

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 Adopting an Amendment to the Yamhill County Zoning Ordinance to Allow Forest Template Dwellings in the F-80 Forestry District, Docket G-03-01 ) Ordinance 721

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in formal session on December 19, 2002, Commissioners Robert Johnstone, Thomas E. E. Bunn, and Leslie Lewis being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. A duly noticed public hearing was held by the Yamhill County Planning Commission on October 3, 2002. The Commission heard from interested parties and voted 4-3 against recommending amending the Yamhill County Zoning Ordinance to reinstate the forest template dwelling option.

B. A duly noticed public hearing was held by the Board of Commissioners on November 14, 2002. The Board heard from interested parties and voted 2-1 to amend the Yamhill County Zoning Ordinance to reinstate the forest template dwelling option (Commissioner Bunn voting no). NOW, THEREFORE:

IT IS HEREBY ORDAINED BY THE BOARD that the Yamhill County Zoning Ordinance be amended to reinstate the forest template dwelling option as given in Exhibit "B", attached and hereby incorporated by this reference. The first reading of this ordinance occurred in a public hearing on December 5, 2002. This ordinance shall go into effect on March 19, 2003.

DONE at McMinnville, Oregon this 19th day of December, 2002.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS



By: Deputy KELLY E FETTERS

Robert Johnstone Chairman ROBERT JOHNSTONE

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

FORM APPROVED BY:

Rick Sanai Assistant County Counsel

Leslie Lewis Commissioner LESLIE LEWIS

**401. FORESTRY DISTRICT (F-80)**

[Last amended 1/14/99, Ord. 668]

**401.01 Purpose.**

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

**401.02 Permitted Uses.**

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

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

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

#### **401.03 Dwellings Permitted Subject to Standards.**

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

- A. Principal dwelling on a tract of at least 160 contiguous acres or 200 acres in one ownership that are not contiguous but are located entirely within Yamhill county or partially in an adjacent county, subject to the following:
1. There are no other dwellings on the parcels which make up the acreage.
  2. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
  3. If the tract consists of more than one lot or parcel, the lots or parcels that are not to support the dwelling are subject to deed restrictions that prohibit residential development or use of the lots or parcels to total acreage for future siting of dwellings for present or future owners. The applicant shall provide evidence that covenants and restrictions, in a form approved by the county, have been recorded with the County Clerk of Yamhill county and the other counties where the property subject to the covenants and restrictions is located. The covenants and restrictions are irrevocable, unless a statement of release is signed by the Planning Director.  
[Subsection A amended 5/22/96, Ord. 607]
- B. Principal lot of record dwelling, subject to the following standards and criteria:
1. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:
    - (a) and has been owned continuously by such owner since prior to January 1, 1985; or
    - (b) by devise or intestate succession from a person who acquired the lot or parcel and had owned it continuously since prior to January 1, 1985.
    - (c) For purposes of Section 401.03(B)(1) only, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner or business entity owned by any one or combination of these family members.
  2. The tract on which the dwelling is to be sited does not include a dwelling.
  3. If the lot on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
  4. The tract on which the dwelling is to be sited is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species.

5. The tract on which the dwelling is to be located is within 1,500 feet of a public road that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock. The road shall not be:
  - (a) A United States Bureau of Land Management Road; or
  - (b) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or state agency.
6. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.
7. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.
8. The county assessor shall be notified that the governing body intends to allow the dwelling.  
 [Subsection B amended 5/10/95, Ord. 591; 10/2/96, Ord. 615; 3/19/98, Ord. 643; 8/13/98, Ord. 657]

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

1. **There are no other dwellings on the subject tract; and**
2. **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. **When the lot or parcel on which the dwelling will be sited is part of a tract, the remainder of the subject tract shall be consolidated into a single lot or parcel when the dwelling is allowed, which shall not be eligible for an additional dwelling; and**
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 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. The lot or parcel is predominantly composed of soils that are capable of producing 50 to 85 cubic feet per acre of wood fiber; and
  - a. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a circle with a 1489.46 foot radius 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. The lot or parcel is predominantly composed of soils that are capable of producing more than 85 cubic feet per acre of wood fiber; and
  - a. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a circle with a 1489.46 foot radius 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. 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.
- 8. The dwelling is not prohibited by, and complies with the Comprehensive Plan and other provisions of this ordinance and other provisions of law, including but not limited to floodplain, greenway, and airport overlay restrictions.  

[Subsection C amended 5/22/96, Ord. 607; 8/13/98, Ord. 657]
- 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. 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. 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. 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. 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
6. 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. 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. The measurement under subsections 5.a, 6.a, or 7.a of this section shall be made by creating a 160-acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road or stream. 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.
  
9. The one dwelling required to be on the same side of the road or stream pursuant to subsections 5.b, 6.b, or 7.b of this section may be outside the width of the rectangle described in subsection 8 of this section if it is within one-quarter mile of the subject tract.
  
10. If the road crosses the subject tract on which the dwelling is to be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

[Subsection E amended 5/22/96, Ord. 607; 8/13/98, Ord. 657]

#### 401.04 Conditional Uses.

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

- A. Permanent facility for the primary processing of forest products.
- B. Permanent logging equipment repair and storage.
- C. Log scaling and weigh stations.
- D. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under Section 401.02(S), subject to the requirements of Section 404.10; and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517, subject to the operating standards in Section 404.07.
- E. Parks and campgrounds as defined in subsection 401.12(B).
- F. Television, microwave and radio communication facilities and transmission towers.
- G. Fire stations for rural fire protection.
- H. Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4.
- I. Aids to navigation and aviation.

- J. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
- K. Reservoirs and water impoundments.
- L. Firearms training facility.
- M. Cemeteries.
- N. Private seasonal accommodations for fee hunting operations, subject to Sections 401.05, 401.08, and 401.09 and the following requirements:
  - 1. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - 2. Only minor incidental and accessory retail sales are permitted;
  - 3. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
  - 4. A governing body may impose other appropriate conditions.
- O. New distribution lines (e.g., gas, oil, geothermal) with rights-of-way 50 feet or less in width and new electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210.
- P. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.
- Q. Home occupations as defined in ORS 215.448. Approval is also subject to the Home Occupation criteria as set forth in Section 1004 of the YCZO.
- R. Expansion of existing airports.
- S. Public road and highway projects as described in Section 402.04(J) and (N).
- T. Private accommodations for fishing occupied on a temporary basis, subject to Sections 401.05, 401.08, and 401.09 and the following requirements:
  - 1. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - 2. Only minor incidental and accessory retail sales are permitted;
  - 3. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;

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

**W. Youth camps subject to Section 1101 for site design review and the Oregon Administrative Rules Section 660-006-0031.**

**401.05 Conditional Use Limitations.**

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

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

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

**401.06 Prohibited Uses.**

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

**401.07 Nonconforming Uses.**

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

**401.08 Siting of Dwellings and Structures.**

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

- A. Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify a site which:
  - 1. Has the least impact on nearby or adjacent lands zoned for forest or agricultural use;
  - 2. Ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
  - 3. Minimizes the amount of forest lands used for the building sites, road access and service corridors; and
  - 4. Minimizes the risk associated with wildfire.
- B. The applicant shall provide evidence that the domestic water supply, if any, is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rule (OAR 629-24-101(3)). If the water supply is from a well, a copy of the well constructor's report shall be submitted to the county upon completion of the well. If the water supply is unavailable from public sources or sources located entirely on the subject property, then the

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

- C. As a condition of approval of a dwelling under Section 401.03, if the tract is more than 5 acres in size the property owner shall submit a stocking survey report to the County Assessor and the Assessor shall verify that the minimum stocking requirements adopted under ORS 527.610 to 527.770 have been met. [Amended 5/22/96, Ord. 607; 8/13/98, Ord. 657]
- D. Prior to issuance of any residential building permit for an approved dwelling located within 1 mile of an area which has been designated in the plan or zone or otherwise approved by Yamhill County for mineral resource uses, the landowner shall be required to sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records of Yamhill County;

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

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

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

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

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

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

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

- A. The dwelling shall have a fire-retardant roof;
- B. A dwelling shall not be sited on a slope of greater than 40 percent;

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

numbering. The numbers shall not be less than three inches in height, shall be painted in a contrasting or visible color and shall comply with all other applicable standards for signs.

#### **401.10 Standards and Limitations.**

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

A. Parcel Size and Dimension.

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

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

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

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

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

- 1. At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;**
- 2. Each dwelling complies with the criteria for a replacement dwelling under 401.02(N);**

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

- 5 4. Lot-line adjustments.
  - a. When one or more parcels subject to a proposed adjustment are larger than the minimum lot size in the zone, the same number of parcels shall be as large or larger than the minimum lot size after the adjustment. When all parcels subject to a proposed adjustment are as large or larger than the minimum lot size in the zone, no parcel shall be reduced below the applicable minimum lot size.
  - b. Any parcels subject to an alteration in size through a lot-line adjustment shall be shown to be at least as economically efficient for forest practices, provide for continuous growing and harvesting of forest tree species at least

as well as, and conserve other forest values at least as well as did the parcel prior to adjustment.

- c. The lot line adjustment shall not result in an increase in the potential number of dwellings on the parcels. When an area that contains an existing dwelling will be conveyed from one parcel (Parcel A) to the adjacent parcel (Parcel B), Parcel B must either receive land use approval for the dwelling under the terms of this ordinance, or, in the alternative, a deed affidavit shall be recorded by the owner of Parcel A prohibiting the establishment of any new principal dwellings on the adjusted parcel or parcels.

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

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

- ~~7 6.~~ ~~Depth to Width Ratio. The maximum depth to width ratio for any newly created parcel shall be 4:1. This provision shall not apply if the parcel abuts a public road for at least 300 feet.~~

B. Setbacks.

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

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

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

C. Parcel Coverage.

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

D. Access.

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

1. Width. Access roads serving three (3) or fewer dwellings shall have a 12 foot improved width and a 20 foot horizontal clearance. Access roads serve more than three (3) dwellings shall have a 16 foot improved width and a 20 foot horizontal clearance.
2. Construction. Access roads must be improved with an all weather surface. Roads, bridges and culverts shall be designed and maintained to support a minimum gross vehicle weight (GVW) of 50,000 lbs. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 lb. GVW standard shall be provided by a Professional Engineer, registered in Oregon.
3. Vertical Clearance. Access roads shall have an unobstructed vertical clearance of not less than thirteen and one-half (13.5) feet.
4. Turnarounds. Dead end roads over 150 feet in length shall provide a turnaround adequate for emergency vehicles.
5. Turnouts. Access roads greater than 400 feet in length shall have turnouts at a maximum spacing of one-half the length of the access road or 400 feet, whichever is less. Turnouts shall be required more frequently where visibility is limited. Turnouts shall be an all weather surface at least 10 feet wide and 40 feet long.
6. Road Grade. Road grades shall not exceed twelve (12) percent, with a maximum of 15 percent on pitches less than 200 feet long. ~~Variations from these standards may be granted by the fire service having responsibility for the area when topographic conditions make these standards impractical and where the local fire protection district states their fire-fighting equipment can negotiate the proposed roads grade.~~
7. Before a dwelling may be established on any parcel as provided in this Section, the parcel shall have a legal, safe and passable means of access by abutting at least 20 feet either directly upon a public road, or by a private easement which is at least 30

feet in width for its entire length and which also abuts upon a public road for at least 30 feet. Nothing in this Section shall be construed to vary or waive the requirements for creation of any new access contained in any Land Division Ordinance legally adopted by Yamhill County.

E. Clear-Vision Areas.

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

F. Height.

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

G. Occupancy of Recreational Vehicles.

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

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

H. Off-Street Parking.

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

#### 401.11 Permit Expiration Dates

- A. Notwithstanding other provisions of this Ordinance and except as provided for in subsection 401.11 (D), a discretionary decision, except for a land division, approving a proposed development in the Forestry zone is void two years from the date of the final decision if the development action is not initiated in that period. An extension period of up to 12 months may be granted if:
1. An applicant submits a written request for an extension prior to expiration of the development approval period, stating the reasons that prevented the applicant from beginning or continuing development within the approval period; and
  2. The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.
- B. Approval of an extension granted under this rule is not a land-use decision described in ORS 197.015 and is not subject to appeal as a land-use decision.
- C. Additional one-year extensions may be authorized where applicable criteria for the decision have not changed. [Amended 5/22/96, Ord. 607]
- D. If a permit is approved for a proposed residential development on agricultural land outside of an urban growth boundary, the permit shall be valid for four years. Any extension of a permit for residential development shall be valid for two years. For the purpose of this subsection, "residential development" only includes the dwellings provided for under ORS 215.284, 215.705(1) to (3), 215.720, 215.750 and 215.755(1) and (3).**

#### 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 - Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is

contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designated and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers to existing native trees and vegetation or other natural features between campsites. Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period. The park or campground may be public or private.

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

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

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