

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, to Make Optional Changes and )  
Changes to Conform to State Administrative )  
Rules in the Exclusive Farm Use District, the )  
Agriculture/Forestry District, the Very Low )  
Density Residential District, and the Low )  
Density Residential District; Docket G-02-98; )  
and Declaring an Emergency. )

ORDINANCE 657  
(supersedes ORD 652)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in special session on August 13, 1998, Commissioners Ted Lopuszynski, Thomas E. E. Bunn, and Robert Johnstone, being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. On February 19, 1998, April 2, 1998, and May 7, 1998, the Yamhill County Planning Commission held public hearings on Planning Docket G-2-98 to consider a proposal to amend Yamhill County Zoning Ordinance No. 310, as amended ("the YCZO"), for the purpose of making certain optional amendments as set forth in Exhibit "A" attached hereto and incorporated herein, to the following YCZO Sections:

(1) Amending YCZO Sections 402.04 and 403.04 to add on-site filming, extraction and bottling of water, and room and board as conditional uses in the Exclusive Farm Use and Agriculture/Forestry Districts.

(2) Amending YCZO Sections 402.02 and 403.02 to require site design review for churches and schools in the Exclusive Farm Use and Agriculture/Forestry Districts.

(3) Amending YCZO Sections 502.02 and 502.03 deleting duplexes, multi-family dwellings and residential facilities and to requiring site design review for churches and schools in the Very Low Density Residential District.

(4) Amending YCZO Sections 503.02 and 503.03 to treat duplexes and multi-plexes as conditional uses rather than permitted uses in the Low Density Residential District.

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(5) Amending YCZO Sections 402.10 and 403.12 procedure for determining soil class for lot of record dwellings in the Exclusive Farm Use District and the Agriculture/Forestry District.

(6) Amending YCZO Sections 401.08 and 403.09 to require a stocking survey when the tract is more than 5 acres in the Forestry and Agriculture/Forestry Districts.

(7) Amending YCZO Section 1004.01 criteria for home occupations.

(8) Amending YCZO Section 1012.01 and 1012.02 provisions regarding bed and breakfast facilities.

(9) Amending YCZO Section 1202.05(D) conditional use approval expiration date.

(10) Amending YCZO Sections 401.08, 402.08, and 403.08 to require a declaratory statement prior to issuance of a residential dwelling building permit within one mile of area designated or approved for mineral resource uses.

(11) Amending YCZO Sections 401.03(B), 401.03(C), 401.03(D), 401.08(E), 401.10(A), 401.12(B), 402.03(I), 402.03(J), 402.03(K), 402.03(L), 402.08(E), 402.10(A), 402.12(B), 403.03(I), 403.03(J), 403.03(K), 403.03(L), 403.03(M), 403.03(P), 403.03(Q), 403.08(E), and 403.12(B) to conform to Land Conservation and Development administrative rule amendments in OAR Chapter 660, and repealing YCZO Sections 401.03(C) and (D) on January 1, 2000 to conform to Ordinance 652.

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

C. On June 18, 1998 and July 9, 1998, the Board held a public hearing to consider Docket G-2-98, and at the conclusion of the hearing, the Board voted unanimously to modify the YCZO as provided in the operative part of this ordinance.

D. 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 401.03(B), 401.03(C), 401.03(D), 401.08, 401.10(A), 401.12, 402.02, 402.03(I), 402.03(J), 402.03(K), 402.03(L), 402.04, 402.08, 402.10, 402.12, 403.02, 403.03(I), 403.03(J), 403.03(K), 403.03(L), 403.03(M), 403.03(P), 403.03(Q), 403.04, 403.08, 403.09, 403.12, 502.02, 502.03, 503.02, 503.03, 1004.01, 1012.01, 1012.02, and 1202.05(D) 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. YCZO sections 401.03(C) and (D), as amended by this Ordinance, are hereby repealed January 1, 2000.

Section 2. The explanation of the amendments under this ordinance set forth in Exhibit "B", 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 3. 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 4. 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 13 day of August, 1998.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

The seal of the Yamhill County Board of Commissioners is circular with a scalloped outer edge. Inside the seal, the text "YAMHILL COUNTY BOARD OF COMMISSIONERS" is written around the perimeter. In the center, there is a smaller seal featuring a landscape with a tree and a building, with the text "YAMHILL COUNTY OREGON" below it. The seal is partially obscured by the signature of Carol Ann White.  
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By: Carol Ann White  
CAROL ANN WHITE

Ted Lopuszynski  
Chairman TED LOPUSZYNSKI

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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## EXHIBIT "A" TO ORDINANCE 657

8/13/98

## 1. 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.
  2. The permit for the manufactured dwelling for the term of hardship shall be valid for a period of two years or a shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.
  3. The permit for the temporary dwelling for the term of hardship shall be granted to the applicant only and shall not be deemed to run with the land.
  4. The temporary dwelling shall use the same subsurface sewage disposal system as the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.
  5. 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(C).
- L. Golf course, as defined in subsection 402.10(D), except new golf courses are not allowed on a tract identified as high-value farmland. Existing golf courses on high-value farmland that are wholly within a farm use zone may be expanded to a total of no more than 36 holes, subject to conditional use approval and provided the expansion is consistent with the definition in Section 402.10(D).
- M. Commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height, subject to Subsection 402.07(D) and Section 1101, Site Design Review.
- N. Roads, highways and other transportation facilities and improvements not allowed under Subsections 402.02(K) or 402.04(J), subject to compliance with OAR 660-12.
- O. Private parks, playgrounds, hunting and fishing preserves and campgrounds as defined in subsection 402.10(A), subject to Section 1101, Site Design Review, except such uses are not allowed on a tract identified as high-value farmland. Existing facilities on high-value farmland that are wholly within a farm use zone may be expanded subject to conditional use approval. [Amended 3/19/98, Ord. 643]
- P. **On-site filming and activities accessory to on-site filming, as defined in ORS**

215.306(4), that exceed 45 days on any site within a one-year period or involve erection of sets that would remain in place for longer than 45 days subject to ORS 30.930 to 30.947.

Q. Operations for the extraction and bottling of water

R. Room and board arrangements for a maximum of five unrelated persons in an existing 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.
  2. The permit for the temporary dwelling for the term of hardship shall be valid for a period of two years or a shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.
  3. The permit for the manufactured dwelling for the term of hardship shall be granted to the applicant only and shall not be deemed to run with the land.
  4. The temporary dwelling shall use the same subsurface sewage disposal system as the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.
  5. 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. [Amended 3/19/98, Ord. 643]
- 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.

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

- 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. [Amended 3/19/98, Ord. 643]
- G. Commercial activities that are in conjunction with farm use as defined in Section 403.12(C), but not including the processing of farm crops which are a permitted use as described in subsection 403.02(E), subject to Section 1101, Site Design Review.
- H. The following mineral, aggregate, oil, and gas uses, subject to the standards of Section 404:
  - 1. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted in this Section.
  - 2. Operations conducted for mining, crushing or stockpiling of aggregate and other mineral, and other subsurface resources subject to ORS 215.298.
  - 3. Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement more than two miles from one or more vineyards, totaling 40 acres or more, planted as of the date of application for processing.
  - 4. Processing of other mineral resources and other subsurface resources.
  - 5. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects not within two miles of planted vineyards planted as of the date of application for processing.
- I. Home occupation, subject to the standards and limitations set forth in Section 1004.
- J. The following transportation facilities:
  - 1. Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
  - 2. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings not resulting in the creation of new land parcels.
  - 3. Improvement of public road and highway related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
  - 4. Roads, highways and other transportation facilities and improvements not allowed under this subsection or subsection 403.02(K), subject to compliance with OAR 660-12. [Amended 3/19/98, Ord. 643]
- K. Personal use airports subject to Subsection 403.07(B), and expansion of existing airports.
- L. Golf course as defined in Section 403.12 G, except new golf courses are not allowed on a tract identified as high-value farmland. Existing golf courses on high-value farmland that are wholly

within a farm use zone may be expanded to a total of no more than 36 holes, subject to conditional use approval and provided the expansion is consistent with the definition in Section 402.10(D). [Amended 3/19/98, Ord. 643]

M. The following utility facilities:

1. New electric transmission lines with right of way widths up to 100 feet as specified in ORS 772.210.
2. Transmission towers over 200 feet in height within existing right of way.
3. Television, microwave and radio communication facilities and transmission towers on land principally devoted to forest use.
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. Private parks, playgrounds, hunting and fishing preserves and campgrounds as defined in subsection 403.12(B), subject to Section 1101, Site Design Review, except such uses are not allowed on a tract identified as high-value farmland. Existing facilities on high-value farmland that are located wholly within a farm use zone may be expanded subject to conditional use approval. [Amended 3/19/98, Ord. 643]

O. Permanent logging equipment repair and storage.

P. Log scaling and weigh stations.

Q. Fire stations for rural fire protection.

R. Aids to navigation and aviation.

S. Reservoirs and water impoundments.

T. Firearms training facility.

U. Cemeteries.

V. Private seasonal accommodations for fee hunting operations, subject to Sections 403.09 and 403.10 and the following requirements:

1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
2. Only minor incidental and accessory retail sales are permitted;
3. Accommodations are occupied temporarily for the purpose of hunting during game bird

and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission;  
and

4. A governing body may impose other appropriate conditions.
- W. New distribution lines (e.g., electrical, gas, oil, geothermal) with rights-of-way 50 feet or less in width.
- X. Private accommodations for fishing occupied on a temporary basis, subject to Sections 403.09 and 401.10 and the following requirements:
1. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  2. Only minor incidental and accessory retail sales are permitted;
  3. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;
  4. Accommodations must be located within 1/4 mile of fish bearing Class I waters; and
  5. A governing body may impose other appropriate conditions.
- Y. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.
- Z. On-site filming and activities accessory to on-site filming, as defined in ORS 215.306(4), that exceed 45 days on any site within a one-year period or involve erection of sets that would remain in place for longer than 45 days subject to ORS 30.930 to 30.947.**
- AA. Operations for the extraction and bottling of water**
- BB. Room and board arrangements for a maximum of five unrelated persons in an existing dwelling.**

2. 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:

- N. Public or private school, including all buildings essential to the operation of a school, subject to the Type **B** application procedures **and Section 1101, Site Design Review**. The school must be at least three miles from an urban growth boundary, and is not permitted on a tract identified as high-value farmland. Existing facilities on high-value farmland and wholly within a farm use zone may be maintained, enhanced, or expanded.
- O. Churches and cemeteries in conjunction with churches, subject to the Type **B** application

procedures **Section 1101, Site Design Review**. The uses must be at least three miles from an urban growth boundary, and are not permitted on a tract identified as high-value farmland. Existing facilities on high-value farmland and wholly within a farm use zone may be maintained, enhanced, or expanded.

**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:

. . . .

- U. Public or private school, including all buildings essential to the operation of a school, subject to the Type **B** application procedures **and Section 1101, Site Design Review**. The school must be 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 and wholly within a farm use zone may be maintained, enhanced, or expanded.
  
- V. Churches and cemeteries in conjunction with churches, subject to the Type **B** application procedures **Section 1101, Site Design Review**. The uses must be at least three miles from an urban growth boundary, and are not permitted on a tract identified as high-value farmland. Existing facilities on high-value farmland and wholly within a farm use zone may be maintained, enhanced, or expanded.

**3. 502.02 Permitted Uses.**

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

- A. Farm uses 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).
  
- B. Propagation and harvesting of Christmas trees;
  
- C. Principal Dwelling. If the principal dwelling is a mobile home, it shall, in addition to the requirements of this section, also be subject to the mobile home standards set forth in Section 1002;
  
- [D. *Duplex or multi-family dwelling, subject to the planned unit development requirements in Section 903;*]

D.[E.] Subdivisions, subject to the land division requirements set forth in Ordinance 205;

E.[F.] Residential planned unit developments, subject to Section 903 of this ordinance and the land division requirements set forth in Ordinance 205;

E.[G.] Accessory uses;

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

H.[I.] Mobile home storage and temporary sales offices for permitted uses, pursuant to the Type A application procedure set forth in Section 1031 and subject to Section 1009 for temporary permits;

L.[J.] Signs, pursuant to the sign provisions set forth in Section 1006.

**502.03 Conditional Uses.**

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

- A. Secondary dwelling, in conjunction with a principal dwelling on the same parcel, as follows:
  - 1. Guest house; and
  - 2. Temporary mobile home for family members requiring special care, subject to the following:
    - a. The family member requiring special care is aged, infirm or who, for health-related reasons, is incapable of maintaining a complete separate residence;
    - b. The permit for the mobile home for special care shall be valid for a period of two (2) years or such shorter period as the Director or hearings body determines to be appropriate, provided, however, that such 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; and
    - c. The permit for the mobile home for special care shall be granted to the applicant only and shall not be deemed to run with the land.
    - d. If the secondary dwelling is a mobile home, it shall, in addition to the requirements of this section, also be subject to the mobile home standards set forth in Section 1002.

- B. Home occupation, as defined by this ordinance, subject to the standards and limitations set forth in Section 1004.
- C. Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to the requirements in subsection 404.10;
- D. Kindergarten, day nursery, or day care facility in conjunction with a principal dwelling on the same parcel, subject to the standards for day care facilities set forth in Section 1008;
- E. Community or municipal water-supply system, except within acknowledged service boundaries;
- F. Community or municipal sanitary-sewer system;
- G. Utility facility, subject to Section 1101 for site design review;
- H. Public or private school, including all buildings essential to the operation of a school **subject to Section 1101, Site Design Review;** [*and*]
- I. Church, **subject to Section 1101, Site Design Review;**

4. **503.02 Permitted Uses.**

In the LDR Districts, the following uses shall be permitted subject to the standards and limitations set forth in subsection 503.06:

- A. Principal Dwelling. A principal dwelling which is a mobile home shall, in addition to the requirements of Section 503, also be subject to the mobile home standards set forth in Section 1002;
- [B. Duplex or multi-family dwelling, subject to the planned unit development requirements in Section 903;]*
- B.[C.]** Subdivisions, subject to the land division requirements set forth in Ordinance 205;
- C.[D.]** Residential planned unit developments, subject to Section 903 of this ordinance and the land division requirements set forth in Ordinance 205;
- D.[E.]** Accessory uses;
- E.[F.]** Temporary structures as may be required during construction of an unauthorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector;
- E.[G.]** Mobile home storage and temporary sales offices for permitted uses, pursuant to the Type A application procedure set forth in Section 1301 and subject to Section 1009 for temporary permits;

G.[H.] Signs, pursuant to the sign provisions set forth in Section 1006.

### 503.03 Conditional Uses.

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

- A. Home occupation, as defined by this ordinance, subject to the standards and limitations set forth in Section 1004;
- B. Kindergarten, pre-school nursery, or day care facility in conjunction with a principal dwelling on the same parcel, subject to the standards for day care facilities set forth in Section 1008;
- C. Utility facilities, subject to Section 1101 for site design review;
- D. Duplex or multi-family dwelling, subject to the planned unit development requirements in Section 903; and**
- E. Residential facility, subject to the planned unit development requirements in Section 903.**

5. Sections 402.10(E) and 403.12(H) are hereby amended to add the following language concerning changing the soil class for lot of record dwellings:

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. **For purposes of approving a lot of record dwelling, the soil class, soil rating or other soil designation of the parcel may be changed if the property owner submits a statement of agreement from the Natural Resources Conservation Service that the class, rating or designation should be adjusted based on new information; or if the property owner submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the class, rating or designation should be changed, along with a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report and finds the analysis to be soundly and scientifically based.**

6. Section 403.09(C) of the Agriculture/Forestry District is hereby amended to require a stocking survey only when the tract is larger than 5 acres as follows:

- C. As a condition of approval for a dwelling under subsections [403.03(L) through (N)] **403.03(M) through (P), if the tract is more than 5 acres in size the** [ *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 **adopted under ORS 527.610 to 527.770** have been met.

Section 401.08(C) of the Agriculture/Forestry District is hereby amended to require a stocking survey only when the tract is larger than 5 acres as follows:

- C. As a condition of approval of a dwelling under Section 401.03, if the tract is more than [10] **5** acres in size the property owner shall submit a stocking survey report to the County Assessor and the Assessor shall verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.

7. Section 1004, Home Occupations, are hereby amended as follows:

**1004. HOME OCCUPATIONS**

**1004.01 Standards and Limitations**

The following standards and limitations shall apply to home occupations:

- A. The home occupation will be operated by a resident of the property on which the business is located.
- B. The home occupation will employ **on the site** no more than five full or part-time employees.
- C. The home occupation will be operated **substantially** in the dwelling or in other buildings normally associated with uses permitted in the zone in which the property is located.
- D. The home occupation will not **unreasonably** interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located.
- E. No more than one (1) home occupation shall be permitted in conjunction with any dwelling or parcel. Activities which are substantially different in nature shall be considered separate home occupations.
- F. A home occupation shall not be used to permit construction of any structure that would not otherwise be allowed in the zone in which the home occupation is established, nor shall a home occupation be used as justification for a zone change.

- G. The total area used for outdoor storage shall not exceed the allowable parcel coverage in the zone in which the home occupation is established.
- H. There shall be no visible evidence of the conduct of a home occupation from any road or adjacent property, other than permitted signs. Any outdoor storage or outdoor work areas shall be effectively screened by vegetation or by a sight obscuring fence.
- I. A home occupation shall not generate noise, vibration, glare, fumes, odor, electrical interference or other disturbance beyond what normally occurs in the applicable zoning district.
- J. A home occupation shall not generate traffic or parking beyond what normally occurs in the applicable zoning district.
- K. Off-street parking spaces shall be provided for clients or patrons [*up to a maximum of three (3) spaces*] and shall not be located in any required yard.
- L. One (1) on-premise sign shall be permitted in conjunction with a home occupation, subject to the sign provisions set forth in Section 1006.
- M. The nature of a proposed home occupation shall be specified at the time of application. Any proposed change in the nature of an approved home occupation shall require a new conditional use permit. Any departure from the uses and activities initially specified shall be considered grounds for revocation of the conditional use permit.
- N. A permit for a home occupation shall be deemed personal to the applicant and shall not run with the land. Upon notification by the county such permit shall expire two (2) years from the date of issuance, at which time the permit may be renewed by the Director upon a finding that the requirements of this ordinance are being met. A fee for renewal of the permit may be imposed by the Director.
- O. A **condition of approval may be placed on a** home occupation [*in the EF-40 or AF-20 shall be subject to*] **requiring a** review every 12 months following the date the permit was issued[, *and*]. **The home occupation** may be renewed if it continues to comply with the requirements of this ordinance and any other conditions of approval.
- P. Pursuant to the nonconforming use provisions of Section 1205 of this ordinance, any proposed expansion or change in the nature of a home occupation in operation prior to adoption of this ordinance shall be subject to the requirements of this section and shall require a conditional use permit. In the event of denial of such an application, the home occupation shall be allowed to continue at its original scale and nature as a nonconforming use.

8. Section 1012 is hereby amended as follows:

1012. [COUNTRY INN]BED AND BREAKFAST FACILITIES

1012.01 Standards and Requirements.

A. The following provisions shall apply to [country inn and] bed and breakfast facilities:

1. A bed and breakfast is a single-family dwelling where lodging is offered for compensation, having no more than five (5) sleeping rooms for this purpose. [Country inns and bed] **Bed** and breakfast operations that are undertaken from within a residence shall be considered as home occupations, **and shall comply with the standards and limitations of Section 1004** [except as specifically permitted by name in respective zones. Where such uses are determined and/or proposed not in conjunction with agriculture, the applicant shall satisfy requirements for taking a Goal 2 "exception" to State Planning Goals 3, 4, 11, and 14, as applicable, and as provided in Section 1204, in addition to addressing provisions of this section and conditional use procedures]. A bed and breakfast inn may offer a morning meal for overnight guests only.
2. Water from any source other than a municipal **or public** supply shall be tested initially and annually thereafter, **or more frequently as required by the County Health Department**, and determined **to be** safe for public consumption.
3. [An] **When the facility has more than two rooms for rent, an** on-site examination of the premises shall be made by a county [sanitarian] **health inspector** to review food handling and tourist/traveler health and safety practices.
4. An on-site examination of the premises shall be made by local fire department personnel to advise of appropriate fire and safety code requirements.

B. Where facilities are approved for three or more guest bedrooms and up to 10 guests, State Administrative Rule and statutory requirements for Bed and Breakfast and Tourist/Traveler facility licensing shall be satisfied.

[C. Where food service is approved to allow serving of meals other than breakfast to overnight guests, applicable Oregon Administrative Rules or statutory requirements for Tourist and Traveler and Restaurant licensing shall be satisfied.]

C.[D.] Review of ~~country inn~~ or bed and breakfast facility applications may include but is not limited to consideration of the following:

1. Compatibility Issues
  - a. Signage

- b. Parking
  - c. Other compatibility considerations
2. Location Suitability
- a. Accessibility
  - b. Services
  - c. Impact on vicinity uses
  - d. Other location considerations
3. Structural Suitability
- a. Safety and security
  - b. Design and privacy
  - c. Other structural considerations
4. Referral Comments
- a. Environmental Health Division
  - b. Fire Department
  - c. Other agencies/interests

**1012.02 Applications, Permits, and Licenses.**

The following applications, permits and licenses shall be obtained as appropriate to satisfy the above requirements:

- 1. Conditional Use Application
- 2. Public Water System Approval
- 3. Site Authorization Permit (where remodeling to add bedrooms or bathrooms)
- 4. Site Suitability and Septic Authorization Permit (where new construction is provided)
- 5. Bed and Breakfast License (3 or more bedrooms)
- 6. Tourist Facility License (3 or more bedrooms)
- [7. *Restaurant License (for food service beyond breakfast meals to overnight guests)*
- 7.[8.] Building Permit(s) (any remodeling or new construction)

9. Conditional Use Section 1202.05(D) shall be amended to change the expiration date of a conditional use approval, as follows:

- D. A conditional use approval involving construction shall be null and void [*three (3)*] **two (2)** years from the date [*it is granted*] **of final approval** unless completion or substantial construction has taken place. In any case where a conditional use approval does not involve construction, the approval shall be null and void one (1) year from the date [*it is granted*] **of final approval** unless the approval has been implemented. The Director may extend the conditional use permit for an additional period not to exceed one (1) year upon receipt of a written request from the applicant demonstrating good cause for the delay and provided that the request to extend the permit is received by the Director prior to expiration of the original conditional use approval.

10. Item # 10 was a proposal to add language to Section 1208 to allow the Planning Commission or Board of Commissioners to modify a zone change request to a less intensive zone. Upon advise from legal counsel that this could already be allowed with the consent of the applicant this proposed change was dropped. The item number remains for consistency with previous reports and public notices.
11. The following declaratory statement to protect mineral resource extraction is added as Section 401.08(D):

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

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

The following declaratory statement to protect mineral resource extraction is added as Section 402.08 and 403.08:

**Permit Expiration Dates and Declaratory Statements for Dwelling Approvals**

- 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.

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

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

12. Ordinance 652 eliminated Sections 401.03 (C) and (D), effective January 1, 2000. The Land Conservation and Development Commission passed administrative rule amendments that became effective on June 1, 1998. The amendments are to comply with the new administrative rules. The following sections will be eliminated as required in Ordinance 652. The amendments are as follows:

C. Principal forest template dwelling, except as provided in subsection D of this Section, subject to the following standards and criteria:

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

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

- a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
  - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 **and continue to exist**, on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract; or
6. The lot or parcel is predominantly composed of soils that are capable of producing more than 85 cubic feet per acre of wood fiber; and
- a. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
  - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 **and continue to exist**, on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract.
7. The measurement under subsections 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. 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. 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.
13. Agriculture/Forestry District Section 403.03(P) and (Q) is hereby amended to make the following changes to the forest template dwelling approval criteria:
- P. Principal dwelling on a lot or parcel predominantly devoted to forest use on January 1, 1993, except as provided in subsection Q of this Section, subject to the following standards and criteria:
    - 1. There are no other dwellings on the subject tract; and
    - 2. **The subject tract was lawfully created on or before November 4, 1993 and has not been reconfigured pursuant to applicable law after that date, the effect of which was to qualify the lot, parcel or tract for the siting of a dwelling. Reconfigured means any change in the boundary of the lot, parcel or tract; or any conveyances which have the effect of qualifying an otherwise ineligible lot, parcel or tract for the siting of a dwelling; and**
    - 3.[2.] **When the lot or parcel on which the dwelling will be sited is part of a tract, the [The] remainder of the subject tract shall be consolidated into a single lot or**

[one] parcel **when the dwelling is allowed**, which shall not be eligible for an additional dwelling; 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 square] **circle with a 1489.46 foot radius** centered on the center of the subject tract; and

b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 **and continue to exist**, on the other lots or parcels; or

5.[4.] The lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre of wood fiber; and

a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a [160-acre square] **circle with a 1489.46 foot radius** centered on the center of the subject tract; and

b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 **and continue to exist**, on the other lots or parcels; or

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 square] **circle with a 1489.46 foot radius** centered on the center of the subject tract; and

b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 **and continue to exist**, on the other lots or parcels.

7.[6.] If the tract on which the dwelling will be sited abuts a public road that **physically** existed on January 1, 1993, the measurement under subsections [3.a.] 4.a, [or] 5.a **or 6.a** may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road. **In determining alignment for the purposes of this subsection, a minimum of two adjacent corners of the rectangle shall be equidistant from the center of the road or stream.**

8.[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. Principal forest template dwelling on a tract of 60 or more acres predominantly devoted to forest use on January 1, 1993, that abuts a **public** road **that physically existed on January 1, 1993** or 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. The subject tract was lawfully created on or before November 4, 1993 and has not been reconfigured pursuant to applicable law after that date, the effect of which was to qualify the lot, parcel or tract for the siting of a dwelling. Reconfigured means any change in the boundary of the lot, parcel or tract; or any conveyances which have the effect of qualifying an otherwise ineligible lot, parcel or tract for the siting of a dwelling; and
- 3.[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
- 4.[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
- 5.[4.] The lot or parcel is predominantly composed of soils are capable of producing 0 to 49 cubic feet per acre of wood fiber; and
  - a. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
  - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 **and continue to exist** on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract; or
- 6.[5.] The lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre of wood fiber; and
  - a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
  - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 **and continue to exist** on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract; or
- 7.[6.] The lot or parcel is predominantly composed of soils that are capable of producing more than 85 cubic feet per acre of wood fiber; and
  - a. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
  - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 **and continue to exist** on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract.

**8.[7.]** The measurement under subsections [4.a,] 5.a, [or] 6.a **or 7.a** of this section shall be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road or stream. **In determining alignment for the purposes of this subsection, a minimum of two adjacent corners of the rectangle shall be equidistant from the center of the road or stream.**

[8. *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. 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.

14. Lot of record dwelling standards in subsections 402.03(J), 402.03(K), and 402.03(L), are amended to comply with the new rule provisions found in OAR 660-033-130(3)(a) and - 0130(3)(c)(C)(I).

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

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

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

[Amended 10/2/96, Ord. 615]

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

**3. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.**

**4.[3.]** The lot or parcel is not high-value farmland as defined in Subsection 402.10(E).

**5.[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.

**6.[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.

**7.[6.]** The County Assessor shall be notified that the county intends to allow the dwelling.

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

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

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

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

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

3. **If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.**

4.[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.

5.[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.

6.[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.

7.[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.

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

9.[8.] For purposes of this section 402.03(K), "owner" includes the wife, husband, son,

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

L. Principal lot of record dwelling not in conjunction with farm use on Class I and II high-value farmland, subject to the following standards and criteria (Type C notice):

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
  - a. and has been owned continuously by such owner since prior to January 1, 1985; or
  - b. by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
2. The tract on which the dwelling is to be sited does not include a dwelling.
3. **If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.**
- 4.[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.
- 5.[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.
- 6.[5.] The tract on which the dwelling is to be sited is on high-value farmland as defined in subsection 402.10(E)(1).
- 7.[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. **For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot or parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a**

physical barrier shall be presumed manageable for farm use;

- b. The dwelling will comply with the provisions of Section 402.07(A); and
- c. The dwelling will not materially alter the overall land use pattern of the area.

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

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

10.[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.

15. Lot of record dwelling standards in subsections 403.03(K), 403.03(L), and 403.03(M), are amended to comply with the new rule provisions found in OAR 660-033-130(3)(a) and - 0130(3)(c)(C)(I).

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

- 1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
  - a. And has been owned continuously by such owner since prior to January 1, 1985; or
  - b. by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.

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

3. **If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.**

4.[3.] The lot or parcel is not high-value farmland as defined in Subsection 403.12 (H).

5.[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.

6.[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.

7.[6.] The county assessor shall be notified that the governing body intends to allow the dwelling.

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

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

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

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

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

3. **If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.**

4.[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.

5.[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.

6.[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.

7.[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.

8.[7]. The county assessor shall be notified that the governing body intends to allow the dwelling.

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

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

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
  - a. and has been owned continuously by such owner since prior to January 1, 1985; or
  - b. by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
2. The tract on which the dwelling is to be sited does not include a dwelling.
3. 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. **For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary**

circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot or parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;

- b. The dwelling will comply with the provisions of Section 403.07(A); and
  - c. The dwelling will not materially alter the overall land use pattern of the area.
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), "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.
16. To comply with OAR 660-033-0130(30), OAR 660-006-0029(5)(e), and ORS 215.293, the following language is removed from 402.03(I)(8) and 403.03(I)(8) and replaced to apply to all dwelling approved in the farm and forest zones:

- [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.]*

The following declaratory statement to protect farm and forest uses, as required under OAR 660-03-0130(30), 660-006-0029(5)(e) and ORS 215.293, is added as Section 401.08(E), 402.08 (E) and 403.08(E):

E. Prior to issuance of a residential building permit in this zone, 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 and forestry uses. It is the county policy to protect agricultural and forestry operations from conflicting land uses in such designated areas. Accepted farm and forestry practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the operator's responsibility to modify accepted farm and forestry practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of state law.

17. The following amendments are proposed to the forest lot of record dwelling, Section 401.03(B), in order to comply with OAR 660-006-0027(1)(a) and 660-006-0027(1)(c)

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

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
  - (a) and has been owned continuously by such owner since prior to January 1, 1985; or
  - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
  - (c) For purposes of Section 401.03(B)(1) only, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.
2. The tract on which the dwelling is to be sited does not include a dwelling.
3. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
- 4.[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.
- 5.[4.] The tract on which the dwelling is to be located is within 1,500 feet of a public road that provides or will provide access to the subject tract. The road shall be [is] maintained and either paved or surfaced with rock. The road shall not be:
  - (a) A United States Bureau of Land Management Road; or
  - (b) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or state agency.

6.[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.

7.[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.

8.[7.] The county assessor shall be notified that the governing body intends to allow the dwelling.

The following amendments are proposed to the forest lot of record dwelling, Section 403.03(O), in order to comply with OAR 660-006-0027(1)(a) and 660-006-0027(1)(c)

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

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

(a) and has been owned continuously by such owner since prior to January 1, 1985; or

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

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

3. **If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.**

4.[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.

5.[4.] The tract on which the dwelling is to be located is within 1,500 feet of a public road that **provides or will provide access to the subject tract. The road shall be** *[is]* maintained and either paved or surfaced with rock. The road shall not be:

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

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

6.[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.

7.[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.

8.[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.

9.[8.] The county assessor shall be notified that the governing body intends to allow the dwelling.

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

18. The definition of campground as found in Section 401.12(B), 402.10(A) and 403.12(B) is changed to the following in order to comply with OAR 660-033-0130(19) and 660-006-0025(4)(e):

B. Campground - Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designated and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers to existing native trees and vegetation or other natural features between campsites. [A camping site] Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period. The park or campground may be public or private.

19. The definition of public parks is added to Section 401.12(B), 402.10(A) and 403.12(B) is changed to the following in order to comply with OAR 660-033-0130(31) and 660-006-0025(4)(f):

**401.12 Definitions**

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

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

harvesting. An auxiliary use is removed when a particular forest practice has concluded.

- B. Campground - An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. The park or campground may be public or private.
- C. Commercial tree species - Trees recognized under rules adopted under ORS 527.715 for commercial production.
- D. Forest operation - Any commercial activity relating to the growing or harvesting of any tree species as defined in ORS 527.620(6).
- E. Public parks - includes only the uses specified under OAR 660-034-0035.**
- ~~E.[E.]~~ Tract - One or more contiguous lots or parcels under the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.

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

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

. . .

**F. Public parks - includes only the uses specified under OAR 660-034-0035.**

- ~~G.[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.
- ~~H.[G.]~~ Tract - One or more contiguous lots or parcels under the same ownership.
- ~~I.[H.]~~ Winery - As authorized under subsection 402.02(G), a winery is a facility that produces and sells wine and conforms to the following attributes:

. . .

**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.

**F. Public parks - includes only the uses specified under OAR 660-034-0035.**

- ~~G.[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.

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

L.[H.] Winery - As authorized under subsection 403.02(G), a winery is a facility that produces and sells wine and conforms to the following attributes:

...

20. Section 402.03(I)(4) and 403.03(I)(4) are changed to the following to comply with OAR 660-033-0130(4)(a)(D):

4. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern of the area, the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated shall be considered. To address this standard, the county shall:

- a. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;
- b. Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.) And the dwelling development trends since 1993. Determine the potential number of nonfarm/lot of record dwellings that could be approved, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph;
- c. Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially

alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of the existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

Section 403.03(J)(4) is changed to the following to comply with OAR 660-033-0130(4)(a)(D):

- 4. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern of the area, the county will consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area pursuant to the study required in section 403.03(I)(4).

21. Section 401.10(A)(4) is changed to the following to comply with OAR 660-006-0026(1)(b):

- 4. A partition to facilitate a forest practice as defined in ORS 527.620 may be approved with the following conditions:
  - a. The applicant shall demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum lot size.
  - a. The parcels shall not be less than 35 acres in size except where the purpose of the partition is to facilitate an exchange of lands involving a governmental agency or to allow a transaction in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land.
  - b. If associated with the creation of a parcel where a dwelling is involved, the partition shall not result in a parcel less than 80 acres in size.
  - c. The parcels shall not be eligible for the siting of a new dwelling. The applicant shall provide evidence that covenants and restrictions that prohibit future siting of dwellings for present or future owners have been recorded with the County Clerk. The restriction prohibiting a dwelling shall be irrevocable unless a statement of release is signed by the Planning Director indicating that the Comprehensive Plan or land use regulations have been changed in such a manner that the parcel is no longer subject to statewide planning Goals 3 or 4.
  - d. The parcels shall not serve as the justification for the siting of a future dwelling on other lots or parcels.
  - e. The parcels shall not be used to justify the redesignation or rezoning of resource lands.

- f. The landowner shall sign an affidavit and declaratory deed statement and record it in the deed and mortgage records for Yamhill County declaring that the landowner will not in future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

22. HB 3063 and OAR 660-33-002013 both require a limitation to the nonfarm parcel standard that it not be used to allow series partition or subdivision of land. Therefore Section 403.03(J) shall be amended as follows:

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

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

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

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## EXHIBIT "B" TO ORDINANCE 657

8/13/98

## 1. 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 as existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or relative, as defined in ORS 215, of the resident, subject to the following:
1. The resident or relative of the resident is aged, infirm, or for health-related reasons, is incapable of maintaining a complete separate residence.
  2. The permit for the manufactured dwelling for the term of hardship shall be valid for a period of two years or a shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.
  3. The permit for the temporary dwelling for the term of hardship shall be granted to the applicant only and shall not be deemed to run with the land.
  4. The temporary dwelling shall use the same subsurface sewage disposal system as the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.
  5. 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(C).
- L. Golf course, as defined in subsection 402.10(D), except new golf courses are not allowed on a tract identified as high-value farmland. Existing golf courses on high-value farmland that are wholly within a farm use zone may be expanded to a total of no more than 36 holes, subject to conditional use approval and provided the expansion is consistent with the definition in Section 402.10(D).
- M. Commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height, subject to Subsection 402.07(D) and Section 1101, Site Design Review.
- N. Roads, highways and other transportation facilities and improvements not allowed under Subsections 402.02(K) or 402.04(J), subject to compliance with OAR 660-12.
- O. Private parks, playgrounds, hunting and fishing preserves and campgrounds as defined in subsection 402.10(A), subject to Section 1101, Site Design Review, except such uses are not allowed on a tract identified as high-value farmland. Existing facilities on high-value farmland that are wholly within a farm use zone may be expanded subject to conditional use approval. [Amended 3/19/98, Ord. 643]
- P. On-site filming and activities accessory to on-site filming, as defined in ORS**

**215.306(4), that exceed 45 days on any site within a one-year period or involve erection of sets that would remain in place for longer than 45 days subject to ORS 30.930 to 30.947.**

Explanation: This is language adopted by HB 3063. On-site filming lasting less than 45 days was added as a permitted use during the “required” amendments.

**Q. Operations for the extraction and bottling of water**

Explanation: This new use was adopted by SB 891 (1997).

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

Explanation: Room and board is allowed under the OAR subject to the conditional use criteria in ORS 216.296. It is likely that the use was not previously included in the ordinance because the definition of “family” includes up to five unrelated persons living together as a single family unit. However, since the OAR requires review of the use, it is proposed to be added as a conditional use.

**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.
  - 2. The permit for the temporary dwelling for the term of hardship shall be valid for a period of two years or a shorter period as determined appropriate by the Director or hearings body. A permit may be revoked by the Director at any time, if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated.
  - 3. The permit for the manufactured dwelling for the term of hardship shall be granted to the applicant only and shall not be deemed to run with the land.
  - 4. The temporary dwelling shall use the same subsurface sewage disposal system as the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling.

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

- 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 403.02(K), subject to compliance with OAR 660-12.  
[Amended 3/19/98, Ord. 643]
- K. Personal use airports subject to Subsection 403.07(B), and expansion of existing airports.
- L. Golf course as defined in Section 403.12 G, except new golf courses are not allowed on a tract identified as high-value farmland. Existing golf courses on high-value farmland that are wholly within a farm use zone may be expanded to a total of no more than 36 holes, subject to conditional use approval and provided the expansion is consistent with the definition in Section 402.10(D).  
[Amended 3/19/98, Ord. 643]
- M. The following utility facilities:
1. New electric transmission lines with right of way widths up to 100 feet as specified in ORS 772.210.
  2. Transmission towers over 200 feet in height within existing right of way.
  3. Television, microwave and radio communication facilities and transmission towers on land principally devoted to forest use.
  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. 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. Permanent logging equipment repair and storage.
- P. Log scaling and weigh stations.
- Q. Fire stations for rural fire protection.
- R. Aids to navigation and aviation.
- S. Reservoirs and water impoundments.

- T. Firearms training facility.
- U. Cemeteries.
- V. Private seasonal accommodations for fee hunting operations, subject to Sections 403.09 and 403.10 and the following requirements:
1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  2. Only minor incidental and accessory retail sales are permitted;
  3. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
  4. A governing body may impose other appropriate conditions.
- W. New distribution lines (e.g., electrical, gas, oil, geothermal) with rights-of-way 50 feet or less in width.
- X. Private accommodations for fishing occupied on a temporary basis, subject to Sections 403.09 and 401.10 and the following requirements:
1. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  2. Only minor incidental and accessory retail sales are permitted;
  3. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;
  4. Accommodations must be located within 1/4 mile of fish bearing Class I waters; and
  5. A governing body may impose other appropriate conditions.
- Y. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.
- Z. On-site filming and activities accessory to on-site filming, as defined in ORS 215.306(4), that exceed 45 days on any site within a one-year period or involve erection of sets that would remain in place for longer than 45 days subject to ORS 30.930 to 30.947.**

Explanation: This is language adopted by HB 3063. On-site filming lasting less than 45 days was added as a permitted use during the "required" amendments.

**AA. Operations for the extraction and bottling of water**

Explanation: This new use was adopted by SB 891 (1997).

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

Explanation: Room and board is allowed under the OAR subject to the conditional use criteria in ORS 216.296. It is likely that the use was not previously included in the ordinance because the definition of "family" includes up to five unrelated persons living together as a single family unit. However, since the OAR requires review of the use, it is proposed to be added as a conditional use.

**2. 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:

- N. Public or private school, including all buildings essential to the operation of a school, subject to the Type **B** application procedures **and Section 1101, Site Design Review**. The school must be at least three miles from an urban growth boundary, and is not permitted on a tract identified as high-value farmland. Existing facilities on high-value farmland and wholly within a farm use zone may be maintained, enhanced, or expanded.
- O. Churches and cemeteries in conjunction with churches, subject to the Type **B** application procedures **Section 1101, Site Design Review**. The uses must be at least three miles from an urban growth boundary, and are not permitted on a tract identified as high-value farmland. Existing facilities on high-value farmland and wholly within a farm use zone may be maintained, enhanced, or expanded.

**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:

- U. Public or private school, including all buildings essential to the operation of a school, subject to the Type **B** application procedures **and Section 1101, Site Design Review**. The school must be 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 and wholly within a farm use zone may be maintained, enhanced, or expanded.
- V. Churches and cemeteries in conjunction with churches, subject to the Type **B** application procedures **Section 1101, Site Design Review**. The uses must be at least three miles

from an urban growth boundary, and are not permitted on a tract identified as high-value farmland. Existing facilities on high-value farmland and wholly within a farm use zone may be maintained, enhanced, or expanded.

Explanation: Site design review shall be required for churches and schools, in order to verify that the development will meet access, parking, landscaping and other requirements. The OAR also requires that churches and schools be reviewed prior to approval, and that notice and opportunity for a hearing be provided. During the 2/19 workshop the Planning Commission proposed making the review a Type B application.

**3. 502.02 Permitted Uses.**

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

- A. Farm uses 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).
- B. Propagation and harvesting of Christmas trees;
- C. Principal Dwelling. If the principal dwelling is a mobile home, it shall, in addition to the requirements of this section, also be subject to the mobile home standards set forth in Section 1002;
- [D. Duplex or multi-family dwelling, subject to the planned unit development requirements in Section 903;]*
- D.*[E.]* Subdivisions, subject to the land division requirements set forth in Ordinance 205;
- E.*[F.]* Residential planned unit developments, subject to Section 903 of this ordinance and the land division requirements set forth in Ordinance 205;
- E.*[G.]* Accessory uses;
- G.*[H.]* Temporary structures as may be required during construction of an authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector;
- H.*[I.]* Mobile home storage and temporary sales offices for permitted uses, pursuant to the Type A application procedure set forth in Section 1031 and subject to Section 1009 for

temporary permits;

L[J.] Signs, pursuant to the sign provisions set forth in Section 1006.

**502.03 Conditional Uses.**

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

- A. Secondary dwelling, in conjunction with a principal dwelling on the same parcel, as follows:
  - 1. Guest house; and
  - 2. Temporary mobile home for family members requiring special care, subject to the following:
    - a. The family member requiring special care is aged, infirm or who, for health-related reasons, is incapable of maintaining a complete separate residence;
    - b. The permit for the mobile home for special care shall be valid for a period of two (2) years or such shorter period as the Director or hearings body determines to be appropriate, provided, however, that such 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; and
    - c. The permit for the mobile home for special care shall be granted to the applicant only and shall not be deemed to run with the land.
    - d. If the secondary dwelling is a mobile home, it shall, in addition to the requirements of this section, also be subject to the mobile home standards set forth in Section 1002.
- B. Home occupation, as defined by this ordinance, subject to the standards and limitations set forth in Section 1004.
- C. Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to the requirements in subsection 404.10;
- D. Kindergarten, day nursery, or day care facility in conjunction with a principal dwelling on the same parcel, subject to the standards for day care facilities set forth in Section 1008;
- E. Community or municipal water-supply system, except within acknowledged service boundaries;
- F. Community or municipal sanitary-sewer system;

- G. Utility facility, subject to Section 1101 for site design review;
- H. Public or private school, including all buildings essential to the operation of a school **subject to Section 1101, Site Design Review;** [and]
- I. Church, **subject to Section 1101, Site Design Review;**

Explanation: At the 5/7/98 public hearing the Planning Commission agreed that churches and schools should be subject to site design review. They also recommended the elimination of duplexes, multi-family dwellings and residential facilities in the VLDR zone. ORS 197.660 states that residential facilities must be allowed as a permitted use in any zone where multifamily residential uses are a permitted use, and as a conditional use in any zone which allows multifamily residential uses as a conditional use. The definition of residential facility was added to Section 202 during the "required" ordinance amendments. A residential facility allows care for up to 15 people. The Planning Commission discussed allowing duplexes, multi-family dwellings and residential facilities as a conditional use in the VLDR zones but decided it was more appropriate to only be allowed in the LDR zones.

4. **503.02 Permitted Uses.**

In the LDR Districts, the following uses shall be permitted subject to the standards and limitations set forth in subsection 503.06:

- A. Principal Dwelling. A principal dwelling which is a mobile home shall, in addition to the requirements of Section 503, also be subject to the mobile home standards set forth in Section 1002;
- [B. Duplex or multi-family dwelling, subject to the planned unit development requirements in Section 903;]*
- B.[C.] Subdivisions, subject to the land division requirements set forth in Ordinance 205;
- C.[D.] Residential planned unit developments, subject to Section 903 of this ordinance and the land division requirements set forth in Ordinance 205;
- D.[E.] Accessory uses;
- E.[F.] Temporary structures as may be required during construction of an unauthorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector;
- F.[G.] Mobile home storage and temporary sales offices for permitted uses, pursuant to the Type A application procedure set forth in Section 1301 and subject to Section 1009 for temporary permits;
- G.[H.] Signs, pursuant to the sign provisions set forth in Section 1006.

**503.03 Conditional Uses.**

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

- A. Home occupation, as defined by this ordinance, subject to the standards and limitations set forth in Section 1004;
- B. Kindergarten, pre-school nursery, or day care facility in conjunction with a principal dwelling on the same parcel, subject to the standards for day care facilities set forth in Section 1008;
- C. Utility facilities, subject to Section 1101 for site design review;
- D. Duplex or multi-family dwelling, subject to the planned unit development requirements in Section 903; and**
- E. Residential facility, subject to the planned unit development requirements in Section 903.**

Explanation: This amendment would result in moving duplexes and multi-plexes to be conditional rather than permitted uses and adding residential facilities as a conditional use. The definition of residential facility was added to Section 202 during the "required" ordinance amendments. A residential facility allows care for up to 15 people. The Planning Commission decided it was more appropriate to allow residential facilities as a conditional use rather than a permitted use in the LDR zone.

- 5. Sections 402.10(E) and 403.12(H) are hereby amended to add the following language concerning changing the soil class for lot of record dwellings:

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. **For purposes of approving a lot of record dwelling, the soil class, soil rating or other soil designation of the parcel may be changed if the property owner submits a statement of agreement from the Natural Resources Conservation Service that the class, rating or designation should be adjusted based**

on new information; or if the property owner submits a report from a soils scientist whose credentials are acceptable to the State Department of Agriculture that the class, rating or designation should be changed, along with a statement from the State Department of Agriculture that the Director of Agriculture or the director's designee has reviewed the report and finds the analysis to be soundly and scientifically based.

Explanation: This provision is in ORS 215.710(5), and applies only to lot of record dwellings to review proposed changes to soils designations.

6. Section 403.09(C) of the Agriculture/Forestry District is hereby amended to require a stocking survey only when the tract is larger than 5 acres as follows:

C. As a condition of approval for a dwelling under subsections [403.03(L) through (N)] **403.03(M) through (P), if the tract is more than 5 acres in size the** [ *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 **adopted under ORS 527.610 to 527.770** have been met.

Explanation: ORS 215.730(1)(B) amended the requirement for submittal of a stocking survey to only lots that are greater than 10 acres in size. The Planning Commission decided it would be more appropriate to require the property to be restocked if it was more than five acres in size.

Section 401.08(C) of the Agriculture/Forestry District is hereby amended to require a stocking survey only when the tract is larger than 5 acres as follows:

C. As a condition of approval of a dwelling under Section 401.03, if the tract is more than [10] **5** acres in size the property owner shall submit a stocking survey report to the County Assessor and the Assessor shall verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met.

The Planning Commission also recommended to change the F-80 Forestry district to be like the proposed AF Agriculture/Forestry District and require the submittal of a stocking survey if it was more than five acres in size.

7. Section 1004, Home Occupations, are hereby amended as follows:

**1004. HOME OCCUPATIONS**

**1004.01 Standards and Limitations**

The following standards and limitations shall apply to home occupations:

- A. The home occupation will be operated by a resident of the property on which the business is located.
- B. The home occupation will employ **on the site** no more than five full or part-time employees.
- C. The home occupation will be operated **substantially** in the dwelling or in other buildings normally associated with uses permitted in the zone in which the property is located.
- D. The home occupation will not **unreasonably** interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located.
- E. No more than one (1) home occupation shall be permitted in conjunction with any dwelling or parcel. Activities which are substantially different in nature shall be considered separate home occupations.

Explanation: These changes include language found in OAR 660-33-130(14) and ORS 215.448. Technically, these criteria apply only to home occupations on farm and forest land, but the county's practice has been to use the same criteria regardless of the zoning designation. It should be noted that adoption of this language would make the criteria less restrictive than the current language.

- F. A home occupation shall not be used to permit construction of any structure that would not otherwise be allowed in the zone in which the home occupation is established, nor shall a home occupation be used as justification for a zone change.
- G. The total area used for outdoor storage shall not exceed the allowable parcel coverage in the zone in which the home occupation is established.
- H. There shall be no visible evidence of the conduct of a home occupation from any road or adjacent property, other than permitted signs. Any outdoor storage or outdoor work areas shall be effectively screened by vegetation or by a sight obscuring fence.
- I. A home occupation shall not generate noise, vibration, glare, fumes, odor, electrical interference or other disturbance beyond what normally occurs in the applicable zoning district.
- J. A home occupation shall not generate traffic or parking beyond what normally occurs in the applicable zoning district.
- K. Off-street parking spaces shall be provided for clients or patrons [*up to a maximum of three (3) spaces*] and shall not be located in any required yard.
- L. One (1) on-premise sign shall be permitted in conjunction with a home occupation, subject to the sign provisions set forth in Section 1006.

- M. The nature of a proposed home occupation shall be specified at the time of application. Any proposed change in the nature of an approved home occupation shall require a new conditional use permit. Any departure from the uses and activities initially specified shall be considered grounds for revocation of the conditional use permit.
- N. A permit for a home occupation shall be deemed personal to the applicant and shall not run with the land. Upon notification by the county such permit shall expire two (2) years from the date of issuance, at which time the permit may be renewed by the Director upon a finding that the requirements of this ordinance are being met. A fee for renewal of the permit may be imposed by the Director.
- O. A **condition of approval may be placed on a** home occupation [*in the EF-40 or AF-20 shall be subject to*] **requiring a** review every 12 months following the date the permit was issued[, *and*]. **The home occupation** may be renewed if it continues to comply with the requirements of this ordinance and any other conditions of approval.

Explanation: Annual review is no longer a statutory requirement, but staff would like to retain the option of requiring the review of some home occupations. The parking limitation was removed to be consistent with the bed and breakfast standards.

- P. Pursuant to the nonconforming use provisions of Section 1205 of this ordinance, any proposed expansion or change in the nature of a home occupation in operation prior to adoption of this ordinance shall be subject to the requirements of this section and shall require a conditional use permit. In the event of denial of such an application, the home occupation shall be allowed to continue at its original scale and nature as a nonconforming use.

8. Section 1012 is hereby amended as follows:

**1012. [COUNTRY INN]BED AND BREAKFAST FACILITIES**

**1012.01 Standards and Requirements.**

- A. The following provisions shall apply to [*country inn and*] bed and breakfast facilities:

- 1. A bed and breakfast is a single-family dwelling where lodging is offered for compensation, having no more than five (5) sleeping rooms for this purpose. [*Country inns and bed*] **Bed** and breakfast operations that are undertaken from within a residence shall be considered as home occupations, **and shall comply with the standards and limitations of Section 1004** [*except as specifically permitted by name in respective zones. Where such uses are determined and/or proposed not in conjunction with agriculture, the applicant shall satisfy requirements for taking a Goal 2 "exception" to State Planning Goals 3, 4, 11, and 14, as*

*applicable, and as provided in Section 1204, in addition to addressing provisions of this section and conditional use procedures]. A bed and breakfast inn may offer a morning meal for overnight guests only.*

- 2. Water from any source other than a municipal **or public** supply shall be tested initially and annually thereafter, **or more frequently as required by the County Health Department**, and determined **to be** safe for public consumption.
  - 3. *[An]* **When the facility has more than two rooms for rent, an** on-site examination of the premises shall be made by a county *[sanitarian]* **health inspector** to review food handling and tourist/traveler health and safety practices.
  - 4. An on-site examination of the premises shall be made by local fire department personnel to advise of appropriate fire and safety code requirements.
- B. Where facilities are approved for three or more guest bedrooms and up to 10 guests, State Administrative Rule and statutory requirements for Bed and Breakfast and Tourist/Traveler facility licensing shall be satisfied.
- [C. Where food service is approved to allow serving of meals other than breakfast to overnight guests, applicable Oregon Administrative Rules or statutory requirements for Tourist and Traveler and Restaurant licensing shall be satisfied.]*

Explanation: These proposed amendments are intended to make the zoning ordinance conform to Health Division rules, with one exception. Water testing is not required if the bed and breakfast has fewer than three rooms for rent. Staff (with the participation of the county health department) recommends requiring annual testing at these facilities. Facilities with three or more rooms are required to test quarterly.

C.*[D.]* Review of ~~country inn~~ or bed and breakfast facility applications may include but is not limited to consideration of the following:

- 1. Compatibility Issues
  - a. Signage
  - b. Parking
  - c. Other compatibility considerations
- 2. Location Suitability
  - a. Accessibility
  - b. Services
  - c. Impact on vicinity uses
  - d. Other location considerations

- 3. Structural Suitability
  - a. Safety and security
  - b. Design and privacy
  - c. Other structural considerations
  
- 4. Referral Comments
  - a. Environmental Health Division
  - b. Fire Department
  - c. Other agencies/interests

**1012.02 Applications, Permits, and Licenses.**

The following applications, permits and licenses shall be obtained as appropriate to satisfy the above requirements:

- 1. Conditional Use Application
- 2. Public Water System Approval
- 3. Site Authorization Permit (where remodeling to add bedrooms or bathrooms)
- 4. Site Suitability and Septic Authorization Permit (where new construction is provided)
- 5. Bed and Breakfast License (3 or more bedrooms)
- 6. Tourist Facility License (3 or more bedrooms)
- [7. *Restaurant License (for food service beyond breakfast meals to overnight guests)*
- ~~7.~~[8.] Building Permit(s) (any remodeling or new construction)

Explanation: The previous amendments would delete the provision for a bed and breakfast to serve any meal other than breakfast, so the restaurant license would not be required.

- 9. Conditional Use Section 1202.05(D) shall be amended to change the expiration date of a conditional use approval, as follows:

D. A conditional use approval involving construction shall be null and void [*three (3)*] **two (2)** years from the date [*it is granted*] **of final approval** unless completion or substantial construction has taken place. In any case where a conditional use approval does not involve construction, the approval shall be null and void one (1) year from the date [*it is granted*] **of final approval** unless the approval has been implemented. The Director may extend the conditional use permit for an additional period not to exceed one (1) year upon receipt of a written request from the applicant demonstrating good cause for the delay and provided that the request to extend the permit is received by the Director prior to expiration of the original conditional use approval.

Explanation: OAR 660-33-140 states that decisions on agricultural lands are void two years from the date of the final decision if the development action has not been initiated in that period. One year extensions are allowed. Language conforming to the OAR has been proposed to be added to the EF and AF districts, and the conditional use section for consistency.

10. ~~1208.05~~ Modification of Requested Zoning Designation:

~~The Planning Commission or Board of Commissioners may approve a quasi-judicial zone map amendment for the zoning designation requested by the applicant, but with a larger minimum lot size than that requested, provided that findings are adopted showing that the larger lot size is more appropriate based on the review criteria in subsection 1208.02 or 1208.03.~~

Item # 10 was a proposal to add language to Section 1208 to allow the Planning Commission or Board of Commissioners to modify a zone change request to a less intensive zone. Upon advise from legal counsel that this could already be allowed with the consent of the applicant this proposed change was dropped. The item number remains for consistency with previous reports and public notices.

11. The following declaratory statement to protect mineral resource extraction is added as Section 401.08(D):

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

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

The following statement to protect mineral resource extraction is added as Section 402.08 and 403.08:

**Permit Expiration Dates and Declaratory Statements for Dwelling Approvals**

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

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

Explanation: The amendments are intended to make property owners aware of quarries located in their vicinity and inform them that it is not the operator’s responsibility to alter their activities. For more details see the August 22, 1997 letter from the Board of Commissioners.

12. Ordinance 652 eliminated Sections 401.03 (C) and (D), effective January 1, 2000. The Land Conservation and Development Commission passed administrative rule amendments that became effective on June 1, 1998. The amendments are to comply with the new administrative rules. The following sections will be eliminated as required in Ordinance 652. The amendments are as follows:
- C. Principal forest template dwelling, except as provided in subsection D of this Section, subject to the following standards and criteria:
1. There are no other dwellings on the subject tract; and
  2. When the lot or parcel on which the dwelling will be sited is part of a tract, the

remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed; and

3. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions; and
  4. The lot or parcel is predominantly composed of soils that are capable of producing 0 to 49 cubic feet per acre of wood fiber; and
    - a. All or part of at least three other lots or parcels that existed on January 1, 1993, not inside an Urban Growth Boundary, are within a 160-acre square centered on the center of the subject tract; and
    - b. At least three dwellings existed on January 1, 1993 and continue to exist, on the other lots or parcels; or
  5. The lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre of wood fiber; and
    - a. All or part of at least seven other lots or parcels that existed on January 1, 1993, not inside an Urban Growth Boundary, are within a 160-acre square centered on the center of the subject tract; and
    - b. At least three dwellings existed on January 1, 1993 and continue to exist, on the other lots or parcels; or
  6. The lot or parcel is predominantly composed of soils that are capable of producing more than 85 cubic feet per acre of wood fiber; and
    - a. All or part of at least 11 other lots or parcels that existed on January 1, 1993, not inside an Urban Growth Boundary, are within a 160-acre square centered on the center of the subject tract; and
    - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist, on the other lots or parcels.
  7. If the tract on which the dwelling will be sited abuts a public road that existed on January 1, 1993, the measurement under subsections 4.a, 5.a, or 6.a may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road.
- D. Principal forest template dwelling on a tract of 60 or more acres that abuts a road or perennial stream, subject to the following standards and criteria:
1. There are no other dwellings on the subject tract; and
  2. When the lot or parcel on which the dwelling will be sited is part of a tract, the

remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed, and the tract shall not be eligible for an additional dwelling.

3. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions; and
4. The lot or parcel is predominantly composed of soils that are capable of producing 0 to 49 cubic feet per acre of wood fiber; and
  - a. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
  - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist, on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract; or
5. The lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre of wood fiber; and
  - a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
  - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist, on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract; or
6. The lot or parcel is predominantly composed of soils that are capable of producing more than 85 cubic feet per acre of wood fiber; and
  - a. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
  - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist, on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract.
7. The measurement under subsections 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. 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. 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.

Ordinance 652 eliminated Sections 401.03 (C) and (D), effective January 1, 2000. The Land Conservation and Development Commission passed administrative rule amendments that became effective on June 1, 1998. The amendments are to comply with the new administrative rules. The above sections will still be removed from the ordinance on January 1, 2000 as required in Ordinance 652.

13. Agriculture/Forestry District Section 403.03(P) and (Q) is hereby amended to make the following changes to the forest template dwelling approval criteria:

- P. Principal dwelling on a lot or parcel predominantly devoted to forest use on January 1, 1993, except as provided in subsection Q of this Section, subject to the following standards and criteria:
1. There are no other dwellings on the subject tract; and
  2. The subject tract was lawfully created on or before November 4, 1993 and has not been reconfigured pursuant to applicable law after that date, the effect of which was to qualify the lot, parcel or tract for the siting of a dwelling. Reconfigured means any change in the boundary of the lot, parcel or tract; or any conveyances which have the effect of qualifying an otherwise ineligible lot, parcel or tract for the siting of a dwelling; and
  - 3.[2.] When the lot or parcel on which the dwelling will be sited is part of a tract, the [The] remainder of the subject tract shall be consolidated into a single lot or [one] parcel when the dwelling is allowed, which shall not be eligible for an additional dwelling; 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 square] circle with a 1489.46 foot radius centered on the center of the subject tract; and
    - b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist, on the other lots or parcels; or
  - 5.[4.] The lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre of wood fiber; and
    - a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a [160-acre square] circle with a 1489.46 foot radius centered on the center of the subject tract; and

- b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist, on the other lots or parcels; or

**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 square] circle with a 1489.46 foot radius centered on the center of the subject tract; and
- b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist, on the other lots or parcels.

**7.[6.]** If the tract on which the dwelling will be sited abuts a public road that **physically** existed on January 1, 1993, the measurement under subsections [3.a.] 4.a, [or] 5.a **or 6.a** may be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road. **In determining alignment for the purposes of this subsection, a minimum of two adjacent corners of the rectangle shall be equidistant from the center of the road or stream.**

**8.[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. Principal forest template dwelling on a tract of 60 or more acres predominantly devoted to forest use on January 1, 1993, that abuts a **public road that physically existed on January 1, 1993** or 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. **The subject tract was lawfully created on or before November 4, 1993 and has not been reconfigured pursuant to applicable law after that date, the effect of which was to qualify the lot, parcel or tract for the siting of a dwelling. Reconfigured means any change in the boundary of the lot, parcel or tract; or any conveyances which have the effect of qualifying an otherwise ineligible lot, parcel or tract for the siting of a dwelling; and**
- 3.[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
- 4.[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

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

- a. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
- b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract; or

6.[5.] The lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre of wood fiber; and

- a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
- b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract; or

7.[6.] The lot or parcel is predominantly composed of soils that are capable of producing more than 85 cubic feet per acre of wood fiber; and

- a. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre rectangle; and
- b. At least three dwellings not inside an Urban Growth Boundary existed on January 1, 1993 and continue to exist on the other lots or parcels, one of which is on the same side of the road or stream as the subject tract.

8.[7.] The measurement under subsections [4.a,] 5.a, [or] 6.a or 7.a of this section shall be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road or stream. In determining alignment for the purposes of this subsection, a minimum of two adjacent corners of the rectangle shall be equidistant from the center of the road or stream.

[8. *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. 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.

14. Lot of record dwelling standards in subsections 402.03(J), 402.03(K), and 402.03(L), are amended to comply with the new rule provisions found in OAR 660-033-130(3)(a) and -

0130(3)(c)(C)(I).

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

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
  - (a) and has been owned continuously by such owner since prior to January 1, 1985; or
  - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
 

[Amended 10/2/96, Ord. 615]
2. The tract on which the dwelling is to be sited does not include a dwelling.
3. **If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.**
- 4.[3.] The lot or parcel is not high-value farmland as defined in Subsection 402.10(E).
- 5.[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.
- 6.[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.
- 7.[6.] The County Assessor shall be notified that the county intends to allow the dwelling.
- 8.[7.] For purposes of this section 402.03(J), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.

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

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
  - a. and has been owned continuously by such owner since prior to January 1, 1985; or
  - b. by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.

2. The tract on which the dwelling is to be sited does not include a dwelling.
  3. **If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.**
  - 4.[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.
  - 5.[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.
  - 6.[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.
  - 7.[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.
  - 8.[7.] The County Assessor shall be notified that the county intends to allow the dwelling.
  - 9.[8.] For purposes of this section 402.03(K), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.
- L. Principal lot of record dwelling not in conjunction with farm use on Class I and II high-value farmland, subject to the following standards and criteria (Type C notice):
1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
    - a. and has been owned continuously by such owner since prior to January 1, 1985; or
    - b. by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
  2. The tract on which the dwelling is to be sited does not include a dwelling.

3. **If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.**
- 4.[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.
- 5.[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.
- 6.[5.] The tract on which the dwelling is to be sited is on high-value farmland as defined in subsection 402.10(E)(1).
- 7.[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. **For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot or parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;**
  - b. The dwelling will comply with the provisions of Section 402.07(A); and
  - c. The dwelling will not materially alter the overall land use pattern of the area.
- 8.[7.] The County Assessor shall be notified that the county intends to allow the dwelling.
- 9.[8.] For purposes of this section 402.03(L), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.
- 10.[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.

Explanation: The above changes that are underlined and in bold are recommended by the Planning Commission and Board of Commissioners to better reflect the intent of the Forest Template dwellings. Those changes that are redlined are to comply with OAR 660-033-0130(3)(a) and -130(3)(c)(C)(I).

15. Lot of record dwelling standards in subsections 403.03(K), 403.03(L), and 403.03(M), are amended to comply with the new rule provisions found in OAR 660-033-130(3)(a) and -0130(3)(c)(C)(I).
- K. Principal lot-of-record dwelling on a lot or parcel which is not high-value farmland and was not predominantly devoted to forest use on January 1, 1993, subject to the following standards and criteria:
1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
    - a. And has been owned continuously by such owner since prior to January 1, 1985; or
    - b. by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
  2. The tract on which the dwelling is to be sited does not include a dwelling.
  3. ~~If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.~~
  - 4.[3.] The lot or parcel is not high-value farmland as defined in Subsection 403.12 (H).
  - 5.[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.
  - 6.[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.
  - 7.[6.] The county assessor shall be notified that the governing body intends to allow the dwelling.
  - 8.[7.] For purposes of this section 403.03(K), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.
- L. Principal lot-of-record dwelling not in conjunction with farm use on a lot or parcel which is predominantly Class III and IV high-value farmland and was not predominantly

devoted to forest use on January 1, 1993, subject to the following standards and criteria:

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
  - a. and has been owned continuously by such owner since prior to January 1, 1985; or
  - b. By devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
2. The tract on which the dwelling is to be sited does not include a dwelling.
3. **If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.**
- 4.[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.
- 5.[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.
- 6.[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.
- 7.[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.
- 8.[7.] The county assessor shall be notified that the governing body intends to allow the dwelling.
- 9.[8.] For purposes of this section 403.03 (L), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew,

stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.

- M. Principal lot-of-record dwelling not in conjunction with farm use on land on a lot or parcel which is predominantly Class I and II high-value farmland and was not predominantly devoted to forest use on January 1, 1993, subject to the following standards and criteria (Type C notice):
1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
    - a. and has been owned continuously by such owner since prior to January 1, 1985; or
    - b. by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
  2. The tract on which the dwelling is to be sited does not include a dwelling.
  3. 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. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot or parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;

- b. The dwelling will comply with the provisions of Section 403.07(A); and
  - c. The dwelling will not materially alter the overall land use pattern of the area.
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), "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.

Lot of record dwelling standards in subsections 403.03(K), 403.03(L), and 403.03(M), are amended to comply with the new rule provisions found in OAR 660-033-130(3)(a) and -0130(3)(c)(C)(I). These new rule provisions limit the lot of record dwellings to one dwelling per tract as it existed on November 4, 1993 and further define when a lot of record dwelling may be sited on high value farmland.

16. To comply with OAR 660-033-0130(30), OAR 660-006-0029(5)(e), and ORS 215.293, the following language is removed from 402.03(I)(8) and 403.03(I)(8) and replaced to apply to all dwelling approved in the farm and forest zones:

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.]*

The following declaratory statement to protect farm and forest uses, as required under OAR 660-03-0130(30), 660-006-0029(5)(e) and ORS 215.293, is added as Section 401.08(E), 402.08 (E) and 403.08(E):

- E. **Prior to issuance of a residential building permit in this zone, 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 and forestry uses. It is the county policy to protect agricultural and forestry operations from conflicting land uses in such designated areas. Accepted farm and forestry practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the operator's responsibility to modify accepted farm and forestry practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of state law.

OAR 660-033-0130(30), OAR 660-006-0029(5)(e), and ORS 215.293, require that all single family dwellings be required to record deed restrictions prohibiting legal claims alleging injury from farm or forest practices. The above changes were made to implement these provisions.

17. The following amendments are proposed to the forest lot of record dwelling, Section 401.03(B), in order to comply with OAR 660-006-0027(1)(a) and 660-006-0027(1)(c)

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

1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
  - (a) and has been owned continuously by such owner since prior to January 1, 1985; or
  - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
  - (c) For purposes of Section 401.03(B)(1) only, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.
2. The tract on which the dwelling is to be sited does not include a dwelling.
3. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
- 4.[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.
- 5.[4.] The tract on which the dwelling is to be located is within 1,500 feet of a public road that provides or will provide access to the subject tract. The road shall be [is] maintained and either paved or surfaced with rock. The road shall not be:
  - (a) A United States Bureau of Land Management Road; or
  - (b) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and

landowners adjacent to the road, a local government or state agency.

- 6.[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.
- 7.[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.
- 8.[7.] The county assessor shall be notified that the governing body intends to allow the dwelling.

The following amendments are proposed to the forest lot of record dwelling, Section 403.03(O), in order to comply with OAR 660-006-0027(1)(a) and 660-006-0027(1)(c)

- O. Principal lot-of-record dwelling on a lot or parcel predominantly devoted to forest use on January 1, 1993, subject to Sections 403.09, 403.10, 403.11 and the following standards and criteria:
  - 1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
    - (a) and has been owned continuously by such owner since prior to January 1, 1985; or
    - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
  - 2. The tract on which the dwelling is to be sited does not include a dwelling.
  - 3. **If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.**
  - 4.[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.
  - 5.[4.] The tract on which the dwelling is to be located is within 1,500 feet of a public road that **provides or will provide access to the subject tract. The road shall be** [is] maintained and either paved or surfaced with rock. The road shall not be:
    - (a) A United States Bureau of Land Management Road; or
    - (b) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or state agency.
  - 6.[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.

- 7.[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.
- 8.[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.
- 9.[8.] The county assessor shall be notified that the governing body intends to allow the dwelling.
- 10.[9.] For purposes of this section 403.03 (O), "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.

OAR 660-006-0027(1)(a) and 660-006-0027(1)(c) limit the number of forest lot of record dwellings to one dwelling per tract as it existed on November 4, 1993. It also required the road to be counted in the test to be providing access to the parcel.

18. The definition of campground as found in Section 401.12(B), 402.10(A) and 403.12(B) is changed to the following in order to comply with OAR 660-033-0130(19) and 660-006-0025(4)(e):

- B. Campground - ~~Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4. A campground is~~ an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes ~~and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designated and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers to existing native trees and vegetation or other natural features between campsites. [A camping site] Campsites~~ may be occupied by a tent, travel trailer or recreational vehicle. ~~Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites.~~ Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. ~~Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.~~ The park or campground may be public or private.

OAR 660-033-0130(19) and 660-006-0025(4)(e) further defined campgrounds

19. The definition of public parks is added to Section 401.12(B), 402.10(A) and 403.12(B) is

changed to the following in order to comply with OAR 660-033-0130(31) and 660-006-0025(4)(f):

**401.12 Definitions**

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

- A. Auxiliary - A use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.
- B. Campground - An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. The park or campground may be public or private.
- C. Commercial tree species - Trees recognized under rules adopted under ORS 527.715 for commercial production.
- D. Forest operation - Any commercial activity relating to the growing or harvesting of any tree species as defined in ORS 527.620(6).
- E. Public parks - includes only the uses specified under OAR 660-034-0035.**
- F.[E.]** Tract - One or more contiguous lots or parcels under the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.

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

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

. . .

- F. Public parks - includes only the uses specified under OAR 660-034-0035.**
- G.[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.
- H.[G.]** Tract - One or more contiguous lots or parcels under the same ownership.
- I.[H.]** Winery - As authorized under subsection 402.02(G), a winery is a facility that produces and sells wine and conforms to the following attributes:

...

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.

**F. Public parks - includes only the uses specified under OAR 660-034-0035.**

**G.[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.**

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

**I.[H.] Winery - As authorized under subsection 403.02(G), a winery is a facility that produces and sells wine and conforms to the following attributes:**

...

The definition of public parks was added by OAR 660-033-0130(31) and 660-006-0025(4)(f):

20. Section 402.03(I)(4) and 403.03(I)(4) are changed to the following to comply with OAR 660-033-0130(4)(a)(D):

4. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern of the area, the cumulative impact of **possible new nonfarm dwellings and parcels** on other lots or parcels in the area similarly situated shall be considered. **To address this standard, the county shall:**

- a. Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;**
- b. Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location**

and type of existing dwellings (farm, nonfarm, hardship, etc.) And the dwelling development trends since 1993. Determine the potential number of nonfarm/lot of record dwellings that could be approved, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph;

- c. Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of the existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

Section 403.03(J)(4) is changed to the following to comply with OAR 660-033-0130(4)(a)(D):

- 4. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern of the area, the county will consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area pursuant to the study required in section 403.03(I)(4).

OAR 660-033-0130(4)(a)(D) defined a test to address the “materially altered” standard required to approve a nonfarm dwelling.

21. Section 401.10(A)(4) is changed to the following to comply with OAR 660-006-0026(1)(b):

- 4. A partition to facilitate a forest practice as defined in ORS 527.620 may be approved with the following conditions:
  - a. The applicant shall demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum lot size.
  - a. The parcels shall not be less than 35 acres in size except where the purpose of the partition is to facilitate an exchange of lands involving a governmental agency or to allow a transaction in which at least one participant is a person with

a cumulative ownership of at least 2,000 acres of forest land.

- b. If associated with the creation of a parcel where a dwelling is involved, the partition shall not result in a parcel less than 80 acres in size.
- c. The parcels shall not be eligible for the siting of a new dwelling. The applicant shall provide evidence that covenants and restrictions that prohibit future siting of dwellings for present or future owners have been recorded with the County Clerk. The restriction prohibiting a dwelling shall be irrevocable unless a statement of release is signed by the Planning Director indicating that the Comprehensive Plan or land use regulations have been changed in such a manner that the parcel is no longer subject to statewide planning Goals 3 or 4.
- d. The parcels shall not serve as the justification for the siting of a future dwelling on other lots or parcels.
- e. The parcels shall not be used to justify the redesignation or rezoning of resource lands.
- f. The landowner shall sign an affidavit and declaratory deed statement and record it in the deed and mortgage records for Yamhill County declaring that the landowner will not in future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

OAR 660-006-0026(1)(b) provides standards for creating a new parcel less than the minimum lot size in order to facilitate a forest practice as allowed under ORS 215.780(2)(d)

22. HB 3063 and OAR 660-33-0100(11)(a) both require a limitation to the nonfarm parcel standard that it not be used to allow series partition or subdivision of land. Therefore Section 403.03(J) shall be amended as follows:

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

- 1. The originating lot or parcel was predominantly in agricultural use on January 1, 1993 and is:
  - a. larger than the minimum lot size;
  - b. not stocked to the requirements under ORS 527.610 to 527.770;
  - c. composed of at least 95 percent Class VI through VIII soils; and
  - d. composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber.
- 2. Any parcel created for a dwelling from the originating lot or parcel described in subsection (1) of this section will not be smaller than 20 acres.

3. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.
4. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern of the area, the county will consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area.
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.

HB 3063 and OAR 660-33-0100(11)(a) have a statutory limitation that prohibit series partition or subdivision under this provision.

L:\PLANNING\SHARE\Z\O\OPTIONS.B