make up the acreage.
3. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law.

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

4. If the tract consists of more than one lot or parcel, the lots or parcels that are not to support the dwelling are subject to deed restrictions that prohibit residential development or use of the lots or parcels to total acreage for future siting of dwellings for present or future owners. The applicant shall provide evidence that covenants and restrictions, in a form approved by the county, have been recorded with the County Clerk of Yamhill County and the other counties where the property subject to the covenants and restrictions is located. The covenants and restrictions are irrevocable, unless a statement of release is signed by the Planning Director.

[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.*]

O.[L] Principal lot-of-record dwelling on a lot or parcel predominantly devoted to forest use on January 1, 1993, subject to Sections 403.09, 403.10, 403.11 and the following standards and criteria:

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
  - (a) and has been owned continuously by such owner since prior to January 1, 1985; or
  - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
2. The tract on which the dwelling is to be sited does not include a dwelling.
3. 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.] shall not be:*
  - (a) A United States Bureau of Land Management Road; or
  - (b) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the

United States Forest Service and landowners adjacent to the road, a local government or state agency.

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[(L)] (O), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.

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

1. There are no other dwellings on the subject tract; and
2. 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 that are capable of producing 0 to 49 cubic feet per acre of wood fiber; and
  - a. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre 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

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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 abuts a public road that existed on January 1, 1993, the measurement under subsections 3.a, 4.a, or 5.a may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road.

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

**Q.[M] Principal forest template 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 Sections 403.09, 403.10, 403.11 and the following standards and criteria:**

1. There are no other dwellings on the subject tract; and

2. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed, and the tract shall not be eligible for an additional dwelling; and

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

**4.[3] The lot or parcel is predominantly composed of soils that are capable of producing 0 to 49 cubic feet per acre of wood fiber; and**

a. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 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.[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
- 6.[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.
- 7.[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.
- 8.[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.
- 9.[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.

**403.04 Conditional Uses.**

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

- A. One manufactured dwelling, or the temporary use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or relative of the resident, subject to the following:

1. The resident or relative of the resident is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence [*or has other documented, temporary hardship that can reasonably be reduced by placement of the manufactured dwelling*].
2. The permit for the [*manufactured*] **temporary** dwelling for the term of hardship shall be valid for a period of two years or a shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.
3. The permit for the manufactured dwelling for the term of hardship shall be granted to the applicant only and shall not be deemed to run with the land.
4. In addition to the requirements of this Section, the manufactured dwelling shall be subject to the standards set forth in Section 1002.
5. The temporary dwelling shall use the same subsurface sewage disposal system as the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.
6. [*The temporary dwelling shall be removed when it is no longer needed to house the relative that required special care.*]

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

- B. Permanent facility for the primary processing of forest products.
- C. Residential home or facility, as defined in ORS 197.660, in an existing dwelling.
- D. Community centers, parks, or playgrounds owned and operated by a governmental agency or a nonprofit community organization, subject to Section 1101, Site Design Review.
- E. Dog kennel, **except dog kennels are not allowed on a tract identified as high-value farmland. Existing dog kennels on high-value farmland that are wholly within a farm use zone may be expanded subject to conditional use approval.**
- F. The propagation, cultivation, maintenance, and harvesting of aquatic **or insect** species. **The insect species must comply with ORS 215.283(2)(o). Notice shall be mailed to the State Department of Agriculture at least 20 days prior to any administrative decision or initial public hearing on the application.**
- G. Commercial activities that are in conjunction with farm use as defined in Section 403.12(C), **but not including the processing of farm crops which are a permitted**

use as described in subsection 403.02(E), subject to Section 1101, Site Design Review.

H. The following mineral, aggregate, oil, and gas uses, subject to the standards of Section 404:

1. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted in this Section.
2. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral, and other subsurface resources subject to ORS 215.298.
3. Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement more than two miles from one or more vineyards, totaling 40 acres or more, planted as of the date of application for processing.
4. Processing of other mineral resources and other subsurface resources.
5. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects not within two miles of planted vineyards planted as of the date of application for processing.

I. Home occupation, subject to the standards and limitations set forth in Section 1004.

J. The following transportation facilities:

1. Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
2. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings not resulting in the creation of new land parcels.
3. Improvement of public road and highway related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
4. Roads, highways and other transportation facilities and improvements not allowed under this subsection or subsection[s 403.02(O) or 403.04(J)] **403.02(K)**, subject to [adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply] compliance with OAR 660-12.

K. Personal use airports subject to Subsection 403.07(B), and expansion of existing airports.

[L. *Public or private school, including all buildings essential to the operation of a school, three or more miles from an urban growth boundary.*]

L.[M] Golf course as defined in Section 403.12 G, **except new golf courses are not allowed on a tract identified as high-value farmland. Existing golf courses on high-value farmland that are wholly within a farm use zone may be expanded to a total of no more than 36 holes, subject to conditional use approval and provided the expansion is consistent with the definition in Section 402.10(D).**

[N. *Churches and cemeteries in conjunction with churches three or more miles from an urban growth boundary.*]

M.[O] The following utility facilities:

1. New electric transmission lines with right of way widths up to 100 feet as specified in ORS 772.210.
2. Transmission towers over 200 feet in height within existing right of way.
3. Television, microwave and radio communication facilities and transmission towers on land principally devoted to forest use.
4. Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation, **20 acres from use as a commercial agricultural enterprise on a tract not identified as high-value farmland, or 12 acres on a tract identified as high-value farmland,** unless an exception is taken pursuant to OAR 660, Division 4.
5. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.

N.[P] Private parks, playgrounds, hunting and fishing preserves and campgrounds as defined in subsection 403.12(B), subject to Section 1101, Site Design Review, **except such uses are not allowed on a tract identified as high-value farmland. Existing facilities on high-value farmland that are located wholly within a farm use zone may be expanded subject to conditional use approval.**

O.[Q] Permanent logging equipment repair and storage.

P.[R] Log scaling and weigh stations.

Q.[S] Fire stations for rural fire protection.

R.[T] Aids to navigation and aviation.

S.[U] Reservoirs and water impoundments.

T.[V] Firearms training facility.

U.[W] Cemeteries.

Y.[X] Private seasonal accommodations for fee hunting operations, subject to Sections 403.09 and 403.10 and the following requirements:

1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
2. Only minor incidental and accessory retail sales are permitted;
3. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
4. A governing body may impose other appropriate conditions.

W.[Y] New distribution lines (e.g., electrical, gas, oil, geothermal) with rights-of-way 50 feet or less in width.

X.[Z] Private accommodations for fishing occupied on a temporary basis, subject to Sections 403.09 and 401.10 and the following requirements:

1. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
2. Only minor incidental and accessory retail sales are permitted;
3. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;
4. Accommodations must be located within 1/4 mile of fish bearing Class I waters; and
5. A governing body may impose other appropriate conditions.

Y.[AA] Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.

**403.05 Prohibited Uses.**

Subdivisions and planned unit developments shall be prohibited.

**403.06 Nonconforming Uses**

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

## 403.07 Additional Standards for Approval of Conditional Uses

- A. In the Agriculture/Forestry District, prior to establishment of a conditional use, the applicant may be required to demonstrate compliance with the following criteria in addition to other requirements of this ordinance:
1. The use will not force a significant change in accepted farming or forest practices on surrounding lands devoted to farm or forest use.
  2. The use will not significantly increase the cost of accepted farming or forest practices on surrounding lands devoted to farm or forest use.
- B. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through a waiver action by the Oregon Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to applicable rules of the Oregon Aeronautics Division.
- C. A facility for primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in Section 403.12(E). Such facility may be approved for a one-year period which is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.

403.08 *[Disqualification from Farm or Forest 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 or forest use; and that additional tax or penalty has been imposed, if any is applicable, as provided by ORS 308.370 or 308.765 or ORS 321.352, 321.730, and 321.815. A parcel that has been disqualified under this subsection shall not requalify for special assessment unless, when combined with another contiguous parcel, it constitutes a qualifying parcel.*

B. *Declaratory Statement.*

Prior to issuance of any residential building permit for an approved nonfarm dwelling, the landowner may be required to sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Yamhill County:

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

#### Permit Expiration Dates

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

#### 403.09 Siting Standards for Dwellings and Structures.

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

- A. Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify a site which:**
- 1. Has the least impact on nearby or adjacent lands zoned for forest or agricultural use;**

2. Ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
  3. Minimizes the amount of forest lands used for the building sites, road access and service corridors; and
  4. Minimizes the risk associated with wildfire.
- B. The applicant shall provide evidence that the domestic water supply, if any, is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rule (OAR 629-24-101(3)). **If the water supply is from a well, a copy of the well constructor's report shall be submitted to the county upon completion of the well.** If the water supply is unavailable from public sources or sources located entirely on the subject property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.
- C. As a condition of approval for a dwelling under subsections 403.03[(L) through] (N) **through (Q)**, the county shall require that the tract that is the site of the dwelling meets the stocking and survival requirements of ORS 527.610 to 527.770. The property owner shall submit a stocking survey report to the County Assessor and the Assessor shall verify that the minimum stocking requirements have been met.

**403.10 Fire Siting and Construction Standards for Dwellings and Structures**

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

- A. The dwelling shall have a fire-retardant roof;
- B. The dwelling shall not be sited on a slope of greater than 40 percent;
- C. The dwelling is located upon a parcel within a fire protection district **that fights residential fires, or shall be provided with residential fire protection by contract.** **A dwelling may be allowed on a parcel that does not comply with these provisions provided that:**
  - a. The applicant provides evidence that the applicant has asked to be included in the nearest [*such district; or*] **fire protection district, but that district is unable to provide residential fire protection by contract; and**
  - [*b. Is provided with residential fire protection by contract; or*]
  - b. The dwelling shall be provided with a fire sprinkling system; and**
  - c. **The parcel is [Is] provided with a water supply consisting of a swimming pool, pond, lake, or similar body of water that at all times contains at least**

4,000 gallons, or a stream that has a minimum year-round flow of at least one cubic foot per second. Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units, and the road access shall accommodate a turnaround for fire-fighting equipment.

- D. Road access to the structure shall meet the road design standards described in Section [403.11(D)] 403.11(E).
- E. If the dwelling has a chimney or chimneys, each chimney shall be provided with a spark arrester.
- F. A primary fire break shall be constructed, no less than 30 feet wide. The fire break is only required to be constructed on land surrounding the dwelling that is owned or controlled by the owner. The primary firebreak could include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed.
- G. A secondary firebreak of not less than [50] 100 feet outside the primary firebreak shall also be constructed. The fire break is only required to be constructed on land surrounding the dwelling that is owned or controlled by the owner. Vegetation within the secondary firebreak should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent spread of fire into the crowns of the larger trees. Dead fuels shall be removed. The secondary fire break shall be increased to 150 feet if the dwelling or structure is located on a slope of greater than 25% or other fire hazards exist.
- H. No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.
- I. The applicant shall obtain an address from the County, and shall display that number in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less than three inches in height, shall be painted in a contrasting or visible color and shall comply with all other applicable standards for signs.

**403.11 Standards and Limitations.**

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

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

3. Not more than one dwelling not in conjunction with farm or forest use shall be allowed on any parcel.

B. Parcel Size and Dimension.

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

2. Lot-line adjustments.

- a. Any parcel principally devoted to farm use subject to alteration in size through a lot-line adjustment shall be shown to be of a size at least as appropriate for the continuation of the existing commercial agricultural enterprise in the area as were the parcels prior to adjustment.
- b. Any parcel principally devoted to forest use subject to alteration in size through a lot-line adjustment shall be shown to be at least as economically efficient for forest practices, provide for continuous growing and harvesting of forest tree species at least as well as, and conserve other forest values at least as well as did the parcel prior to adjustment.
- c. When one or more parcels subject to a proposed adjustment are larger than the minimum lot size, the same number of parcels shall be as large or larger than the minimum lot size after the adjustment. When all parcels subject to the proposed adjustment are as large or larger than the minimum lot size in the zone, no parcel shall be reduced below the applicable minimum lot size.
- d. **If the proposed adjustment involves the transfer of a dwelling from one parcel to another, the parcel that will acquire the dwelling must receive approval for the dwelling under the terms of this ordinance.**

3. Existing Lots. Any permitted or conditional use provided for in this District, may be established on an existing lot subject to satisfaction of the applicable requirements of the Agriculture/ Forestry District.

4. 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 F]* **200 feet from the centerline of any watercourse used for domestic water supply, 500 feet from any residential zoning district or urban growth boundary unless the applicant has received a conditional use permit pursuant to Section 1202, and 50 feet from property lines in all other circumstances.**
2. The minimum setback for signs shall be five feet.
3. The minimum setback for accessory uses shall be as provided in subsection 403.09 H.

D. Parcel Coverage.

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

E. Access.

The following standards apply to all roads and driveways, except for private roads accessing only commercial farm or forest uses, which access uses permitted under Section 403.02 or approved under Sections 403.03 or 403.04 of this section:

1. Width. Access roads serving three (3) or fewer dwellings shall have a 12 foot improved width and a 20 foot horizontal clearance. Access roads serving more than three (3) dwellings shall have a 16 foot improved width and a 20 foot horizontal clearance.
2. Construction. Access roads must be improved with an all-weather surface. Roads, bridges and culverts shall be designed and maintained to support a minimum gross vehicle weight (GVW) of 50,000 lbs. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 lb. GVW standard shall be provided by a Professional Engineer, registered in Oregon.
3. Vertical Clearance. Access roads shall have an unobstructed vertical clearance of not less than thirteen and one-half (13.5) feet.
4. Turnarounds. Dead end roads over 150 feet in length shall provide a turnaround adequate for emergency vehicles.

5. Turnouts. Access roads greater than 400 feet in length shall have turnouts at a maximum spacing of one-half the length of the access road or 400 feet, whichever is less. Turnouts shall be required more frequently where visibility is limited. Turnouts shall be an all weather surface at least 10 feet wide and 40 feet long.
6. Road Grade. Road grades shall not exceed twelve (12) percent, with a maximum of 15 percent on pitches less than 200 feet long. Variations from these standards may be granted by the fire service having responsibility for the area when topographic conditions make these standards impractical and where the local fire protection district states their fire-fighting equipment can negotiate the proposed road grade.
7. Before a dwelling may be established on any parcel as provided in this Section, the parcel shall have a legal, safe and passable means of access by abutting at least 20 feet either directly upon a public road, or by a private easement which is at least 30 feet in width for its entire length and which also abuts upon a public road for at least 30 feet. Nothing in this Section shall be construed to vary or waive the requirements for creation of new access contained in any Land Division Ordinance legally adopted by Yamhill County.

F. Clear-Vision Areas.

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

G. Height.

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

H. Accessory Use Standards and Requirements.

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

1. Structures.
  - a. 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.
  - b. A swimming pool may be located in a required rear yard, provided it lies a minimum of five feet from the rear property line.
  - c. 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 403.11 F.
3. Storage and Use of Certain Structures and Recreational Equipment
  - (a) 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 totaling 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.
  - (b) Temporary structures as may be required during construction of any authorized permanent structure may be placed. Such temporary structure shall be removed within 30 days of occupancy of the permanent structure.
  - (c) One manufactured dwelling may be stored on a lot or parcel for a period not to exceed nine months upon approval of the Director, with one extension of up to nine months if unusual circumstances are shown to exist. In no case shall a stored manufactured dwelling be connected to water or sewage disposal facilities.

I. Off-Street Parking.

1. In the Agriculture/Forestry District, prior to establishment of any dwelling, sufficient area must be provided to allow for at least one emergency vehicle turnaround.

2. Parking requirements for those uses which may generate traffic beyond what is normally expected in the Agriculture/Forestry District shall be determined by the Director subject to the provisions of Section 1007.

**403.12 Definition of Terms Used in this Section**

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

- A. Auxiliary - A use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- B. Campground - 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 including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" includes the preparation, [and] storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. [use and animal use and disposal by marketing or otherwise.] "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species[. It] and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in the subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3), or land described in ORS 321.267(1)(e) or 321.415(5).

"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 perennial 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 in 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. 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. Tract** - One or more contiguous lots or parcels under the same ownership.

**K. Winery** - As authorized under subsection 403.02(C), a winery is a facility that produces and sells wine and conforms to the following attributes:

**1. A winery herein defined has a maximum annual production of:**

**a. Less than 50,000 gallons and:**

**I. Owns an on-site vineyard of at least 15 acres;**

**ii. Owns a contiguous vineyard of at least 15 acres;**

**iii. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of vineyard contiguous to the winery; or**

**iv. Obtains grapes from any combination of a, b, or c above; or**

**b. At least 50,000 gallons and no more than 100,000 gallons and:**

**I. Owns an on-site vineyard of at least 40 acres;**

**ii. Owns a contiguous vineyard of at least 40 acres;**

**iii. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of vineyard contiguous to the winery; or**

**iv. Obtains grapes from any combination of a, b, or c above; and**

c. Prior to the issuance of building permits, the applicant shall provide evidence that the vineyards described in subsections (a) or (b) have been planted, or the contract has been executed, as applicable.

2. The winery shall allow only the sale of:

a. Wines produced in conjunction with the winery; and

b. Items directly related to wine, the sales of which are incidental to the retail sale of wine on-site and do not exceed 25 percent of the total gross receipts of the retail facility. Such items include those served by a limited service restaurant, as defined in ORS 624.010.

3. Permitted on-site marketing of wine includes up to three events of one to three days in duration during a calendar year intended to draw customers to the site for the tasting and purchase of wine, with an anticipated maximum of 750 daily visitors. The frequency and duration of these events may be limited through site design review approval based on the adequacy of public facilities. Rent or lease of space within or adjacent to the winery facility for events such as parties, receptions, and banquets that are not directly related to promotion of the wine is not included in this definition of a winery.

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

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## EXHIBIT D

3/2/98

**[1011. LANDING FIELDS AND PUBLIC AIRPORTS]****907. Airport Overlay District (AP)****907.01 [1011.01] Areas of Concern**

There are 3 public airport or landing facilities in the county which come under the provisions of this section. These airports currently include McMinnville, Sheridan, and Sportsman Air Park in Newberg. Areas of concern around each of these facilities are delineated on the official zoning map as the Airport Overlay District. Nonpublic use, private landing strips and heliports are not delineated but may still be subject to applicable regulations.

**907.02 [1011.02] Standards and Requirements.**

The following standards shall apply to all landing field and public airport improvements, and to improvements on all adjacent properties affected by such standards as delineated on the Official Zoning Map:

**A. Uses within the Airport Overlay District**

All structures and uses within the Airport Overlay District shall conform to the requirements of Federal Aviation Regulations (F.A.R.) Part 77, or successor, and to other federal and state laws regulating structural height, smoke, steam or dust and other hazards to flight, air navigation, or public health, safety and welfare. The Airport Overlay District has been further regulated as follows:

**1. Approach Zones.****[a.] The following uses are prohibited except as required for airport use:**

- a.** [(I)] Places of public assembly.
- b.** [(ii)] Residential density greater than one dwelling per five acres except as allowed in the underlying zone existing prior to the date of adoption of this ordinance.
- c.** [(iii)] Retirement homes and other residential institutions.
- d.** [(iv)] Hospitals.
- e.** [(v)] Schools.

- f. [(vi)] Aggregate extraction where ponding and birds pose a strike hazard.
- g. [(vii)] Storage of hazardous material as defined by the National Fire Protection Association (NFPA).
- h. [(viii)] Communications towers.
- I. [(ix)] Solid waste disposal sites.
- j. [(x)] Commercial or industrial use with potential operations hazards such as electrical interference, high intensity lighting, smoke, glare, noise, etc.
- k. [(xi)] All other uses as listed in the underlying zone with a hold harmless agreement and navigational easement.

## 2. Clear Zones

- a. [(i)] The clear zone shall be free of any construction or obstacle and shall be minimally used by people.
- b. [(ii)] Agriculture which does not attract birds is permitted. No structures are allowed.
- c. [(iii)] Above ground power lines are prohibited.
- d. [(iv)] Airport clear zones are subject to the conditions as shown in the airport's master plan.

## 3. Transition Zones

In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal [zones] **surface**, no approval shall be required for any tree or structure less than fifty feet of vertical height about the ground, except when such tree or structure because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or alteration of any structure, or growth of any tree in excess of any of the height limits established by this ordinance.

## C. Prohibited Uses

Regardless of any other provisions of this ordinance, no use may be made of land or water within any area covered by this ordinance in such a manner as to create

electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

D. Exceptions.

1. In the area lying within the limits of the horizontal [zone] **surface** and conical [zone] **surface**, no permit shall be required for any tree or structure less than fifty feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limit prescribed for such approach zones.

E. Height Limitations.

Except as otherwise provided in this section, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow to a height in excess of the applicable height limitations established in accordance with Federal Aviation Regulations (F.A.R.), Part 77, "Object Affecting Navigable Airspace".

F. Marking and Lighting.

The owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the county to indicate to the operators or aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.

G. Variances.

Any person desiring to erect or increase the growth of any tree, or use property not in accordance with the regulations prescribed in this section, may apply for a variance from such regulations pursuant to Section 1203 for variances. The application for variance shall be accompanied by a determination from the Federal Aviation Administration and the Department of Transportation, Aeronautics Division, as to the effect of the proposal on operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances may be allowed where the requirements of Section 1203 have been met and it is found that the relief granted will not be contrary to the public interest and will not create a hazard to air navigation. Additionally, no application for variance to the requirements of this section may be approved unless a copy of the application has been furnished to the airport owner for comment as to the

aeronautical effects of the variance. Failure of the airport owner to respond to the request for comments shall not prevent the county from taking final action on the variance application.

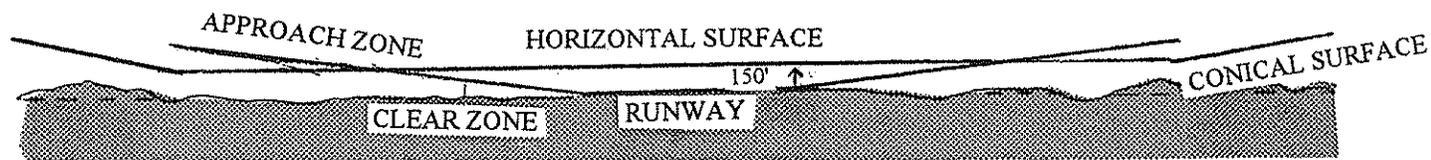
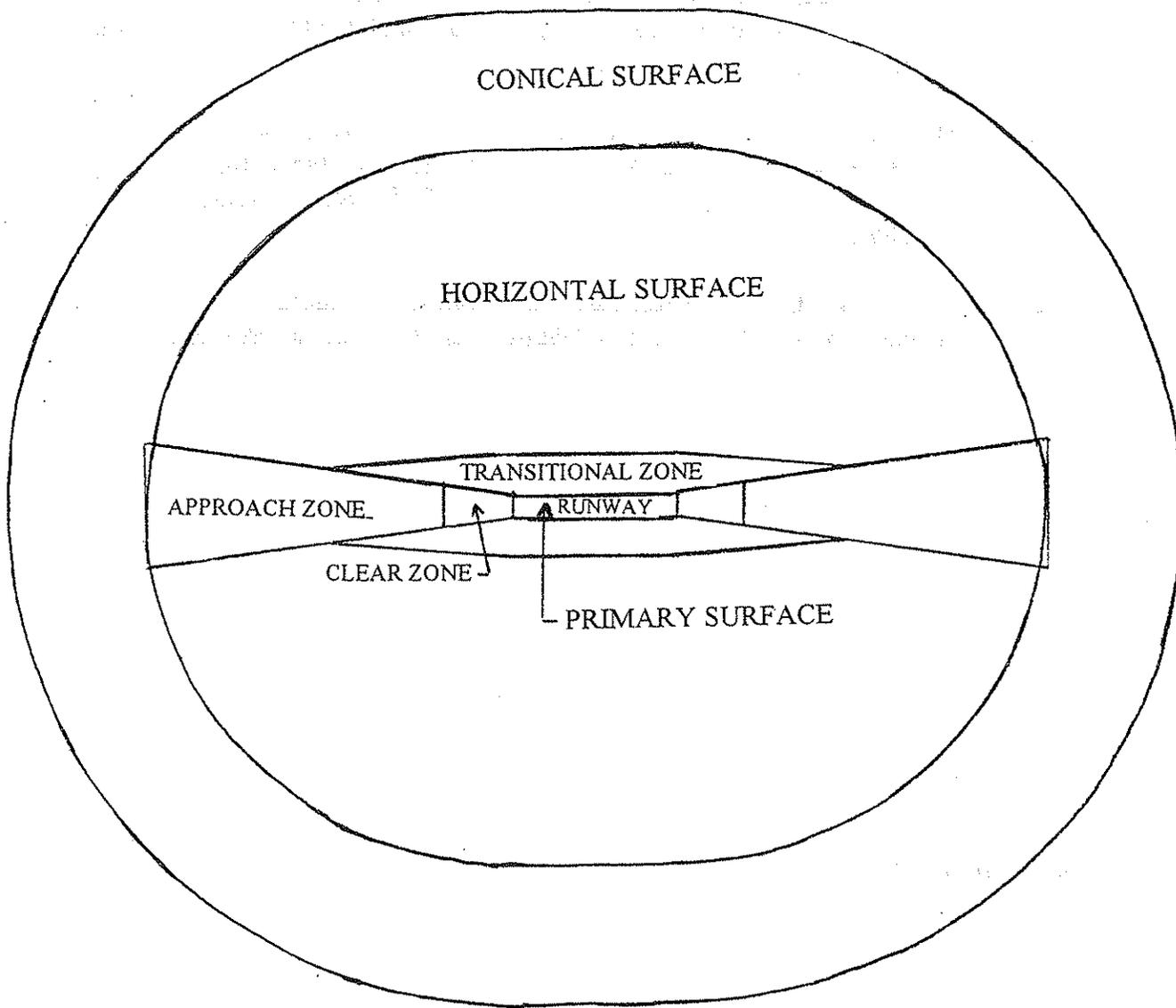
**907.03**      **Definitions**

- A. Airport Hazard: Any structure, tree, or use of land which exceeds height limits established by the Airport Imaginary Surfaces.**
- B. Airport Imaginary Surfaces: Those imaginary areas in space which are defined by the approach zone, clear zone, transitional zone, horizontal surface, and conical surface and in which any object extending above these imaginary zones and surfaces is an obstruction.**
- C. Approach Zone: A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach zone is the same width as the primary surface and extends to a width of: 1250 feet for a utility runway having only visual approaches; 1500 feet for a runway other than a utility runway having only visual approaches; 2000 feet for a utility runway having a nonprecision instrument approach; and 3500 feet for a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile. The approach zone extends for a horizontal distance of 5000 feet at a slope of 20:1, horizontal:vertical for all utility and visual runways and 10,000 feet at a slope of 34:1 for all nonprecision instrument runways other than utility.**
- D. Clear Zone: Extends at the same slope and horizontal angle as the approach zone from the primary surface to a point where the approach zone is 50 feet above the runway end elevation.**
- E. Conical Surface: A surface extending upward at a slope of 20:1 for a distance of 4,000 feet from the periphery of the horizontal surface.**
- F. Horizontal Surface: A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each end of the primary surface of each visual or utility runway, and 10,000 feet from the center of each end of the primary surface of all other runways and connecting the adjacent arcs by lines tangent to those areas.**
- G. Place of Public Assembly: A structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation or similar activity.**

- H. Primary Surface: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is 250 feet for utility runways having only visual approaches, 500 feet for utility runways having nonprecision instrument approaches and 500 feet for other than utility runways.**
- I. Transitional Zones: A surface extending upward at a slope of 7:1 beginning on each side of the primary surface, and from the sides of the approach zones, then extending upward to a height of 150 feet above the airport elevation.**
- J. Utility runway: A runway that is constructed and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.**

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DIMENSIONS FOR AIRPORT IMAGINARY SURFACES



## EXHIBIT E

3/2/98

## YAMHILL COUNTY LAND DIVISION ORDINANCE

1. Section 1 of the Yamhill County Land Division Ordinance shall be amended to reference the amendments made by this ordinance, as follows:

1.000 TITLE This ordinance shall be known and may be cited or pleaded as the Yamhill County Land Division Ordinance No. 205, 1979, as amended by Ordinance 497, 1989, [*and*] Ordinance 529, 1992, **and Ordinance \*\*\*, 1998.**

2. Section 3.010, Definitions, shall be amended as follows:

3.010 DEFINITIONS. For the purpose of this ordinance, the following words and phrases shall mean:

41. Partition Land - To divide an area or tract of land into two or three parcels within a calendar year. "Partition land" does not include:

A. Divisions of land resulting from the creation of cemetery lots;

B. Adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment [*is not reduced below the minimum lot size established by any applicable zoning ordinance*] **complies with the Yamhill County Zoning Ordinance;**

C. The sale of a lot in a recorded subdivision, even though the lot may have been acquired with other contiguous lots or property by a single owner;

D. The sale of an interest in timber;

E. A division of land resulting from a lien foreclosure or foreclosure of a recorded contract for the sale of real property; [*or*]

F. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes provided that such road or right-of-way complies with the applicable comprehensive plan and ORS 215.283(2)(p) to (r). However, any property divided by the sale or grant of property for state highway, county road, or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; **or**

**G. The division of land resulting from the recording of a subdivision or condominium plat.**

42. Partition Plat - Includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a [major or minor] partition.

3. Section 9, Supplemental Provisions, shall be amended as follows:

9.010 SUBDIVISION OF AGRICULTURE AND FOREST LANDS - It is the intent of Yamhill County to concentrate the major portion of its population within the rural development and urbanizable areas. It is also the intent of the county to preserve, wherever possible, the productive timber and agricultural lands of the county and to ensure that the rural character of an area is not compromised by overdevelopment resulting in excessive traffic, polluted soil and water supplies, or land use conflicts between farm and nonfarm interests, resulting in the costly extension of public services. Therefore, the creation of four or more lots on a single parcel within one calendar year shall not be permitted in the [F-40, EF-40 or AF-20 zones] **Forest, Exclusive Farm Use, or Agriculture/Forestry Large Holding districts** as indicated on the official zoning map of Yamhill County.

4. Subsections 9.015 and 9.020 shall be deleted, as follows:

*[9.015 STANDARDS AND CRITERIA FOR FARM ZONE PARTITIONS*

*In an EF-40 or AF-20 zone, the following standards and criteria shall apply to the creation of parcels for retirement or functional purposes, or for the preservation of an historical residence. Both parcels to be created shall conform to the minimum parcel size specified in Yamhill County Zoning Ordinance No. 310 as amended, Subsection 402.09 or 403.09 in an EF-40 or AF-20 zone, respectively. Nonfarm parcels to be created shall be disqualified from special assessment and shall otherwise be in compliance with Section 402.08 or 403.08. In addition, nonfarm parcels created for nonfarm dwellings shall be in compliance with Section 402.07 or 403.07, in an EF-40 or AF-20 zone, respectively:*

*1. Creation of a parcel of less than 40 acres in an EF-40 zone or 20 acres in an AF-20 zone partitioned from an existing parcel of greater than those acreages, which is to be used to provide a retirement residence for a farm owner who has owned the parcel for a minimum of five years, subject to the following:*

*A. The dwelling for retirement purposes shall have nonfarm dwelling conditional use approval, if it is to be located on a nonfarm parcel.*

*B. Approval of the request will not reduce in size the largest of the two parcels being created below the minimum lot size for a farm parcel allowed in the zone.*

*C. The parcel created to accommodate the dwelling shall include no more than three acres of land, unless soil conditions, topography or other unique circumstances require a greater land area;*

D. The parcel created to accommodate the dwelling shall not be less than one acre;

E. The remaining larger parcel shall not be partitioned further under this provision for a period of 15 years;

F. The purpose of the partition shall be for retirement thereon;

G. Evidence is submitted that the property has been in farm or forest use and that the remaining larger parcel shall continue in farm or forest use; and

H. For the purpose of determining density of development for residential purposes, the smaller parcel shall be considered with the original parcel as if the property had never been divided and appropriate conditions may be imposed to ensure compliance with this requirement.

2. Creation of a parcel of less than 40 acres in an EF-40 zone or 20 acres in an AF-20 zone that is functionally divided from the remainder of the subject property by a major cultural feature or major natural feature, subject to the following:

A. Approval of the request will not reduce in size the largest of the two parcels being created below the minimum lot size for a farm parcel allowed in the zone.

B. The natural or cultural division of the property must result in exceptional and unique practical difficulties to the farm or forest management practices applied to the land under consideration;

C. No parcel created under this subsection shall be less than two acres in size.

D. For the purpose of determining density of development for residential purposes, the smaller parcel shall be considered with the original parcel as if the property had never been divided. Appropriate conditions may be imposed to ensure compliance with this requirement.

E. Any dwelling proposed for either parcel shall be subject to either Section 402.06 and 403.06 of the county zoning ordinance for farm or forest dwelling, or to zoning ordinance provisions for a nonfarm/nonforest dwelling, whichever are applicable.

F. If the parcel to be created is not to continue in farm or forest uses, additional justification shall be provided that:

(1) The natural or cultural feature is physically unique to the subject property and is not commonly shared by other properties in the vicinity or zoning districts; and

(2) The division will not directly result in the creation of other

land uses that may be incompatible with accepted farm or forestry practices.

3. *Creation of a nonfarm parcel, partitioned from the parent parcel for the purpose of providing separate ownership of dwellings already existing prior to February 11, 1976, on the parcel to be partitioned. Any partitioning accomplished under this section shall be subject to the following criteria:*

A. *The secondary dwelling to be separated shall have nonfarm dwelling conditional use approval, if it is to be located on a nonfarm parcel.*

B. *The secondary dwelling shall have or can be provided with water and sewage disposal systems suitable for permanent and continuous use, and shall either be habitable and suitable for year-round occupancy without requiring improvement or shall be suitable for restoration and listed on the National Register of Historic Places as specified in ORS 358.480.*

C. *No such secondary dwelling shall have been previously approved as a secondary dwelling for farm help, a guest house, or a temporary mobile home for family members requiring special care.*

D. *If the parent parcel exceeds the minimum zoning acreage requirements, the parcel to be created shall be no smaller than one acre nor greater than three acres, unless soil conditions, topography or other unique circumstances require a greater land area.*

9.020 *PARK REQUIREMENTS - ALL LAND DIVISIONS - The Director, the Commission, or Hearings Officer shall require a fee, to be determined by order of the Board, for each parcel created by land division to be paid into the Yamhill County Park Trust Fund upon submission of the final plat to the Planning Department.*

1. *Expenditure of Funds. All funds received shall be credited to a park acquisition, development and maintenance trust fund and shall be deposited with the county treasurer for the purpose of acquiring, or developing suitable sites for parks or for maintaining or further developing existing parks. Such funds shall be expended only on order of the Board for the purposes of acquiring, developing or maintaining lands for park and recreational uses, and then only for such lands as the Board shall approve as suitable and adaptable for such purpose and in the area impacted by the development.*

2. *No proposed land division shall receive final plat approval until the park fee has been assessed and paid in accordance with this ordinance.*

5. Section 10 of the Land Division Ordinance shall be amended as follows:

10.030 COUNTY SURVEYOR - FINAL REVIEW

1. The County Surveyor shall review the [major or minor] partition plat and

accompanying material to ensure the sufficiency of affidavits, the correctness of surveying data, the accuracy of mathematical data and computations, and compliance with the requirements of this ordinance and Chapter 92 of the Oregon Revised Statutes (ORS). The County Surveyor shall recommend approval of the [major or minor] partition plat unless the County Surveyor makes a specific finding that the plat does not comply to one or more of the above-stated requirements.

6. Section 11.100 of the Land Division Ordinance shall be amended to make the following correction:

11.100 EXPIRATION OF APPROVAL - SUBDIVISION - The preliminary subdivision approval shall be null and void and final approval shall not be granted if:

3. The final subdivision plat is not recorded within 90 days from the date the final subdivision application is submitted to the Director, because of deficiencies within the final [partition] subdivision application and not from delays resulting from the processing by the county of the final subdivision application.

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## EXHIBIT "F" TO ORDINANCE 643

The following are explanations for the ordinance amendments contained in Exhibits A through E of Ordinance 643. The explanation indicates whether the amendment is "required" or a "housekeeping" item.

Exhibit A:

1. Housekeeping. Deletes definitions of terms that are no longer used anywhere in the ordinance.
2. Required. Adds definitions for residential facility and residential home from ORS 197.660.
3. Required. ORS 197.660 requires that jurisdictions allow placement of residential homes in any residential and commercial zone that allows single family dwellings.
4. Housekeeping. These amendments are to make the listing of zoning districts current.
5. Required. ORS 215.720(1) was amended in 1997 to allow certain forest service roads to be considered as complying with requirements for a lot of record dwelling.
6. Required. ORS 215.283(2)(k) was amended to allow the use of an existing building as a temporary hardship residence.
7. Required. ORS 215.730(1)(a)(G) was amended to require a firebreak to be constructed only on land controlled by the dwelling's owner.  
Housekeeping. OAR 660-06-035(3) requires that the primary and secondary firebreaks be in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry. That publication includes the language concerning distance of the firebreak and the removal or management of vegetation.
8. Housekeeping. This language is included in the criteria for a lot line adjustment in the AF district. Similar language is also contained in the EF district. This amendment adds it to the Forestry District as well.
9. Housekeeping. Subsection 502.06(J) contains limitations on the number of livestock that may be kept on parcels in the VLDR district, based on the size of the parcel. This amendment includes that information under the farm use definition.
10. Housekeeping. Section 404.10 contains application procedures, approval criteria and operating standards for exploration activities. These standards should apply regardless of the zoning district. Section 404.10 also specifies that the Type A application procedure is used if exploration is listed as a permitted use in the underlying zoning district, and the

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Type B application procedure is used if exploration is listed as a conditional use, so it is not necessary to include the application procedure in the other zones.

11. Housekeeping. When the Watershed Overlay and Scenic Waterway Overlay districts were adopted, no map designations were included.
12. Housekeeping to correct errors in citation.
13. Housekeeping to clarify the process for an exception.
14. Required by 1997 amendments to ORS 215.130.
15. Required. The notification distances are requirements of ORS 197.763, although the amendment is more restrictive than the ORS for parcels that are partially within a UGB, by making the notice distance 250' rather than the 100' required by the statute.  
Required. Any first hearing, which would be the case in the appeal of a Planning Director's decision, is required to be de novo pursuant to ORS 215.416(11).  
Required. Not requesting a hearing does not negate the right to appeal a decision.

Exhibit B:

402.02(E) - Housekeeping. The setbacks for a livestock feeding yard were moved to Section 402.09(C)(1).

Required. The new language in (E) was added by SB 588 (1997) and is found in ORS 215.283(1)(u).

402.02(J) - Housekeeping. Section 404.10 contains standards for exploration activities, which apply to exploration in all zoning districts where the use is allowed.

402.02(L) - Required. The new language was adopted by the last legislature as part of ORS 215.283(1)(l).

402.02(M) - Required. The new language was adopted by the last legislature as part of ORS 215.283(1)(l).

402.02(N) and (O) - Required. Schools and churches are listed in ORS 215.283(1). The Brentmar decision indicates that they must be allowed as permitted uses rather than conditional uses, since conditional use approval is subject to conformance with approval criteria. According to an Attorney General opinion, Brentmar did not supersede the OARs, which require review of the request and that the uses be at least 3 miles from a UGB. The Planning Commission wanted to consider the Type of application procedure at a later date, so a blank is being used at this time.

402.02(P) and (Q) - Required. Model aircraft sites and on-site filming were added as new uses to ORS 215.283(1) in 1997.

402.03(A) through (F) - Required. The approval criteria for principal and secondary dwellings customarily provided in conjunction with farm use were amended by OAR 660-33 after the county

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ordinance was amended to comply with HB 3661. Sections A through E incorporate the administrative rule requirements.

402.03(I)(6) - Required. A limitation of one dwelling per tract is included as a criterion for approval of all other types of principal dwellings, so was added here for consistency. (7) and (8) - Housekeeping. This amendment moves the provisions of the original 402.08 to this subsection so that all the approval criteria for a nonfarm dwelling are in the same place.

402.04(A) - Required. OAR 660-33 was amended several years ago to delete the provision for non-medical hardship dwellings. ORS 215.283 (2)(k) was amended in 1997 to allow the use of an existing building for a health hardship dwelling.

402.04(E), (L) and (O) - Required. Kennels, golf courses, private parks, playgrounds, and campgrounds are not allowed on high-value farmland pursuant to OAR 660-33, although existing uses on high-value farmland may be "maintained, enhanced or expanded, subject to other requirements of law".

402.04(F) - Required. ORS 215.283(2)(o) allows propagation, cultivation, maintenance and harvesting of insect species in a farm zone as a conditional use.

402.04(G) - Required. This language was added in 1997 to ORS 215.283(1)(u).

402.04(N) - Housekeeping. OAR 660-12, the Transportation Planning Rule, was adopted in 1995. It contains provisions and regulations for all transportation facilities. Under the rule, a goal exception is not always required for a new transportation facility.

402.07(A) - Required. This will correct the wording to comply with ORS 215.296.

402.07(D) - Required. The limitations on tract size are found in OAR 660-33.

402.08 - Housekeeping. The provisions being deleted were moved to 402.03(I) in order to consolidate the requirements for a non-farm dwelling in one section. The proposed new language concerning permit expirations is contained in the OARs.

402.09(B)(2) - Housekeeping. This amendment will prevent a vacant parcel which does not meet the requirements for a dwelling from acquiring a dwelling through the lot line adjustment procedure.

402.09(C) - Housekeeping. Setbacks for livestock feeding and sales yards were moved from subsection 402.02(E).

402.10(C) - Required. The amendments to the definition of farm use were made in 1995 and 1997, and are found in 215.203(2).

402.10(H) - Required. The Brentmar decision indicates that the standard concerning leased vineyards must be removed because it is a county standard that is more restrictive than ORS 215.283(1). The standard that the vineyards must be planted is a requirement of ORS 215.452.

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Exhibit C:

403.02(E) - Housekeeping. The setbacks for a livestock feeding yard were moved to Section 402.09(C)(1).

Required. The new language in (E) was added by SB 588 (1997) and is found in ORS 215.283(1)(u).

403.02(K) - Required. The new language was adopted by the last legislature as part of ORS 215.283(1)(l).

403.02(N) - Required. The new language was adopted by the last legislature as part of ORS 215.283(1)(l).

403.02(R) - Required. Caretaker residences are authorized by administrative rule.

403.02(U) and (V) - Required. Schools and churches are listed in ORS 215.283(1). The Brentmar decision indicates that they must be allowed as permitted uses rather than conditional uses, since conditional use approval is subject to conformance with approval criteria. According to an Attorney General opinion, Brentmar did not supersede the OARs, which require review of the request and that the uses be at least 3 miles from a UGB. The Planning Commission wanted to consider the Type of application procedure at a later date, so a blank is being used at this time.

403.02(W) and (X) - Required. Model aircraft sites and on-site filming were added as new uses to ORS 215.283(1) in 1997.

403.03(A) through (F) - Required. The approval criteria for principal and secondary dwellings customarily provided in conjunction with farm use were amended by OAR 660-33 after the county ordinance was amended to comply with HB 3661. Sections A through E incorporate the administrative rule requirements.

403.03(I) - Required. Criterion #6, which prohibited non-farm dwellings on lots that have received a forest deferral, is removed and a provision included that the tract not already have a dwelling, which is a requirement for all types of dwelling.

Housekeeping. The provisions of Section 403.08 are moved directly to this section so that all of the nonfarm dwelling requirements are in one location.

403.03(J) - Required. The criterion regarding a forest tax deferral is not a statutory or rule requirement, so has been removed. The new language in (5) is required by OAR 660-33-130(4)(b).

Housekeeping. The provisions of Section 403.08 are moved directly to this section so that all of the nonfarm dwelling requirements are in one location.

403.03(N) - Required. The approval criteria are required by OAR 660-06-027.

403.03(O) - ORS 215.720(1) was amended in 1997 to allow certain forest service roads to be considered as complying with requirements for a lot of record dwelling.



403.03(P) and (Q) - Required. The criterion concerning Comp Plan policies is required by ORS 215.750(4)(b).

403.04(A) - Required. OAR 660-33 was amended several years ago to delete the provision for non-medical hardship dwellings. ORS 215.283 (2)(k) was amended in 1997 to allow the use of an existing building for a health hardship dwelling.

403.04(E), (L) and (N) - Required. Kennels, golf courses, private parks, playgrounds, and campgrounds are not allowed on high-value farmland pursuant to OAR 660-33, although existing uses on high-value farmland may be "maintained, enhanced or expanded, subject to other requirements of law".

403.04(G) - Required. ORS 215.283(2)(o) allows propagation, cultivation, maintenance and harvesting of insect species in a farm zone as a conditional use.

403.04(J) - Housekeeping. OAR 660-12, the Transportation Planning Rule, was adopted in 1995. It contains provisions and regulations for all transportation facilities. Under the rule, a goal exception is not always required for a new transportation facility.

403.04(M) - Required. The limitations on tract size are found in OAR 660-33.

403.07(C) - Required by OAR 660-33.

403.08 - Housekeeping. The provisions being deleted were moved in order to consolidate the requirements for a non-farm dwelling in one section. The proposed new language concerning permit expirations is contained in the OARs.

403.09 - Housekeeping. The amendment stating the section applies to dwellings on forest land is for clarification. (B) - Required. Submittal of a well report is a requirement of OAR 660-06-029.

403.10(C) - Required. The amendments bring the ordinance into compliance with OAR 660-06-035.

403.10(F) and (G) - Housekeeping. ORS 215.730(1)(a)(G) was amended to require a firebreak to be constructed only on land controlled by the dwelling's owner.

Housekeeping. OAR 660-06-035(3) requires that the primary and secondary firebreaks be in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry. That publication includes the language contained in this amendment.

403.11(B) - Housekeeping. The amendment in (d) will prevent a vacant parcel which does not meet the requirements for a dwelling from acquiring a dwelling through the lot line adjustment procedure.

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403.11(C) - Housekeeping. Setbacks for livestock feeding and sales yards were moved from subsection 403.02(E).

403.12(E) - Required. The amendments to the definition of farm use were made in 1995 and 1997, and are found in 215.203(2).

403.12(K) - Required. The definition of winery was mistakenly not included in the AF district. The definition, except for #3, is taken from ORS 215.452. #3 is language identical to that adopted in the EF zone.

Exhibit D:

907 - Housekeeping. The Landing Field and Public Airport section of the zoning ordinance is an overlay district. The entire section has been renumbered from 1011 to 907 and renamed to reflect that it is an overlay.

907.03 - The definitions were originally adopted as amendments to Section 202, the general definition section of the zoning ordinance. Since they apply only to the Airport Overlay District, they were included in this section.

Exhibit E:

1. Housekeeping. The number of the adopting Board ordinance will be added.
2. Required. The amendment to the definition in 3.010(B) conforms to the definition in ORS 92.010, and also is necessary to reflect that lot line adjustments can be approved for lots that are already below the minimum lot size for the zone. The added language in 3.010(F) is included in the definition in ORS 92.010, having been added by the 1993 legislature.
3. Housekeeping. The amendment to 9.010 reflects changes in zoning designations. Required. Subsections 9.015 and 9.020 are deleted because they are no longer applicable. The partitions listed in 9.015 are no longer allowed under state laws. The park fee requirement in 9.020 has been replaced by a systems development charge for new development in the Chehalem Park and Recreation District.
4. Required. State statutes no longer contain the terms major and minor partition.
5. Housekeeping. The amendment to 11.100 is to correct an error.

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